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## SCHEDULES

### SCHEDULE 1

Section 19

#### VAT: FACE-VALUE VOUCHERS

- 1 In Part 3 of the Value Added Tax Act 1994 (c. 23) (application of Act in particular cases) insert after section 51A—

#### “51B Face-value vouchers

Schedule 10A shall have effect with respect to face-value vouchers.”.

- 2 After Schedule 10 to that Act insert—

#### “SCHEDULE 10A

#### FACE-VALUE VOUCHERS

##### *Meaning of “face-value voucher” etc*

- 1 (1) In this Schedule “face-value voucher” means a token, stamp or voucher (whether in physical or electronic form) that represents a right to receive goods or services to the value of an amount stated on it or recorded in it.
- (2) References in this Schedule to the “face value” of a voucher are to the amount referred to in sub-paragraph (1) above.

##### *Nature of supply*

- 2 The issue of a face-value voucher, or any subsequent supply of it, is a supply of services for the purposes of this Act.

##### *Treatment of credit vouchers*

- 3 (1) This paragraph applies to a face-value voucher issued by a person who—
- (a) is not a person from whom goods or services may be obtained by the use of the voucher, and
  - (b) undertakes to give complete or partial reimbursement to any such person from whom goods or services are so obtained.
- Such a voucher is referred to in this Schedule as a “credit voucher”.
- (2) The consideration for any supply of a credit voucher shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the voucher.
- (3) Sub-paragraph (2) above does not apply if any of the persons from whom goods or services are obtained by the use of the voucher fails to account for

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any of the VAT due on the supply of those goods or services to the person using the voucher to obtain them.

*Treatment of retailer vouchers*

- 4 (1) This paragraph applies to a face-value voucher issued by a person who—
- (a) is a person from whom goods or services may be obtained by the use of the voucher, and
  - (b) if there are other such persons, undertakes to give complete or partial reimbursement to those from whom goods or services are so obtained.

Such a voucher is referred to in this Schedule as a “retailer voucher”.

- (2) The consideration for the issue of a retailer voucher shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the voucher.
- (3) Sub-paragraph (2) above does not apply if—
  - (a) the voucher is used to obtain goods or services from a person other than the issuer, and
  - (b) that person fails to account for any of the VAT due on the supply of those goods or services to the person using the voucher to obtain them.
- (4) Any supply of a retailer voucher subsequent to the issue of it shall be treated in the same way as the supply of a voucher to which paragraph 6 below applies.

*Treatment of postage stamps*

- 5 The consideration for the supply of a face-value voucher that is a postage stamp shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the stamp.

*Treatment of other kinds of face-value voucher*

- 6 (1) This paragraph applies to a face-value voucher that is not a credit voucher, a retailer voucher or a postage stamp.
- (2) A supply of such a voucher is chargeable at the rate in force under section 2(1) (standard rate) except where sub-paragraph (3), (4) or (5) below applies.
  - (3) Where the voucher is one that can only be used to obtain goods or services in one particular non-standard rate category, the supply of the voucher falls in that category.
  - (4) Where the voucher is used to obtain goods or services all of which fall in one particular non-standard rate category, the supply of the voucher falls in that category.
  - (5) Where the voucher is used to obtain goods or services in a number of different rate categories—

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- (a) the supply of the voucher shall be treated as that many different supplies, each falling in the category in question, and
- (b) the value of each of those supplies shall be determined on a just and reasonable basis.

*Vouchers supplied free with other goods or services*

- 7 Where—
- (a) a face-value voucher (other than a postage stamp) and other goods or services are supplied to the same person in a composite transaction, and
  - (b) the total consideration for the supplies is no different, or not significantly different, from what it would be if the voucher were not supplied,
- the supply of the voucher shall be treated as being made for no consideration.

*Interpretation*

- 8 (1) In this Schedule—
- “credit voucher” has the meaning given by paragraph 3(1) above;
  - “face value” has the meaning given by paragraph 1(2) above;
  - “face value voucher” has the meaning given by paragraph 1(1) above;
  - “retailer voucher” has the meaning given by paragraph 4(1) above.
- (2) For the purposes of this Schedule—
- (a) the “rate categories” of supplies are—
    - (i) supplies chargeable at the rate in force under section 2(1) (standard rate),
    - (ii) supplies chargeable at the rate in force under section 29A (reduced rate),
    - (iii) zero-rated supplies, and
    - (iv) exempt supplies and other supplies that are not taxable supplies;
  - (b) the “non-standard rate categories” of supplies are those in subparagraphs (ii), (iii) and (iv) of paragraph (a) above;
  - (c) goods or services are in a particular rate category if a supply of those goods or services falls in that category.
- (3) A reference in this Schedule to a voucher being used to obtain goods or services includes a reference to the case where it is used as part-payment for those goods or services.”.

3 In Schedule 6 to the Value Added Tax Act 1994 (c. 23) (valuation: special cases), omit paragraph 5 (vouchers etc).

4 The amendments made by this Schedule apply to supplies of tokens, stamps or vouchers issued on or after 9th April 2003.

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## F<sup>1</sup>SCHEDULE 2

Section 23

### Textual Amendments

- F1** Sch. 2 repealed (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 132\(e\)](#) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)

## F<sup>2</sup>SCHEDULE 2A

### TRANSACTIONS ENTERED INTO BEFORE COMPLETION OF CONTRACT

### Textual Amendments

- F2** Sch. 2A inserted (with effect in accordance with Sch. 39 para. 11 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 39 para. 3](#)

#### *Pre-completion transactions*

- 1 (1) This Schedule applies where—
- (a) a person (“the original purchaser”) enters into a contract (“the original contract”) for the acquisition by that person of a chargeable interest under which the acquisition is to be completed by a conveyance, and
  - (b) there is a pre-completion transaction.
- (2) A transaction is a “pre-completion transaction” for the purposes of sub-paragraph (1) if—
- (a) as a result of the transaction a person other than the original purchaser (“the transferee”) becomes entitled to call for a conveyance to that person of the whole or part of the subject-matter of the original contract, and
  - (b) immediately before the transaction took place a person was entitled under the original contract to call for a conveyance of the whole or part of that subject-matter.
- (3) A transaction that effects a person's acquisition of the whole or part of the subject-matter of the original contract is not a pre-completion transaction.
- (4) The grant or assignment of an option is not a pre-completion transaction.
- (5) The fact that a transaction has the effect of discharging the original contract does not prevent that transaction from being a pre-completion transaction.
- (6) The reference in sub-paragraph (1)(a) to a contract does not include a contract that is an assignment of rights in relation to another contract.
- (7) In this Schedule references to “part of the subject-matter of the original contract”—

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- (a) are to a chargeable interest that is the same as the chargeable interest referred to in sub-paragraph (1)(a) except that it relates to part only of the land concerned, and
  - (b) also include, so far as is appropriate, interests or rights appurtenant or pertaining to the chargeable interest.
- (8) This Schedule does not apply where paragraph 12B of Schedule 17A (assignment of agreement for lease) applies.

*Other key expressions*

- 2
- (1) A pre-completion transaction is an “assignment of rights” if the entitlement of the transferee referred to in paragraph 1(2)(a) is an entitlement to exercise rights under the original contract.
  - (2) A pre-completion transaction other than an assignment of rights is referred to in this Schedule as a “free-standing transfer”.
  - (3) In this Schedule “the transferor”, in relation to a pre-completion transaction, means a party to the pre-completion transaction who immediately before the pre-completion transaction took place was entitled to call for a conveyance of (what became) the subject-matter of the pre-completion transaction.
  - (4) References in this Schedule to the “subject-matter” of a pre-completion transaction—
    - (a) are to the chargeable interest the conveyance of which the transferee is entitled to call for as a result of the pre-completion transaction, and
    - (b) include, so far as appropriate, any interest or right appurtenant or pertaining to the chargeable interest.

*Tax not charged on transferee by reason of the pre-completion transaction*

- 3
- The transferee is not regarded as entering into a land transaction by reason of the pre-completion transaction.

*Assignments of rights: application of rules about completion and consideration*

- 4
- (1) This paragraph applies if the pre-completion transaction is an assignment of rights.
  - (2) If the subject-matter of the original contract is conveyed to the transferee, the conveyance is taken to effect the completion of the original contract (despite section 44(10)).
  - (3) Sub-paragraphs (4) to (6) apply if—
    - (a) the subject-matter of the original contract is conveyed to the transferee, or
    - (b) the original contract is substantially performed by the transferee.
  - (4) The transferee is taken to be the purchaser under the land transaction effected as mentioned in section 44(3), or treated as effected under section 44(4).
  - (5) For the purpose of determining the chargeable consideration for that land transaction, the land transaction is taken to give effect to a contract the consideration under which is—
    - (a) the consideration under the original contract, and
    - (b) the consideration for the assignment of rights.

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Paragraph 1 of Schedule 4 has effect accordingly (but this sub-paragraph does not allow any amount of consideration given by a person to be counted twice in determining the chargeable consideration).

- (6) In any case in which there is a relevant connection between parties as mentioned in paragraph 12(2) (minimum consideration rule), the chargeable consideration for the land transaction mentioned in sub-paragraph (4) of this paragraph is calculated (regardless of whether the consideration is taken to be the amount in paragraph (a), (b) or (c) of sub-paragraph 12(2)), as if in paragraph 1(1) of Schedule 4 the words, “or a person connected with him” were omitted.
- (7) The original contract is said to be “substantially performed by the transferee” where a land transaction is treated under section 44(4) as effected by reason of—
  - (a) the transferee under the assignment of rights, or a person connected with the transferee, taking possession of the whole, or substantially the whole, of the subject-matter of the original contract, or
  - (b) a substantial amount of the consideration being paid or provided by the transferee or a person connected with the transferee, or
  - (c) consideration paid or provided by a person within paragraph (b) amounting, when taken together with consideration paid or provided by another person, to a substantial amount of the consideration.
- (8) References in sub-paragraph (7) to possession and to the payment or provision of a substantial amount of the consideration are to be read in accordance with section 44(6) and (7).
- (9) In sub-paragraph (5) “the consideration”—
  - (a) in relation to the land transaction, means (what is to be taken to be) the consideration for the acquisition of the subject-matter of the land transaction;
  - (b) in relation to the original contract, means the consideration for the acquisition of the subject-matter of that contract;
  - (c) in relation to the assignment of rights, means the consideration for the transferee's acquisition of the rights to which that contract relates.

*Assignment of rights: transferor treated as making separate acquisition*

- 5 (1) Where paragraph 4(4) to (6) applies (assignment of rights: original contract completed or substantially performed) this Part of this Act has effect as if—
  - (a) the effective date of the land transaction mentioned in paragraph 4(4) (“the transferee's land transaction”) were also the effective date of another land transaction (a “notional land transaction”), and
  - (b) the original purchaser were the purchaser under that notional land transaction.

The notional land transaction is referred to below as “associated with” the assignment of rights under which the original purchaser is the transferor.

- (2) Where sub-paragraph (1) applies and the assignment of rights mentioned in paragraph 4(1) (“the implemented assignment of rights”) was preceded by one or more related assignments of rights, then for the purposes of this Part of this Act there is taken to be, for each assignment of rights (other than the first) in the chain formed by the implemented assignment of rights and those preceding assignments of rights, an additional land transaction in the case of which—

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- (a) the effective date is the effective date of the transferee's land transaction, and
- (b) the purchaser is the transferor under that assignment of rights.

The additional land transaction is referred to below as “associated with” the assignment of rights.

- (3) For the purpose of determining the chargeable consideration for the notional land transaction, Schedule 4 has effect as if paragraph 1(1) of that Schedule provided that the chargeable consideration is (except as otherwise expressly provided) the total of amounts A and B.
- (4) For the purpose of determining the chargeable consideration for any additional land transaction, Schedule 4 has effect as if paragraph 1(1) of that Schedule provided that the chargeable consideration is (except as otherwise expressly provided) the total of amounts A, B and C.
- (5) For the purposes of sub-paragraphs (3) and (4)—
  - A is the total amount of any consideration in money or money's worth given (whether directly or indirectly) by any of the following as consideration under the original contract—
    - (a) the transferee under the assignment of rights with which the notional land transaction or (as the case requires) the additional land transaction is associated;
    - (b) where that assignment of rights is one in a chain of successive transactions that are pre-completion transactions in relation to the original contract (all having at least part of their subject-matter in common), the transferee under any subsequent pre-completion transaction in that chain;
    - (c) a person connected with a person falling within paragraph (a) or (b);
  - B is the total amount of any other consideration in money or money's worth given as consideration under the original contract (directly or indirectly) by—
    - (a) the purchaser (under the notional land transaction or, as the case requires, the additional land transaction), or
    - (b) a person connected with the purchaser;
  - C is the amount of any consideration in money or money's worth given for the preceding assignment of rights by—
    - (a) the purchaser (under the additional land transaction), or
    - (b) a person connected with the purchaser.
- (6) In the definition of amount C, “the preceding assignment of rights” means the assignment of rights as a result of which the purchaser became entitled to call for a conveyance of (what became) the subject-matter of the assignment of rights associated with the additional land transaction.
- (7) In sub-paragraph (2) “related assignment of rights” means a transaction that is an assignment of rights in relation to the original contract and has some subject-matter in common with the implemented assignment of rights.

*Paragraph 5: effect of rescission etc following substantial performance*

- 6 (1) This paragraph applies where paragraph 5(1) (transferor treated as making separate acquisition) applies by virtue of the substantial performance by the transferee of the original contract.

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- (2) If the original contract is (to any extent) subsequently rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of paragraph 5(1), and any tax paid by virtue of paragraph 5(2), must (to that extent) be repaid by HMRC.
- (3) Repayment under sub-paragraph (2) must be claimed by amendment of the land transaction return made in respect of the notional or additional land transaction.

*Assignment of rights relating to part only of subject-matter of original contract*

- 7 Where the transferee under the assignment of rights referred to in paragraph 4(1) is entitled to call for the conveyance of part, but not the whole, of the subject-matter of the original contract—
  - (a) paragraph 4 applies as if the original contract, so far as relating to that part of its subject-matter, were a separate contract, and
  - (b) the references in paragraph 5 to the original contract are to be read accordingly.

*Assignment of rights: references to “the vendor”*

- 8 (1) This paragraph applies where—
  - (a) the pre-completion transaction is an assignment of rights, and
  - (b) either the subject-matter of the original contract is conveyed to the transferee or the original contract is substantially performed by the transferee.
- (2) This paragraph does not apply if the original contract is itself a free-standing transfer. See paragraphs 10 and 11 for the treatment of such cases.
- (3) In relation to a relevant land transaction, the general rule is that references in this Part of this Act to the vendor are to be read as references to the vendor under the original contract (but see sub-paragraphs (4) and (5)).
- (4) In cases where the original contract was substantially performed before the transferee became entitled to call for a conveyance of the whole or part of the subject-matter of the original contract, references in this Part of this Act to the vendor are to be read as references to the person who was the purchaser under the original contract when it was substantially performed.
- (5) In relation to a relevant land transaction, references to the vendor in the specified provisions (see sub-paragraph (6)) are to be read as including—
  - (a) the vendor under the original contract, and
  - (b) the transferor under any relevant assignment of rights.
- (6) The specified provisions are—
  - (a) section 61(1)(a) (compliance with planning obligations: conditions for exemption);
  - (b) section 66(1) and (2) (transfers involving public bodies);
  - (c) paragraph 8(1)(a) of Schedule 4 (debt as consideration);
  - (d) paragraph 10(2)(c) of Schedule 4 (carrying out of works);
  - (e) paragraph 16 of Schedule 4 (indemnity given by vendor).
- (7) The following are “relevant land transactions”—



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- (a) the land transaction effected by the conveyance mentioned in sub-paragraph (1)(b) or treated as effected by the substantial performance mentioned in that provision;
  - (b) the notional land transaction mentioned in paragraph 5(1)(b) and any additional land transaction under paragraph 5(2).
- (8) In determining under section 108(1) whether or not a relevant land transaction such as is mentioned in sub-paragraph (7)(a) is linked to another transaction, it may be assumed that any of the following is the vendor under the relevant land transaction—
- (a) the vendor (determined in accordance with sub-paragraph (3)), or
  - (b) the transferor under any relevant assignment of rights.
- (9) The following are “relevant assignments of rights” in relation to a relevant land transaction—
- (a) the assignment of rights mentioned in sub-paragraph (1)(a);
  - (b) any other transaction that is an assignment of rights in relation to the original contract and has some subject-matter in common with the assignment of rights mentioned in paragraph (a).

*Free-standing transfers: consideration and substantial performance*

- 9 (1) This paragraph applies where the pre-completion transaction is a free-standing transfer.
- (2) If the transferee acquires the subject-matter of the free-standing transfer, the consideration for the transaction effecting that acquisition is taken to include the consideration given for the free-standing transfer (if that would not otherwise be the case).
- (3) References in sub-paragraph (2) to an acquisition include an acquisition deemed to take place under section 44(4) (and the reference to the transaction effecting that acquisition is read accordingly).
- (4) An action taken by the transferee (or an assignee of the transferee) that would, if taken by the original purchaser, constitute (for the purposes of section 44(5)) the taking of possession of the whole or substantially the whole of the subject-matter of the original contract is treated as effecting the substantial performance of the original contract.
- (5) If a transaction that is a free-standing transfer in relation to a contract is also a free-standing transfer in relation to another contract (in particular, where there have been successive free-standing transfers), each of those contracts may be regarded as “the original contract” for the purposes of separate applications of sub-paragraph (4).
- (6) In sub-paragraph (4)—
- (a) the reference to the transferee includes a person connected with the transferee, and
  - (b) the reference to an assignee of the transferee includes a person connected with such a person.
- (7) References in this paragraph to an assignee of the transferee are to a person who, as a result of a transaction that is an assignment of rights in relation to the free-standing transfer, is entitled to call for a conveyance of the whole or part of the subject-matter of the free-standing transfer.

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*Meaning of “the vendor”: cases involving free-standing transfers*

- 10 (1) This paragraph applies where—
- (a) a land transaction is effected, or treated as effected, by an acquisition falling within paragraph 9(2) (read with paragraph 9(3)), or
  - (b) paragraph 8(1) (meaning of “vendor” where the transferee is the assignee under an assignment of rights) would apply but for paragraph 8(2) (exclusion of cases where the original contract is itself a free-standing transfer).
- (2) In this paragraph “the relevant land transaction” means the land transaction—
- (a) mentioned in sub-paragraph (1)(a), or
  - (b) in a case falling within sub-paragraph (1)(b), effected by the conveyance to the transferee of the subject-matter of the original contract or the substantial performance by the transferee of the original contract.
- (3) References in this paragraph to “the specified transaction” are to—
- (a) the free-standing transfer mentioned in paragraph 9(2), or
  - (b) the original contract the subject-matter of which is conveyed to the transferee or which is substantially performed by the transferee.
- (4) The general rule is that in relation to the relevant land transaction references in this Part of this Act to “the vendor” are to be read as references to the vendor or (as the case may be) transferor under the first appropriate transaction (but see sub-paragraph (5)).
- (5) In relation to the relevant land transaction, references to the vendor in the specified provisions (see sub-paragraph (6)) are to be read as including—
- (a) the vendor under the first appropriate transaction, and
  - (b) each person who is the transferor in the case of a relevant pre-completion transaction.
- (6) The specified provisions are—
- (a) section 61(1)(a) (compliance with planning obligations: conditions for exemption);
  - (b) section 66(1) and (2) (transfers involving public bodies);
  - (c) paragraph 8(1)(a) of Schedule 4 (debt as consideration);
  - (d) paragraph 10(2)(c) of Schedule 4 (carrying out of works);
  - (e) paragraph 16 of Schedule 4 (indemnity given by vendor).
- (7) In determining under section 108(1) whether or not the relevant land transaction is linked to another transaction it may be assumed that any of the following is the vendor under the relevant land transaction—
- (a) the vendor (determined under sub-paragraph (4)), or
  - (b) the transferor under any relevant pre-completion transaction.
- (8) The following are “relevant pre-completion transactions” in relation to the relevant land transaction—
- (a) the specified transaction;
  - (b) any other transaction that is a pre-completion transaction in relation to the original contract and has some subject-matter in common with the specified transaction.

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*Paragraph 10: “the first appropriate transaction” and “the original contract”*

- 11 (1) Subject to the following provisions of this paragraph, “the first appropriate transaction” means the original contract.
- (2) If the original contract is not performed at the same time as, and in connection with the performance of, the specified transaction, “the first appropriate transaction” means a transaction that is a pre-completion transaction in relation to the original contract and meets the following conditions.
- (3) The conditions are that the pre-completion transaction—
- (a) is performed at the time when the specified transaction is performed and (if it is not itself the specified transaction) is performed in connection with the performance of the specified transaction,
  - (b) is a transaction on which the entitlement of the transferee to call for the conveyance of the subject-matter of the specified transaction depends, and
  - (c) is not preceded by another pre-completion transaction meeting the conditions in paragraphs (a) and (b).
- (4) For the purposes of this paragraph—
- (a) a contract for a land transaction is taken to be “performed” when it is substantially performed or completed (whichever is earlier);
  - (b) a free-standing transfer other than a contract is taken to be “performed” when the transferee under that free-standing transfer (or an assignee of that transferee, as defined in paragraph 9(7)) acquires the subject-matter of that free-standing transfer.
- (5) Where the specified transaction is a pre-completion transaction in relation to each of two or more contracts such as are mentioned in paragraph 1(1)(a) that together form a series of such contracts (each having some subject-matter in common with all the others), references in paragraph 10 and this paragraph to “the original contract” are to be read as references to the first contract in that series.
- (6) In this paragraph “the specified transaction” has the meaning given by paragraph 10(3).

*Minimum consideration rule*

- 12 (1) This paragraph applies where either of the following provisions applies—
- (a) paragraph 4(3) (assignment of rights: chargeable interest acquired or treated as acquired by transferee);
  - (b) paragraph 9(2) (free-standing transfers: chargeable interest acquired or treated as acquired by transferee).
- (2) If there is a relevant connection between parties, then for the purposes of paragraph 1(1) of Schedule 4 the consideration given by the purchaser for the subject-matter of the land transaction referred to in paragraph 4(4) or 9(2) is taken to be—
- (a) the amount that it would be apart from this sub-paragraph, or
  - (b) (if higher) the first minimum amount, or
  - (c) (if higher than both those amounts) the second minimum amount.
- (3) There is a “relevant connection between parties” if—
- (a) the persons who are the transferor and transferee in relation to the pre-completion transaction mentioned in paragraph 4(1) or 9(1) (“the

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- implemented transaction”) are connected with each other, or are not acting at arm's length, or
- (b) sub-paragraph (4) applies.
- (4) This sub-paragraph applies if—
- (a) the implemented transaction is one in a chain of successive transactions (all having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract, and
- (b) a person who is the transferor in relation to a pre-completion transaction that precedes the implemented transaction in the chain of transactions is connected with, or not acting at arm's length in relation to, the transferee under the implemented transaction.
- (5) Where the implemented transaction is a pre-completion transaction in relation to—
- (a) a contract for a land transaction that is not itself a free-standing transfer in relation to any other contract, and
- (b) a contract, or two or more successive contracts, that are themselves free-standing transfers in relation to the contract mentioned in paragraph (a),
- references in this paragraph to “the original contract” are to the contract mentioned in paragraph (a) (and do not include any contract mentioned in paragraph (b)).

*The first minimum amount*

- 13 (1) “The first minimum amount” means—
- (a) if the chargeable interest acquired (or treated as acquired) under the land transaction referred to in paragraph 4(4) or 9(2) is the whole subject-matter of the original contract, the amount of any consideration (in money or money's worth) agreed to be given, under the terms of the original contract, for the acquisition of that subject-matter, or
- (b) if paragraph (a) does not apply, so much of the amount mentioned in paragraph (a) as is referable, on a just and reasonable apportionment, to the chargeable interest mentioned in that paragraph.

This is subject to sub-paragraph (2).

- (2) If conditions A to C are met, “the first minimum amount” means the amount of any consideration (in money or money's worth) agreed, under the terms of the transfer to the first T, to be given in respect of the subject-matter of that transaction (including any consideration relating to an obligation of the transferor under the transfer to the first T).
- (3) The conditions mentioned in sub-paragraph (2) are as follows.
- Condition A is that the pre-completion transaction referred to in paragraph 4(4) or 9(2) is one of a chain of successive transactions (all having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract.
- Condition B is that a person (“T”) is the transferor under a pre-completion transaction that forms part of that chain and T is connected with, or not acting at arm's length in relation to—
- (a) the transferee under that transaction, or
- (b) the transferee under a subsequent transaction in the chain.

*Status: Point in time view as at 31/12/2020.*

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Condition C is that having regard to all the circumstances it would not be reasonable to conclude that the obtaining of a tax advantage (for any person) was the main purpose, or one of main purposes, of T in entering into—

- (a) any pre-completion transaction in the chain, or
- (b) any arrangements of which such a transaction forms part.

- (4) Where conditions A to C are met, “the first T” means—
  - (a) if condition B is met in relation to only one pre-completion transaction, T, or
  - (b) if condition B is met in relation to more than one pre-completion transaction in the chain, the transferor in relation to the first of the pre-completion transactions in relation to which condition B is met.
- (5) In this paragraph “the transfer to the first T” means—
  - (a) the pre-completion transaction under which the first T is the transferee, or
  - (b) the original contract (if T is the original purchaser).
- (6) In this paragraph—
  - (a) references to “the original contract” are to be read in accordance with paragraph 12(5) (and references to the original purchaser are to be read accordingly);
  - (b) “tax advantage” has the same meaning as in paragraph 18.

*The second minimum amount*

- 14 (1) In paragraph 12 “the second minimum amount” means the total of the net amounts of consideration given by the relevant parties.

- (2) The net amount of consideration given by any relevant party is—

CP–CR

where—

CP is the total amount of consideration given by the party for the acquisition of the chargeable interest or as consideration for a pre-completion transaction;

CR is the total of any amounts of consideration given to the party by another relevant party (or other relevant parties) as consideration for the acquisition of the chargeable interest or as consideration for a pre-completion transaction.

If CR is greater than CP, the net amount of consideration given by the relevant party is taken to be zero.

- (3) Except where sub-paragraph (4) applies, the relevant parties for the purposes of this paragraph are—
  - (a) the original purchaser, and
  - (b) the transferee.
- (4) If the pre-completion transaction referred to in paragraph 4(4) or 9(2) (“the implemented transaction”) is one in a chain of successive transactions (having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract, only the following are relevant parties—
  - (a) the persons who are the transferor and transferee in relation to the implemented transaction;

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- (b) a person who is the transferor in relation to preceding transaction, if that person is connected with, or not acting at arm's length in relation to, the transferee under the implemented transaction,
  - (c) the transferee under a pre-completion transaction, if the transferor is a relevant party (whether by virtue of this paragraph (c) or otherwise).
- (5) For the purposes of sub-paragraph (2)—
- (a) amounts given by a person connected with a relevant party are treated as given by the relevant party;
  - (b) amounts given to a person connected with a relevant party are treated as given to the relevant party.
- References in this paragraph to a person connected with a relevant party do not include a person who is a relevant party.
- (6) If the subject-matter of the implemented transaction is not the whole subject-matter of the original contract—
- (a) the amounts that are taken for the purposes of sub-paragraph (2) to be given “for the acquisition of the chargeable interest” are to be determined on a just and reasonable basis, and
  - (b) only so much of the consideration for a preceding transaction as is referable, on a just and reasonable apportionment, to the subject-matter of the implemented transaction is taken into account under sub-paragraph (2).
- (7) In this paragraph—
- (a) references to “the original contract” are to be read in accordance with paragraph 12(5) (and references to “the original purchaser” are to be read accordingly);
  - (b) “preceding transaction” means a pre-completion transaction that precedes the implemented transaction in a chain of successive pre-completion transactions (all having at least part of their subject-matter in common).

*Relief for transferor: assignment of rights*

- 15 (1) This paragraph applies where—
- (a) a person would, in the absence of this paragraph, be liable to pay tax in respect of a notional land transaction deemed to take place under paragraph 5(1) or an additional land transaction deemed to take place under paragraph 5(2), and
  - (b) the original contract had not been substantially performed when the assignment of rights mentioned in paragraph 4(1) was entered into.
- (2) If the purchaser claims relief under this paragraph in respect of the notional land transaction or additional land transaction, no liability to tax arises in respect of that transaction.
- (3) Sub-paragraph (2) does not apply if the land transaction mentioned in paragraph 4(4) is exempt from charge by virtue of any of sections 71A to 73 (which relate to alternative property finance).
- (4) Relief under this section must be claimed in a land transaction return or an amendment of such a return.

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*Relief for original purchaser: qualifying subsales*

- 16 (1) This paragraph applies if—
- (a) the pre-completion transaction is a qualifying subsale,
  - (b) the original purchaser would, in the absence of this paragraph, be liable to pay tax in respect of a land transaction effected by the completion of the original contract or deemed to be effected by the substantial performance of the original contract,
  - (c) the performance of the qualifying subsale takes place at the same time as, and in connection with, the performance of the original contract, and
  - (d) relief is claimed in respect of the land transaction mentioned in paragraph (b).
- (2) If the subject-matter of the qualifying subsale is the whole of the subject-matter of the original contract, no liability to tax arises in respect of the land transaction.
- (3) If the subject-matter of the qualifying subsale is part (but not the whole) of the subject-matter of the original contract, the amount of the consideration for the land transaction is taken to be—
- (a) the amount that it would be apart from this subsection, less
  - (b) so much of that amount as is referable to the subject-matter of the qualifying subsale.
- (4) The amount mentioned in sub-paragraph (3)(a) may be reduced more than once under sub-paragraph (3) if there is more than one qualifying subsale.
- (5) Sub-paragraphs (2) to (4) do not apply if—
- (a) the original contract had been substantially performed when the qualifying subsale was entered into, or
  - (b) the transaction effected, or deemed to be effected, by the performance of the qualifying subsale is exempt from charge by virtue of any of sections 71A to 73.
- (6) Relief under this section must be claimed in a land transaction return or an amendment of a land transaction return.
- (7) For the purposes of this paragraph a contract for a land transaction is taken to be “performed” when it is substantially performed or completed (whichever is earlier).
- (8) A pre-completion transaction is a “qualifying subsale” if it is a contract under which the original purchaser contracts to sell the whole or part of the subject-matter of the original contract to the transferee.

*Application of paragraph 16 to successive subsales*

- 17 If a transaction is a qualifying subsale in relation to more than one contract such as is mentioned in paragraph 1(1)(a), paragraph 16 is to be applied separately in relation to each such original contract for the purpose of determining what relief, if any, may be available with respect to the land transaction in question.

*Tax avoidance arrangements*

- 18 (1) Relief may not be claimed—

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- (a) under paragraph 15 if the assignment of rights referred to in sub-paragraph (1)(b) of that paragraph forms part of any tax avoidance arrangements, or
  - (b) under paragraph 16 if the qualifying subsale referred to in sub-paragraph (1)(c) of that paragraph forms part of any tax avoidance arrangements.
- (2) Arrangements are “tax avoidance arrangements” if, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage for the original purchaser or any other person was the main purpose, or one of the main purposes, of the original purchaser in entering into the arrangements.
- (3) In this paragraph “tax advantage” means—
- (a) a relief from tax or increased relief from tax,
  - (b) a repayment of tax or increased repayment of tax,
  - (c) the avoidance or reduction of a charge to tax, or
  - (d) the avoidance of a possible assessment to tax.
- (4) In this paragraph “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (5) Nothing in paragraphs 12 to 14 (minimum consideration rule) or this paragraph affects the breadth of the application of sections 75A to 75C (anti-avoidance).

*Exclusion of transactions from duty to make returns etc*

- 19 (1) The Treasury may by regulations amend this Schedule, or any provision of this Part of this Act relating to the making of returns, so as to—
- (a) exempt relevant purchasers of any specified description, or in specified circumstances, from the duty to deliver a land transaction return,
  - (b) provide for relief under paragraph 15 or 16 to be available without a claim in the case of any specified class of transactions, or
  - (c) provide that paragraph 5 does not apply in specified cases.
- (2) In this paragraph “relevant purchaser” means a person who is the transferor under a pre-completion transaction.

*Connected persons*

- 20 Section 1122 of CTA 2010 (connected persons) applies for the purposes of this Schedule.

*Interpretation of Schedule*

- 21 (1) In this Schedule—
- “assignment of rights” has the meaning given by paragraph 2(1);
  - “contract” includes any agreement;
  - “conveyance” includes any instrument;
  - “free-standing transfer” has the meaning given by paragraph 2(2);
  - “pre-completion transaction” (in relation to a contract such as is mentioned in paragraph 1(1)) has the meaning given by paragraph 1(2);
  - “qualifying subsale” has the meaning given by paragraph 16(8);



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“the transferee”, in relation to a pre-completion transaction, has the meaning given by paragraph 1(2)(a);

“the transferor”, in relation to a pre-completion transaction, has the meaning given by paragraph 2(3).

(2) In this Schedule—

- (a) references to “the original contract” are to be read in accordance with paragraph 1(1)(a);
- (b) references to “the original purchaser” are to be read in accordance with paragraph 1(1)(a) and see also sub-paragraph (3);
- (c) references to “part of the subject-matter of the original contract” are to be read in accordance with paragraph 1(7);
- (d) references to the “subject-matter” of a pre-completion transaction are to be read in accordance with paragraph 2(4);
- (e) references to substantial performance of the original contract “by the transferee” (in cases involving an assignment of rights) are to be read in accordance with paragraph 4(7).

(3) For any one contract for the acquisition of a chargeable interest there is only one original purchaser (disregarding cases involving joint purchasers).]

### SCHEDULE 3

Section 49

#### STAMP DUTY LAND TAX: TRANSACTIONS EXEMPT FROM CHARGE

##### *No chargeable consideration*

1 A land transaction is exempt from charge if there is no chargeable consideration for the transaction.

##### *Grant of certain leases by registered social landlords*

- 2 (1) The grant of a lease of a dwelling is exempt from charge if the lease—
- (a) is granted by a [<sup>F3</sup>relevant housing provider] to one or more individuals in accordance with arrangements to which this paragraph applies, and
  - (b) is for an indefinite term or is terminable by notice of a month or less.
- (2) This paragraph applies to arrangements between a [<sup>F4</sup>relevant housing provider] and a housing authority under which the [<sup>F4</sup>relevant housing provider] provides, for individuals nominated by the authority in pursuance of its statutory housing functions, temporary rented accommodation which the [<sup>F4</sup>relevant housing provider] itself has obtained on a short-term basis.

The reference above to accommodation obtained by the [<sup>F4</sup>relevant housing provider] “on a short-term basis” is to accommodation leased to the [<sup>F4</sup>relevant housing provider] for a term of five years or less.

[<sup>F5</sup>(2A) A “relevant housing provider” means—

- (a) a non-profit registered provider of social housing, or
- (b) a registered social landlord.]

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- (3) A “housing authority” means—
- (a) in relation to England and Wales—
    - (i) a principal council within the meaning of the Local Government Act 1972 (c. 70), or
    - (ii) the Common Council of the City of London;
  - (b) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
  - (c) in relation to Northern Ireland—
    - (i) the Department for Social Development in Northern Ireland, or
    - (ii) the Northern Ireland Housing Executive.

#### Textual Amendments

- F3** Words in Sch. 3 para. 2(1) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 9 para. 31\(2\)](#); S.I. 2010/862, art. 2 (with Sch.)
- F4** Words in Sch. 3 para. 2(2) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 9 para. 31\(2\)](#); S.I. 2010/862, art. 2 (with Sch.)
- F5** Sch. 3 para. 2(2A) inserted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 9 para. 31\(3\)](#); S.I. 2010/862, art. 2 (with Sch.)

#### *Transactions in connection with divorce etc*

- 3 A transaction between one party to a marriage and the other is exempt from charge if it is effected—
- (a) in pursuance of an order of a court made on granting in respect of the parties a decree of divorce, nullity of marriage or judicial separation;
  - (b) in pursuance of an order of a court made in connection with the dissolution or annulment of the marriage, or the parties' judicial separation, at any time after the granting of such a decree;
  - (c) in pursuance of—
    - (i) an order of a court made at any time under section 22A, 23A or 24A of the Matrimonial Causes Act 1973 (c. 18), or
    - (ii) an incidental order of a court made under section 8(2) of the Family Law (Scotland) Act 1985 (c. 37) by virtue of section 14(1) of that Act;
  - (d) at any time in pursuance of an agreement of the parties made in contemplation or otherwise in connection with the dissolution or annulment of the marriage, their judicial separation or the making of a separation order in respect of them.

#### *F<sup>6</sup> Assents and appropriations by personal representatives*

#### Textual Amendments

- F6** Sch. 3 para. 3A and cross-heading inserted (with effect in accordance with s. 300(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), s. 300(1)

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- 3A (1) The acquisition of property by a person in or towards satisfaction of his entitlement under or in relation to the will of a deceased person, or on the intestacy of a deceased person, is exempt from charge.
- (2) Sub-paragraph (1) does not apply if the person acquiring the property gives any consideration for it, other than the assumption of secured debt.
- (3) Where sub-paragraph (1) does not apply because of sub-paragraph (2), the chargeable consideration for the transaction is determined in accordance with paragraph 8A(1) of Schedule 4.
- (4) In this paragraph—  
“debt” means an obligation, whether certain or contingent, to pay a sum of money either immediately or at a future date, and  
“secured debt” means debt that, immediately after the death of the deceased person, is secured on the property.]

*[<sup>F7</sup>Transactions in connection with dissolution of civil partnership etc*

#### Textual Amendments

- F7** Sch. 3 para. 3A inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **174**

- 3A. A transaction between one party to a civil partnership and the other is exempt from charge if it is effected —
- (a) in pursuance of an order of a court made on granting in respect of the parties an order or decree for the dissolution or annulment of the civil partnership or their judicial separation;
- (b) in pursuance of an order of a court made in connection with the dissolution or annulment of the civil partnership, or the parties' judicial separation, at any time after the granting of such an order or decree for dissolution, annulment or judicial separation as mentioned in paragraph (a);
- (c) in pursuance of —
- (i) an order of a court made at any time under any provision of Schedule 5 to the Civil Partnership Act 2004 that corresponds to section 22A, 23A or 24A of the Matrimonial Causes Act 1973, or
- (ii) an incidental order of a court made under any provision of the Civil Partnership Act 2004 that corresponds to section 8(2) of the Family Law (Scotland) Act 1985 by virtue of section 14(1) of that Act of 1985;
- (d) at any time in pursuance of an agreement of the parties made in contemplation of or otherwise in connection with the dissolution or annulment of the civil partnership, their judicial separation or the making of a separation order in respect of them.]

*Variation of testamentary dispositions etc*

- 4 (1) A transaction following a person's death that varies a disposition (whether effected by will, under the law relating to intestacy or otherwise) of property of which the deceased was competent to dispose is exempt from charge if the following conditions are met.

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- (2) The conditions are—
- (a) that the transaction is carried out within the period of two years after a person's death, and
  - (b) that no consideration in money or money's worth other than the making of a variation of another such disposition is given for it.

[<sup>F8</sup>(2A) Where the condition in sub-paragraph (2)(b) is not met, the chargeable consideration for the transaction is determined in accordance with paragraph 8A(2) of Schedule 4.]

- (3) This paragraph applies whether or not the administration of the estate is complete or the property has been distributed in accordance with the original dispositions.

#### Textual Amendments

**F8** Sch. 3 para. 4(2A) inserted (with effect in accordance with s. 301(7) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 301\(1\)](#)

#### *Power to add further exemptions*

- 5 (1) The Treasury may by regulations provide that any description of land transaction specified in the regulations is exempt from charge.
- (2) The regulations may contain such supplementary, incidental and transitional provision as appears to the Treasury to be appropriate.

## SCHEDULE 4

Section 50

### STAMP DUTY LAND TAX: CHARGEABLE CONSIDERATION

#### *Money or money's worth*

- 1 (1) The chargeable consideration for a transaction is, except as otherwise expressly provided, any consideration in money or money's worth given for the subject-matter of the transaction, directly or indirectly, by the purchaser or a person connected with him.
- (2) [<sup>F9</sup>Section 1122 of the Corporation Tax Act 2010] (connected persons) applies for the purposes of sub-paragraph (1).

#### Textual Amendments

**F9** Words in Sch. 4 para. 1(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 414](#) (with [Sch. 2](#))

#### *Value added tax*

- 2 The chargeable consideration for a transaction shall be taken to include any value added tax chargeable in respect of the transaction, other than value added tax chargeable by virtue of an [<sup>F10</sup>option to tax any land under Part 1 of Schedule 10]

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to the Value Added Tax Act 1994 (c. 23) made after the effective date of the transaction.

#### Textual Amendments

- F10** Words in Sch. 4 para. 2 substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), art. 1(1), [Sch. 1 para. 11](#) (with Sch. 2)

#### *Postponed consideration*

- 3 The amount or value of the chargeable consideration for a transaction shall be determined without any discount for postponement of the right to receive it or any part of it.

#### *Just and reasonable apportionment*

- 4 (1) For the purposes of this Part consideration attributable—
- (a) to two or more land transactions, or
  - (b) in part to a land transaction and in part to another matter, or
  - (c) in part to matters making it chargeable consideration and in part to other matters,
- shall be apportioned on a just and reasonable basis.
- (2) If the consideration is not so apportioned, this Part has effect as if it had been so apportioned.
- (3) For the purposes of this paragraph any consideration given for what is in substance one bargain shall be treated as attributable to all the elements of the bargain, even though—
- (a) separate consideration is, or purports to be, given for different elements of the bargain, or
  - (b) there are, or purport to be, separate transactions in respect of different elements of the bargain.

#### *Exchanges*

- 5 (1) This paragraph applies to determine the chargeable consideration where one or more land transactions are entered into by a person as purchaser (alone or jointly) wholly or partly in consideration of one or more other land transactions being entered into by him (alone or jointly) as vendor.
- (2) In this paragraph—
- (a) “relevant transaction” means any of those transactions, and
  - (b) “relevant acquisition” means a relevant transaction entered into as purchaser and “relevant disposal” means a relevant transaction entered into as vendor.
- (3) The following rules apply if the subject-matter of any of the relevant transactions is a major interest in land—
- (a) where a single relevant acquisition is made, the chargeable consideration for the acquisition is—

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- [<sup>F11</sup>(i) the amount determined under sub-paragraph (3A) in respect of the acquisition, or  
(ii) if greater, the amount which would be the chargeable consideration for the acquisition ignoring paragraph 5;]
- (b) where two or more relevant acquisitions are made, the chargeable consideration for each relevant acquisition is—
- [<sup>F12</sup>(i) the amount determined under sub-paragraph (3A) in respect of that acquisition, or  
(ii) if greater, the amount which would be the chargeable consideration for that acquisition ignoring paragraph 5;]
- [<sup>F13</sup>(3A) The amount mentioned in sub-paragraph (3)(a)(i) and (b)(i) is—
- (a) the market value of the subject-matter of the acquisition, and  
(b) if the acquisition is the grant of a lease at a rent, that rent.]
- (4) The following rules apply if the subject-matter of none of the relevant transactions is a major interest in land—
- (a) where a single relevant acquisition is made in consideration of one or more relevant disposals, the chargeable consideration for the acquisition is the amount or value of any chargeable consideration other than the disposal or disposals that is given for the acquisition;
- (b) where two or more relevant acquisitions are made in consideration of one or more relevant disposals, the chargeable consideration for each relevant acquisition is the appropriate proportion of the amount or value of any chargeable consideration other than the disposal or disposals that is given for the acquisitions.
- (5) For the purposes of sub-paragraph (4)(b) the appropriate proportion is—

$$\frac{MV}{TMV}$$

where—

MV is the market value of the subject-matter of the acquisition for which the chargeable consideration is being determined, and

TMV is the total market value of the subject-matter of all the relevant acquisitions.

- (6) This paragraph has effect subject to—
- paragraph 6 of this Schedule (partition etc: disregard of existing interest), <sup>F14</sup>...
- <sup>F15</sup>...
- <sup>F14</sup>...

[<sup>F16</sup>(7) This paragraph does not apply in a case to which paragraph 17 applies.]

#### Textual Amendments

**F11** Sch. 4 para. 5(3)(a)(i)(ii) substituted (with effect in accordance with Sch. 21 para. 5 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 21 para. 4\(2\)\(a\)](#)

**F12** Sch. 4 para. 5(3)(b)(i)(ii) substituted (with effect in accordance with Sch. 21 para. 5 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 21 para. 4\(2\)\(b\)](#)

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- F13** Sch. 4 para. 5(3A) inserted (with effect in accordance with Sch. 21 para. 5 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 21 para. 4\(3\)](#)
- F14** Words in Sch. 4 para. 5(6) repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)
- F15** Sch. 4 para. 5(6) entry omitted (7.4.2004) by virtue of [The Stamp Duty Land Tax \(Amendment of Part 4 of the Finance Act 2003\) Regulations 2004 \(S.I. 2004/1069\)](#), regs. 1, [4\(2\)\(a\)](#)
- F16** Sch. 4 para. 5(7) added (7.4.2004) by [The Stamp Duty Land Tax \(Amendment of Part 4 of the Finance Act 2003\) Regulations 2004 \(S.I. 2004/1069\)](#), regs. 1, [4\(2\)\(b\)](#)

*Partition etc: disregard of existing interest*

- 6 In the case of a land transaction giving effect to a partition or division of a chargeable interest to which persons are jointly entitled, the share of the interest held by the purchaser immediately before the partition or division does not count as chargeable consideration.

*Valuation of non-monetary consideration*

- 7 Except as otherwise expressly provided, the value of any chargeable consideration for a land transaction, other than—
- (a) money (whether in sterling or another currency), or
  - (b) debt as defined for the purposes of paragraph 8 (debt as consideration),
- shall be taken to be its market value at the effective date of the transaction.

*Debt as consideration*

- 8 (1) Where the chargeable consideration for a land transaction consists in whole or in part of—
- (a) the satisfaction or release of debt due to the purchaser or owed by the vendor, or
  - (b) the assumption of existing debt by the purchaser,
- the amount of debt satisfied, released or assumed shall be taken to be the whole or, as the case may be, part of the chargeable consideration for the transaction.

<sup>F17</sup>(1A) Where—

- (a) debt is secured on the subject-matter of a land transaction immediately before and immediately after the transaction, and
- (b) the rights or liabilities in relation to that debt of any party to the transaction are changed as a result of or in connection with the transaction,

then for the purposes of this paragraph there is an assumption of that debt by the purchaser, and that assumption of debt constitutes chargeable consideration for the transaction.

(1B) Where in a case in which sub-paragraph (1)(b) applies—

- (a) the debt assumed is or includes debt secured on the property forming the subject-matter of the transaction, and
- (b) immediately before the transaction there were two or more persons each holding an undivided share of that property, or there are two or more such persons immediately afterwards,



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the amount of secured debt assumed shall be determined as if the amount of that debt owed by each of those persons at a given time were the proportion of it corresponding to his undivided share of the property at that time.

- (1C) For the purposes of sub-paragraph (1B), <sup>F18</sup>... each joint tenant of property is treated as holding an equal undivided share of it.]
- (2) If the effect of [<sup>F19</sup>this paragraph] would be that the amount of the chargeable consideration for the transaction exceeded the market value of the subject-matter of the transaction, the amount of the chargeable consideration is treated as limited to that value.
- (3) In this paragraph—
- (a) “debt” means an obligation, whether certain or contingent, to pay a sum of money either immediately or at a future date,
  - (b) “existing debt”, in relation to a transaction, means debt created or arising before the effective date of, and otherwise than in connection with, the transaction, and
  - (c) references to the amount of a debt are to the principal amount payable or, as the case may be, the total of the principal amounts payable, together with the amount of any interest that has accrued due on or before the effective date of the transaction.

#### Textual Amendments

- F17** Sch. 4 para. 8(1A)-(1C) inserted (with effect in accordance with s. 301(6) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 301\(3\)](#)
- F18** Words in Sch. 4 para. 8(1C) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\), s. 44\(2\)\(b\)\(3\)\(b\)](#), [Sch. 3 para. 24\(2\)](#) (with s. 29(5)(6)); S.I. 2015/637, [art. 2](#)
- F19** Words in Sch. 4 para. 8(2) substituted (with effect in accordance with s. 301(6) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 301\(4\)](#)

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

- C1** Sch. 4 para. 8 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [43\(1\)](#)

*<sup>F20</sup>Cases where conditions for exemption not fully met*

#### Textual Amendments

- F20** Sch. 4 para. 8A and cross-heading inserted (with effect in accordance with s. 301(7) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 301\(5\)](#)

- 8A (1) Where a land transaction would be exempt from charge under paragraph 3A of Schedule 3 (assents and appropriations by personal representatives) but for sub-paragraph (2) of that paragraph (cases where person acquiring property gives consideration for it), the chargeable consideration for the transaction does not include the amount of any secured debt assumed.

“Secured debt” has the same meaning as in that paragraph.



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- (2) Where a land transaction would be exempt from charge under paragraph 4 of Schedule 3 (variation of testamentary dispositions etc) but for a failure to meet the condition in sub-paragraph (2)(b) of that paragraph (no consideration other than variation of another disposition), the chargeable consideration for the transaction does not include the making of any such variation as is mentioned in that sub-paragraph.]

*Conversion of amounts in foreign currency*

- 9 (1) References in this Part to the amount or value of the consideration for a transaction are to its amount or value in sterling.
- (2) For the purposes of this Part the sterling equivalent of an amount expressed in another currency shall be ascertained by reference to the London closing exchange rate on the effective date of the transaction (unless the parties have used a different rate for the purposes of the transaction).

*Carrying out of works*

- 10 (1) Where the whole or part of the consideration for a land transaction consists of the carrying out of works of construction, improvement or repair of a building or other works to enhance the value of land, then—
- (a) to the extent that the conditions specified in sub-paragraph (2) are met, the value of the works does not count as chargeable consideration, and
  - (b) to the extent that those conditions are not met, the value of the works shall be taken into account as chargeable consideration.
- (2) The conditions referred to in sub-paragraph (1) are—
- (a) that the works are carried out after the effective date of the transaction,
  - (b) that the works are carried out on land acquired or to be acquired under the transaction or on other land held by the purchaser or a person connected with him, and
  - (c) that it is not a condition of the transaction that the works are carried out by the vendor or a person connected with him.

[<sup>F21</sup>(2A) [<sup>F22</sup>Where by virtue of—

- (a) subsection (8) of section 44 (contract and conveyance),
- (b) paragraph 12A of Schedule 17A (agreement for lease), or
- <sup>F23</sup>(c) .....

there are two notifiable transactions (the first being the contract or agreement and the second being the transaction effected on completion or, as the case may be, the grant or execution of the lease),] the condition in sub-paragraph (2)(a) is treated as met in relation to the second transaction if it is met in relation to the first.]

- (3) In this paragraph—
- (a) references to the acquisition of land are to the acquisition of a major interest in it;
  - (b) the value of the works shall be taken to be the amount that would have to be paid in the open market for the carrying out of the works in question.
- (4) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.

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[<sup>F24</sup>(5) This paragraph is subject to paragraph 17 (arrangements involving public or educational bodies).]

#### Textual Amendments

- F21** Sch. 4 para. 10(2A) inserted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 9\(2\)](#)
- F22** Words in Sch. 4 para. 10(2A) substituted (with effect in accordance with s. 297(9) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 297\(8\)](#)
- F23** Sch. 4 para. 10(2A)(c) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), [s. 44\(2\)\(b\)\(3\)\(b\)](#), [Sch. 3 para. 24\(3\)](#) (with [s. 29\(5\)\(6\)](#)); S.I. 2015/637, [art. 2](#)
- F24** Sch. 4 para. 10(5) added (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), [regs. 1, 2\(3\)](#)

#### *Provision of services*

11 [<sup>F25</sup>(1)] Where the whole or part of the consideration for a land transaction consists of the provision of services (other than the carrying out of works to which paragraph 10 applies), the value of that consideration shall be taken to be the amount that would have to be paid in the open market to obtain those services.

[<sup>F26</sup>(2) This paragraph is subject to paragraph 17 (arrangements involving public or educational bodies).]

#### Textual Amendments

- F25** Sch. 4 para. 11 renumbered as Sch. 4 para. 11(1) (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), [regs. 1, 2\(4\)](#)
- F26** Sch. 4 para. 11(2) inserted (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), [regs. 1, 2\(4\)](#)

#### *Land transaction entered into by reason of employment*

- 12 (1) Where a land transaction is entered into by reason of the purchaser's employment, or that of a person connected with him, then—
- (a) if the transaction gives rise to a charge to tax under Chapter 5 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (taxable benefits: living accommodation) and—
    - (i) no rent is payable by the purchaser, or
    - (ii) the rent payable by the purchaser is less than the cash equivalent of the benefit calculated under section 105 or 106 of that Act,
 there shall be taken to be payable by the purchaser as rent an amount equal to the cash equivalent chargeable under those sections;
  - (b) if the transaction would give rise to a charge under that Chapter but for section 99 of that Act (accommodation provided for performance of duties), the consideration for the transaction is the actual consideration (if any);
  - (c) if neither paragraph (a) nor paragraph (b) applies, the consideration for the transaction shall be taken to be not less than the market value of the subject-matter of the transaction as at the effective date of the transaction.

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(2) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.

*Obligations under lease*

F27 13 .....

**Textual Amendments**

**F27** Sch. 4 paras. 13-15 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

*Surrender of existing lease in return for new lease*

F27 14 .....

**Textual Amendments**

**F27** Sch. 4 paras. 13-15 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

*Reverse premium*

F27 15 .....

**Textual Amendments**

**F27** Sch. 4 paras. 13-15 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

*Indemnity given by purchaser*

16 Where the purchaser agrees to indemnify the vendor in respect of liability to a third party arising from breach of an obligation owed by the vendor in relation to the land that is the subject of the transaction, neither the agreement nor any payment made in pursuance of it counts as chargeable consideration.

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*<sup>F28</sup>Purchaser bearing inheritance tax liability*

**Textual Amendments**

**F28** Sch. 4 paras. 16A-16C inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Stamp Duty Land Tax \(Amendment to the Finance Act 2003\) Regulations 2006 \(S.I. 2006/875\)](#), regs. 1(1), 3

- 16A Where—
- (a) there is a land transaction that is—
    - (i) a transfer of value within section 3 of the Inheritance Tax Act 1984 (transfers of value), or
    - (ii) a disposition, effected by will or under the law of intestacy, of a chargeable interest comprised in the estate of a person immediately before his death,
  - and
  - (b) the purchaser is or becomes liable to pay, agrees to pay or does in fact pay any inheritance tax due in respect of the transfer or disposition,
- his liability, agreement or payment does not count as chargeable consideration for the transaction.

*Purchaser bearing capital gains tax liability*

- 16B (1) Where—
- (a) there is a land transaction under which the chargeable interest in question—
    - (i) is acquired otherwise than by a bargain made at arm's length, or
    - (ii) is treated by section 18 of the Taxation of Chargeable Gains Act 1992 (connected persons) as so acquired,
  - and
  - (b) the purchaser is or becomes liable to pay, or does in fact pay, any capital gains tax due in respect of the corresponding disposal of the chargeable interest,
- his liability or payment does not count as chargeable consideration for the transaction.
- (2) Sub-paragraph (1) does not apply if there is chargeable consideration for the transaction (disregarding the liability or payment referred to in sub-paragraph (1)(b)).

*Costs of enfranchisement*

- 16C Costs borne by the purchaser under section 9(4) of the Leasehold Reform Act 1967 or section 33 of the Leasehold Reform, Housing and Urban Development Act 1993 (costs of enfranchisement) do not count as chargeable consideration.]

*<sup>F29</sup>Arrangements involving public or educational bodies*

**Textual Amendments**

**F29** Sch. 4 para. 17 added (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), regs. 1, 2(5)

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17. (1) This paragraph applies in any case where arrangements are entered into under which—
- [<sup>F30</sup>(a) there is a transfer, or the grant or assignment of a lease, of land by a qualifying body (“A”) to a non-qualifying body (“B”) (“the main transfer”),]
  - [<sup>F31</sup>(b) in consideration (whether in whole or in part) of the main transfer there is a grant by B to A of a lease or under-lease of the whole, or substantially the whole, of that land (“the leaseback”),]
  - (c) B undertakes to carry out works or provide services to A, and
  - (d) some or all of the consideration given by A to B for the carrying out of those works or the provision of those services is consideration in money,
- [<sup>F32</sup>whether or not there is also a transfer, or the grant or assignment of a lease, of any other land by A to B (a “transfer of surplus land”).]
- (2) The following are qualifying bodies—
- (a) public bodies within section 66,
  - (b) institutions within the further education sector or the higher education sector within the meaning of 91 of the Further and Higher Education Act 1992,
  - (c) further education corporations within the meaning of section 17 of that Act, [
  - [ sixth form college corporations within the meaning of section 90 of that Act,]
  - [<sup>F33</sup>(ca) (d) higher education corporations within the meaning section 90 of that Act,
  - (e) persons who undertake to establish and maintain, and carry on, or provide for the carrying on, of an Academy within the meaning of [<sup>F34</sup>section 1 of the Academies Act 2010] , and
  - (f) in Scotland, institutions funded by the Scottish Further Education Funding Council or the Scottish Higher Education Funding Council.
- [<sup>F35</sup>(3) The following shall not count as chargeable consideration for the main transfer or any transfer of surplus land—
- (a) the lease-back;
  - (b) the carrying out of building works by B for A; or
  - (c) the provision of services by B to A.
- (4) The chargeable consideration for the lease back does not include—
- (a) the main transfer;
  - (b) any transfer of surplus land; or
  - (c) the consideration in money paid by A to B for the building works or other services referred to in sub-paragraph (3).]

[ Sub-paragraphs (3) and (4) shall be disregarded for the purposes of determining

[<sup>F36</sup>(4A) whether the land transaction in question is notifiable.]

[<sup>F37</sup>(5) . . . . .

(6) In this paragraph “under-lease” includes a sub-lease.]

**Textual Amendments**

**F30** Sch. 4 para. 17(1)(a)(b) substituted (7.4.2004) by [The Stamp Duty Land Tax \(Amendment of Part 4 of the Finance Act 2003\) Regulations 2004 \(S.I. 2004/1069\)](#), regs. 1, **4(3)(a)(i)**

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- F31** Sch. 4 para. 17(1)(b) substituted (27.4.2004) by [The Stamp Duty Land Tax \(Amendment of Part 4 of the Finance Act 2003\) \(No. 2\) Regulations 2004 \(S.I. 2004/1206\)](#), regs. 1, **3**
- F32** Words in Sch. 4 para. 17(1) substituted (7.4.2004) by [The Stamp Duty Land Tax \(Amendment of Part 4 of the Finance Act 2003\) Regulations 2004 \(S.I. 2004/1069\)](#), regs. 1, **4(3)(a)(ii)**
- F33** Sch. 4 para. 17(2)(ca) inserted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 103** (with art. 2(3))
- F34** Words in Sch. 4 para. 17(2)(e) substituted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 15 para. 1**; S.I. 2012/84, art. 3
- F35** Sch. 4 para. 17(3)(4) substituted (7.4.2004) by [The Stamp Duty Land Tax \(Amendment of Part 4 of the Finance Act 2003\) Regulations 2004 \(S.I. 2004/1069\)](#), regs. 1, **4(3)(b)**
- F36** Sch. 4 para. 17(4A) inserted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 39 para. 9(3)**
- F37** Sch. 4 para. 17(5) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), s. 44(2)(b)(3)(b), **Sch. 3 para. 24(4)** (with s. 29(5)(6)); S.I. 2015/637, **art. 2**

## [<sup>F38</sup>SCHEDULE 4ZA

### STAMP DUTY LAND TAX: HIGHER RATES FOR ADDITIONAL DWELLINGS AND DWELLINGS PURCHASED BY COMPANIES

#### Textual Amendments

- F38** Sch. 4ZA inserted (with effect in accordance with s. 128(5)(6) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **s. 128(3)** (with s. 128(9)(10))

## PART 1

### HIGHER RATES

- 1 (1) In its application for the purpose of determining the amount of tax chargeable in respect of a chargeable transaction which is a higher rates transaction, section 55 (amount of tax chargeable: general) has effect with the modification in subparagraph (2).
- (2) In subsection (1B) of section 55, for Table A substitute—

#### “TABLE A: RESIDENTIAL

<i>Relevant consideration</i>	<i>Percentage</i>
So much as does not exceed £125,000	3%
So much as exceeds £125,000 but does not exceed £250,000	5%
So much as exceeds £250,000 but does not exceed £925,000	8%
So much as exceeds £925,000 but does not exceed £1,500,000	13%

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The remainder (if any) 15%”

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## PART 2

### MEANING OF “HIGHER RATES TRANSACTION”

#### *Meaning of “higher rates transaction” etc*

- 2 (1) This paragraph explains how to determine whether a chargeable transaction is a “higher rates transaction” for the purposes of paragraph 1.
- (2) In the case of a transaction where there is only one purchaser, determine whether the transaction falls within any of paragraphs 3 to 7; if it does fall within any of those paragraphs it is a “higher rates transaction” (otherwise it is not).
- (3) In the case of a transaction where there are two or more purchasers—
- take one of the purchasers and determine, having regard to that purchaser only, whether the transaction falls within any of paragraphs 3 to 7, and
  - do the same with each of the other purchasers.

If the transaction falls within any of those paragraphs when having regard to any one of the purchasers it is a “higher rates transaction” (otherwise it is not).

[ Sub-paragraphs (2) and (3) are subject to paragraph 9A (spouses and civil partners <sup>F39</sup>(3A) purchasing from one another).]

- (4) For the purposes of this Schedule any term of years absolute or leasehold estate is not a “major interest” if its term does not exceed 7 years on the date of its grant.

[ References in this Schedule to a major interest in a dwelling include an undivided <sup>F40</sup>(5) share in a major interest in a dwelling.]

#### Textual Amendments

**F39** Sch. 4ZA para. 2(3A) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 7](#)

**F40** Sch. 4ZA para. 2(5) inserted (with effect in accordance with s. 44(3) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [s. 44\(2\)](#)

#### *Single dwelling transactions*

- 3 (1) A chargeable transaction falls within this paragraph if—
- the purchaser is an individual,
  - the main subject-matter of the transaction consists of a major interest in a single dwelling (“the purchased dwelling”), and
  - Conditions A to D are met.

[ But sub-paragraph (1) is subject to paragraph 7A.]

<sup>F41</sup>(1A)

- (2) Condition A is that the chargeable consideration for the transaction is £40,000 or more.

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- (3) Condition B is that on the effective date of the transaction the purchased dwelling—
- (a) is not subject to a lease upon which the main subject-matter of the transaction is reversionary, or
  - (b) is subject to such a lease but the lease has an unexpired term of no more than 21 years.
- (4) Condition C is that at the end of the day that is the effective date of the transaction—
- (a) the purchaser has a major interest in a dwelling other than the purchased dwelling,
  - (b) that interest has a market value of £40,000 or more, and
  - (c) that interest is not reversionary on a lease which has an unexpired term of more than 21 years.
- (5) Condition D is that the purchased dwelling is not a replacement for the purchaser's only or main residence.
- (6) For the purposes of sub-paragraph (5) the purchased dwelling is a replacement for the purchaser's only or main residence if—
- (a) on the effective date of the transaction (“the transaction concerned”) the purchaser intends the purchased dwelling to be the purchaser's only or main residence,
  - (b) in another land transaction (“the previous transaction”) whose effective date was during the period of three years ending with the effective date of the transaction concerned, the purchaser or the purchaser's spouse or civil partner at the time disposed of a major interest in another dwelling (“the sold dwelling”),
    - [ immediately after the effective date of the previous transaction, neither the purchaser nor the purchaser's spouse or civil partner had a major interest in the sold dwelling,]
  - (c) at any time during [<sup>F43</sup>the period of three years referred to in paragraph (b)] the sold dwelling was the purchaser's only or main residence, and
  - (d) at no time during the period beginning with the effective date of the previous transaction and ending with the effective date of the transaction concerned has the purchaser or the purchaser's spouse or civil partner acquired a major interest in any other dwelling with the intention of it being the purchaser's only or main residence.
- [ Sub-paragraph (6)(ba) does not apply in relation to a spouse or civil partner of the <sup>F44</sup>(6A) purchaser if the two of them were not living together (see paragraph 9(3)) on the effective date of the transaction concerned.]
- (7) For the purposes of sub-paragraph (5) the purchased dwelling [<sup>F45</sup>is also] a replacement for the purchaser's only or main residence if—
- (a) on the effective date of the transaction (“the transaction concerned”) the purchaser intended the purchased dwelling to be the purchaser's only or main residence,
  - (b) in another land transaction whose effective date is during [<sup>F46</sup>a permitted period], the purchaser or the purchaser's spouse or civil partner disposes of a major interest in another dwelling (“the sold dwelling”),



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- [ immediately after the effective date of that other land transaction, neither the purchaser nor the purchaser's spouse or civil partner has a major interest in the sold dwelling,] and
- (c) at any time during the period of three years ending with the effective date of the transaction concerned the sold dwelling was the purchaser's only or main residence.
- [ For the purposes of sub-paragraph (7)(b), the permitted periods are—
- <sup>F48</sup>(7A) (a) the period of three years beginning with the day after the effective date of the transaction concerned, or
- (b) if HMRC are satisfied that the purchaser or the purchaser's spouse or civil partner would have disposed of the major interest in the sold dwelling within that three year period but was prevented from doing so by exceptional circumstances that could not reasonably have been foreseen, such longer period as HMRC may allow in response to an application made in accordance with sub-paragraph (7B).
- (7B) An application for the purposes of sub-paragraph (7A)(b) must—
- (a) be made within the period of 12 months beginning with the effective date of the transaction disposing of the major interest in the sold dwelling, and
- (b) be made in such form and manner, and contain such information, as may be specified by HMRC.
- (7C) Schedule 11A (claims not included in returns) does not apply in relation to an application made in accordance with sub-paragraph (7B).]
- [ Sub-paragraph (7)(ba) does not apply in relation to a spouse or civil partner of the purchaser if the two of them are not living together (see paragraph 9(3)) on the effective date of that other land transaction.]

#### Textual Amendments

- F41** Sch. 4ZA para. 3(1A) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 11 para. 8(2)**
- F42** Sch. 4ZA para. 3(6)(ba) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 11 para. 2(2)(a)**
- F43** Words in Sch. 4ZA para. 3(6)(c) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 11 para. 2(2)(b)**
- F44** Sch. 4ZA para. 3(6A) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 11 para. 2(3)**
- F45** Words in Sch. 4ZA para. 3(7) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 11 para. 8(3)**
- F46** Words in Sch. 4ZA para. 3(7)(b) substituted (with effect in accordance with [s. 76\(4\)](#) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), **s. 76(2)(a)**
- F47** Sch. 4ZA para. 3(7)(ba) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 11 para. 2(4)**
- F48** Sch. 4ZA para. 3(7A)-(7C) inserted (with effect in accordance with [s. 76\(4\)](#) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), **s. 76(2)(b)**
- F49** Sch. 4ZA para. 3(8) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 11 para. 2(5)**

- 4 A chargeable transaction falls within this paragraph if—
- (a) the purchaser is not an individual,

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- (b) the main subject-matter of the transaction consists of a major interest in a single dwelling, and
- (c) Conditions A and B in paragraph 3 are met.

*Multiple dwelling transactions*

- 5 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is an individual,
  - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”), and
  - (c) at least two of the purchased dwellings meet conditions A, B and C.
- (2) A purchased dwelling meets condition A if the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to the purchased dwelling is £40,000 or more.
- (3) A purchased dwelling meets condition B if on the effective date of the transaction the purchased dwelling—
- (a) is not subject to a lease upon which the main subject-matter of the transaction is reversionary, or
  - (b) is subject to such a lease but the lease has an unexpired term of no more than 21 years.
- (4) A purchased dwelling meets condition C if it is not subsidiary to any of the other purchased dwellings.
- (5) One of the purchased dwellings (“dwelling A”) is subsidiary to another of the purchased dwellings (“dwelling B”) if—
- (a) dwelling A is situated within the grounds of, or within the same building as, dwelling B, and
  - (b) the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to dwelling B is equal to, or greater than, two thirds of the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to the following combined—
    - (i) dwelling A,
    - (ii) dwelling B, and
    - (iii) each of the other purchased dwellings (if any) which are situated within the grounds of, or within the same building as, dwelling B.
- 6 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is an individual,
  - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”),
  - (c) only one of the purchased dwellings meets conditions A, B and C,
  - (d) the purchased dwelling which meets those conditions is not a replacement for the purchaser's only or main residence, and
  - (e) at the end of the day that is the effective date of the transaction—
    - (i) the purchaser has a major interest in a dwelling other than one of the purchased dwellings,
    - (ii) that interest has a market value of £40,000 or more, and

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(iii) that interest is not reversionary on a lease which has an unexpired term of more than 21 years.

[ But sub-paragraph (1) is subject to paragraph 7A.]

<sup>F50</sup>(1A)

- (2) Sub-paragraphs (2) to (5) of paragraph 5 apply for the purposes of sub-paragraph (1)(c) of this paragraph as they apply for the purposes of sub-paragraph (1)(c) of that paragraph.
- (3) Sub-paragraphs (6) [<sup>F51</sup>to (8)] of paragraph 3 apply for the purposes of sub-paragraph (1)(d) of this paragraph as they apply for the purposes of sub-paragraph (5) of that paragraph.

#### Textual Amendments

- F50** Sch. 4ZA para. 6(1A) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 9\(a\)](#)
- F51** Words in [Sch. 4ZA para. 6\(3\)](#) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 9\(b\)](#)

- 7 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is not an individual,
  - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”), and
  - (c) at least one of the purchased dwellings meets conditions A and B.
- (2) Sub-paragraphs (2) and (3) of paragraph 5 apply for the purposes of sub-paragraph (1)(c) of this paragraph as they apply for the purposes of sub-paragraph (1)(c) of that paragraph.

<sup>F52</sup>*Exception where purchaser has prior interest in purchased dwelling*

#### Textual Amendments

- F52** [Sch. 4ZA para. 7A](#) and cross-heading inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 3](#)

- 7A (1) A chargeable transaction which would (but for this paragraph) fall within paragraph 3 or paragraph 6 does not fall within that paragraph if—
- (a) the purchaser had a major interest (“the prior interest”) in the relevant purchased dwelling immediately before the effective date of the transaction, and
  - (b) the relevant purchased dwelling had been the purchaser's only or main residence throughout the period of three years ending with the effective date of the transaction.
- (2) Sub-paragraph (1) does not apply if—
- (a) the prior interest is a term of years absolute or a leasehold estate, and
  - (b) immediately before the effective date of the transaction, the remaining term of the prior interest is less than 21 years.

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- (3) Sub-paragraph (1) does not apply if immediately before the effective date of the transaction—
- (a) the purchaser is beneficially entitled as a joint tenant to the prior interest, and
  - (b) there are more than three other joint tenants.
- (4) Sub-paragraph (1) does not apply if immediately before the effective date of the transaction the purchaser is beneficially entitled as a tenant in common or coparcener to less than a quarter of the prior interest.
- (5) In this paragraph “relevant purchased dwelling” means—
- (a) the purchased dwelling mentioned in paragraph 3(1)(b), or (as the case may be)
  - (b) the purchased dwelling which meets the conditions mentioned in paragraph 6(1)(c).]

### PART 3

#### SUPPLEMENTARY PROVISIONS

*Further provision in connection with paragraph 3(6) and (7)*

- 8 (1) This paragraph applies where by reason of paragraph 3(7) a chargeable transaction (“the transaction concerned”) [F<sup>53</sup>is not] a higher rates transaction for the purposes of paragraph 1.
- (2) The land transaction (“the subsequent transaction”) by reference to which the condition in paragraph 3(7)(b) [F<sup>54</sup>is] met may not be taken into account for the purposes of paragraph 3(6)(b) in determining whether any other chargeable transaction is a higher rates transaction.
- (3) A land transaction return in respect of the transaction concerned may be amended, to take account of [F<sup>55</sup>the application of paragraph 3(7)] [F<sup>56</sup>by virtue of paragraph 3(7A) (a)], at any time within [F<sup>57</sup>the period of 12 months beginning with—
- (a) the effective date of the subsequent transaction, or
  - (b) if later, the filing date for the return.]
- (4) Where a land transaction return in respect of the transaction concerned is amended to take account of [F<sup>58</sup>the application of paragraph 3(7)] [F<sup>59</sup>by virtue of paragraph 3(7A)(a)] (and not for any other reason), paragraph 6(2A) of Schedule 10 (notice of amendment of return to be accompanied by the contract for the transaction etc) does not apply in relation to the amendment.
- [ Where HMRC grant an application made in accordance with paragraph 3(7B)—
- F<sup>60</sup>(5) (a) the land transaction return in respect of the transaction concerned is treated as having been amended to take account of the application of paragraph 3(7) by virtue of paragraph 3(7A)(b), and
- (b) HMRC must notify the purchaser accordingly.]

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### Textual Amendments

- F53** Words in Sch. 4ZA para. 8(1) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 10\(a\)](#)
- F54** Word in Sch. 4ZA para. 8(2) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 10\(b\)](#)
- F55** Words in Sch. 4ZA para. 8(3) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 10\(c\)](#)
- F56** Words in Sch. 4ZA para. 8(3) inserted (with effect in accordance with [s. 76\(4\)](#) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [s. 76\(3\)\(a\)](#)
- F57** Words in Sch. 4ZA para. 8(3) substituted (with effect in accordance with [s. 44\(5\)](#) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [s. 44\(4\)](#)
- F58** Words in Sch. 4ZA para. 8(4) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 10\(d\)](#)
- F59** Words in Sch. 4ZA para. 8(4) inserted (with effect in accordance with [s. 76\(4\)](#) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [s. 76\(3\)\(b\)](#)
- F60** Sch. 4ZA para. 8(5) inserted (with effect in accordance with [s. 76\(4\)](#) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [s. 76\(3\)\(c\)](#)

### *Spouses and civil partners purchasing alone*

- 9 (1) Sub-paragraph (2) applies in relation to a chargeable transaction if—
- the purchaser (or one of them) is married or in a civil partnership on the effective date,
  - the purchaser and the purchaser's spouse or civil partner are living together on that date, and
  - the purchaser's spouse or civil partner is not a purchaser in relation to the transaction.
- (2) The transaction is to be treated as being a higher rates transaction for the purposes of paragraph 1 if it would have been a higher rates transaction had the purchaser's spouse or civil partner been a purchaser.
- (3) Persons who are married to, or are civil partners of, each other are treated as living together for the purposes of this [<sup>F61</sup>Schedule] if they are so treated for the purposes of the Income Tax Acts (see section 1011 of the Income Tax Act 2007).

### Textual Amendments

- F61** Word in [Sch. 4ZA para. 9\(3\)](#) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 11](#)

### *[<sup>F62</sup>Spouses and civil partners purchasing from one another*

### Textual Amendments

- F62** Sch. 4ZA para. 9A and cross-heading inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 4](#)

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- 9A (1) A chargeable transaction is not a higher rates transaction for the purposes of paragraph 1 if—
- (a) there is only one purchaser,
  - (b) there is only one vendor, and
  - (c) on the effective date of the transaction the two of them are—
    - (i) married to, or civil partners of, each other, and
    - (ii) living together (see paragraph 9(3)).
- (2) Where—
- (a) there are two purchasers in relation to a chargeable transaction, and
  - (b) one of them (“P”) is also the vendor in relation to the transaction,
- P is to be treated for the purposes of sub-paragraph (1) as not being a purchaser.
- (3) Where—
- (a) there are two vendors in relation to a chargeable transaction, and
  - (b) one of them (“V”) is also the purchaser in relation to the transaction,
- V is to be treated for the purposes of sub-paragraph (1) as not being a vendor.]

*[<sup>F63</sup>Property adjustment on divorce, dissolution of civil partnership etc*

#### Textual Amendments

**F63** Sch. 4ZA para. 9B and cross-heading inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by Finance Act 2018 (c. 3), Sch. 11 para. 5

- 9B (1) This paragraph applies where—
- (a) a person (“A”) has a major interest in a dwelling,
  - (b) a property adjustment order has been made in respect of the interest for the benefit of another person (“B”), and
  - (c) the dwelling—
    - (i) is B's only or main residence, and
    - (ii) is not A's only or main residence.
- (2) A is to be treated for the purposes of this Schedule as not having the interest in the dwelling.
- (3) “Property adjustment order” means—
- (a) an order under section 24(1)(b) of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - (b) an order under section 17(1)(a)(ii) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce) corresponding to such an order as is mentioned in paragraph (a),
  - (c) an order under Article 26(1)(b) of the Matrimonial Causes (Northern Ireland) Order 1978 (property adjustment orders in connection with divorce proceedings etc),
  - (d) an order under Article 21(a)(ii) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (property adjustment orders after overseas divorce) corresponding to such an order as is mentioned in paragraph (c),

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- (e) an order under paragraph 7(1)(b) of Schedule 5 or paragraph 7(1)(b) of Schedule 15 to the Civil Partnership Act 2004 (property adjustment orders in connection with dissolution etc of civil partnership), or
- (f) an order under paragraph 9 of Schedule 7 or paragraph 9 of Schedule 17 to the Civil Partnership Act 2004 (property adjustment orders in connection with overseas dissolution etc of civil partnership) corresponding to such an order as is mentioned in paragraph (e).]

#### *Settlements and bare trusts*

- 10 (1) Sub-paragraph (3) applies in relation to a land transaction if—
- (a) the main subject-matter of the transaction consists of a major interest in one or more dwellings,
  - (b) the purchaser (or one of them) is acting as trustee of a settlement, and
  - (c) under the terms of the settlement a beneficiary will be entitled to—
    - (i) occupy the dwelling or dwellings for life, or
    - (ii) income earned in respect of the dwelling or dwellings.
- (2) Sub-paragraph (3) also applies in relation to a land transaction if—
- (a) the main subject-matter of the transaction consists of a term of years absolute in a dwelling, and
  - (b) the purchaser (or one of them) is acting as a trustee of a bare trust.
- (3) Where this sub-paragraph applies in relation to a land transaction the beneficiary of the settlement or bare trust (rather than the trustee) is to be treated for the purposes of this Schedule as the purchaser (or as one of them).
- (4) Paragraphs 3(3) and 4 of Schedule 16 (trustees to be treated as the purchaser) have effect subject to sub-paragraph (3).
- 11 (1) Sub-paragraph (3) applies where—
- (a) a person is a beneficiary under a settlement,
  - (b) a major interest in a dwelling forms part of the trust property, and
  - (c) under the terms of the settlement, the beneficiary is entitled to—
    - (i) occupy the dwelling for life, or
    - (ii) income earned in respect of the dwelling.
- (2) Sub-paragraph (3) also applies where—
- (a) a person is a beneficiary under a bare trust, and
  - (b) a term of years absolute in a dwelling forms part of the trust property.
- (3) Where this sub-paragraph applies—
- (a) the beneficiary is to be treated for the purposes of this Schedule as holding the interest in the dwelling, and
  - (b) if the trustee of the settlement or bare trust disposes of the interest, the beneficiary is to be treated for the purposes of this Schedule as having disposed of it.
- 12 (1) This paragraph applies where, by reason of paragraph 10 or 11 or paragraph 3(1) of Schedule 16, the child of a person (“P”) would (but for this paragraph) be treated for the purposes of this Schedule as—
- (a) being the purchaser in relation to a land transaction,

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- (b) holding an interest in a dwelling, or
- (c) having disposed of an interest in a dwelling.

[ But this paragraph does not apply if the trustee (or any of the trustees) of the <sup>F64</sup>(1A) settlement or bare trust concerned—

- (a) was the purchaser in relation to the land transaction,
- (b) holds the interest in the dwelling, or
- (c) disposed of the interest in the dwelling,

in the exercise of powers conferred on the trustee by reason of a relevant court appointment made in respect of the child concerned.

(1B) In sub-paragraph (1A) “relevant court appointment” means—

- (a) an appointment under section 16 of the Mental Capacity Act 2005,
- (b) an appointment under section 113 of the Mental Capacity Act (Northern Ireland) 2016, or
- (c) an equivalent appointment under the law of a country or territory outside England, Wales and Northern Ireland.]

(2) Where this paragraph applies—

- (a) P and any [<sup>F65</sup>relevant] spouse or civil partner of P are to be treated for the purposes of this Schedule as being the purchaser, holding the interest or (as the case may be) having disposed of the interest, and
- (b) the child is not to be so treated.

[<sup>F66</sup>(3) For the purposes of sub-paragraph (2) a spouse or civil partner of P is “relevant” if the spouse or civil partner—

- (a) is not a parent of the child, and
- (b) is living together with P (see paragraph 9(3)).]

<sup>F67</sup>(4) . . . . .

(5) “Child” means a person under the age of 18.

#### Textual Amendments

- F64** Sch. 4ZA para. 12(1A)(1B) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by Finance Act 2018 (c. 3), Sch. 11 para. 6(1)
- F65** Word in Sch. 4ZA para. 12(2)(a) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by Finance Act 2018 (c. 3), Sch. 11 para. 12(2)
- F66** Sch. 4ZA para. 12(3) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by Finance Act 2018 (c. 3), Sch. 11 para. 12(3)
- F67** Sch. 4ZA para. 12(4) omitted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by virtue of Finance Act 2018 (c. 3), Sch. 11 para. 12(4)

13 (1) This paragraph applies in relation to a land transaction if—

- (a) the main subject-matter of the transaction consists of a major interest in one or more dwellings,
- (b) the purchaser (or one of them) is acting as trustee of a settlement,
- (c) that purchaser is an individual, and
- (d) under the terms of the settlement a beneficiary is not entitled to—
  - (i) occupy the dwelling or dwellings for life, or



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(ii) income earned in respect of the dwelling or dwellings.

- (2) In determining whether the transaction falls within paragraph 4 or paragraph 7—
- (a) if the purchaser mentioned in sub-paragraph (1) is the only purchaser, ignore paragraph (a) of those paragraphs, and
  - (b) if that purchaser is not the only purchaser, ignore paragraph (a) of those paragraphs when having regard to that purchaser.

#### *Partnerships*

- 14 (1) Sub-paragraph (2) applies in relation to a chargeable transaction whose subject-matter consists of a major interest in one or more dwellings if—
- (a) the purchaser (or one of them) is a partner in a partnership, but
  - (b) the purchaser does not enter into the transaction for the purposes of the partnership.
- (2) For the purposes of determining whether the transaction falls within paragraph 3 or 6 any major interest in any other dwelling that is held by or on behalf of the partnership for the purposes of a trade carried on by the partnership is not to be treated as held by or on behalf of the purchaser.
- (3) Paragraph 2(1)(a) of Schedule 15 (chargeable interests held by partnerships treated as held by the partners) has effect subject to sub-paragraph (2).

#### *Alternative finance arrangements*

- 15 (1) This paragraph applies in relation to a chargeable transaction which is the first transaction under an alternative finance arrangement entered into between a person and a financial institution.
- (2) The person (rather than the institution) is to be treated for the purposes of this Schedule as the purchaser in relation to the transaction.
- (3) In this paragraph—
- “alternative finance arrangement” means an arrangement of a kind mentioned in section 71A(1) or 73(1);
  - “financial institution” has the meaning it has in those sections (see section 73BA);
  - “first transaction”, in relation to an alternative finance arrangement, has the meaning given by section 71A(1)(a) or (as the case may be) section 73(1)(a)(i).

#### *Major interests in dwellings inherited jointly*

- 16 (1) This paragraph applies where by virtue of an inheritance—
- (a) a person (“P”) becomes jointly entitled with one or more other persons to a major interest in a dwelling, and
  - (b) P’s beneficial share in the interest does not exceed 50% (see sub-paragraph (4)).
- (2) P is not to be treated for the purposes of paragraph 3(4)(a) or 6(1)(e) as having the major interest at any time during the period of three years beginning with the date of the inheritance.

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- (3) But if at any time during that period of three years P becomes the only person beneficially entitled to the whole of the interest or P's beneficial share in the interest exceeds 50% P is, from that time, to be treated as having the major interest for the purposes of paragraph 3(4)(a) and 6(1)(e) (subject to any disposal by P).
- (4) P's share in the interest exceeds 50% if—
- (a) P is beneficially entitled as a tenant in common or coparcener to more than half the interest,
  - (b) P and P's spouse or civil partner taken together are beneficially entitled as tenants in common or coparceners to more than half the interest, or
  - (c) P and P's spouse or civil partner are beneficially entitled as joint tenants to the interest and there is no more than one other joint tenant who is so entitled.
- (5) In this section “inheritance” means the acquisition of an interest in or towards satisfaction of an entitlement under or in relation to the will of a deceased person, or on the intestacy of a deceased person.

*Dwellings outside England,<sup>F68</sup> ... and Northern Ireland*

**Textual Amendments**

**F68** Word in [Sch. 4ZA para. 17 cross-heading](#) omitted (with effect in accordance with Sch. 11 para. 16(4) of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 13](#)

- 17 (1) In the provisions of this Schedule specified in sub-paragraph (3), references to a “dwelling” include references to a dwelling situated in a country or territory outside England<sup>F69</sup> ... and Northern Ireland.

[ In the application of those provisions in relation to a dwelling situated in Wales—

- <sup>F70</sup>(1A) (a) references to a “major interest” in the dwelling are to an interest in the dwelling of a kind mentioned in section 117(2),
- (b) references to a “land transaction” in relation to the dwelling are to the acquisition of an interest in the dwelling, and
- (c) references to the “effective date” of a land transaction in relation to the dwelling are to the date on which the interest in the dwelling is acquired.]

- (2) In the application of those provisions in relation to a dwelling situated in a country or territory outside England, Wales and Northern Ireland—

- (a) references to a “major interest” in the dwelling are to an equivalent interest in the dwelling under the law of that country or territory,
- (b) references to persons being beneficially entitled as joint tenants, tenants in common or coparceners to an interest in the dwelling are to persons having an equivalent entitlement to the interest in the dwelling under the law of that country or territory,
- (c) references to a “land transaction” in relation to the dwelling are to the acquisition of an interest in the dwelling under the law of that country or territory,
- (d) references to the “effective date” of a land transaction in relation to the dwelling are to the date on which the interest in the dwelling is acquired under the law of that country or territory,

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- (e) references to “inheritance” are to the acquisition of an interest from a deceased person's estate in accordance with the laws of that country or territory concerning the inheritance of property.
- (3) The provisions of this Schedule referred to in sub-paragraphs (1)<sup>F71</sup>, (1A)] and (2) are—
- (a) paragraph 3(4), (6)(b)<sup>F72</sup>, (ba)], (c) and (d) and (7)(b)<sup>F73</sup>, (ba)] and (c),
- (b) paragraph 6(1)(e),
- [ paragraph 9B,]
- <sup>F74</sup>(ba)
- (c) paragraph 11,
- (d) paragraph 14(2), and
- (e) paragraph 16.
- (4) Where the child of a person (“P”) has an interest in a dwelling which is situated in a country or territory outside England<sup>F75</sup>... and Northern Ireland, P and any [<sup>F76</sup>relevant] spouse or civil partner of P are to be treated for the purposes of this Schedule as having that interest.
- <sup>F77</sup>(5) For the purposes of sub-paragraph (4) a spouse or civil partner of P is “relevant” if the spouse or civil partner—
- (a) is not a parent of the child, and
- (b) is living together with P (see paragraph 9(3)).]
- [ Sub-paragraph (4) does not apply if the interest in the dwelling was acquired in
- <sup>F78</sup>(5A) the child's name or on the child's behalf by a person acting in exercise of powers conferred on that person by reason of a relevant court appointment made in respect of the child.
- (5B) In sub-paragraph (5A) “relevant court appointment” has the meaning given by paragraph 12(1B).]
- <sup>F79</sup>(6) . . . . .

#### Textual Amendments

- F69** Word in Sch. 4ZA para. 17(1) omitted (with effect in accordance with Sch. 11 para. 16(4) of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(2\)](#)
- F70** Sch. 4ZA para. 17(1A) inserted (with effect in accordance with Sch. 11 para. 16(4) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(3\)](#)
- F71** Word in Sch. 4ZA para. 17(3) inserted (with effect in accordance with Sch. 11 para. 16(4) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(4\)\(a\)](#)
- F72** Word in Sch. 4ZA para. 17(3)(a) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(4\)\(b\)\(i\)](#)
- F73** Word in Sch. 4ZA para. 17(3)(a) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(4\)\(b\)\(ii\)](#)
- F74** Sch. 4ZA para. 17(3)(ba) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(4\)\(c\)](#)
- F75** Word in Sch. 4ZA para. 17(4) omitted (with effect in accordance with Sch. 11 para. 16(4) of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(5\)\(a\)](#)
- F76** Word in Sch. 4ZA para. 17(4) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(5\)\(b\)](#)

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- F77** Sch. 4ZA para. 17(5) substituted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(6\)](#)
- F78** Sch. 4ZA para. 17(5A)(5B) inserted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 6\(2\)](#)
- F79** Sch. 4ZA para. 17(6) omitted (with effect in accordance with Sch. 11 para. 16(1)-(3) of the amending Act) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 11 para. 14\(7\)](#)

*What counts as a dwelling*

- 18 (1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.
- (2) A building or part of a building counts as a dwelling if—
- (a) it is used or suitable for use as a single dwelling, or
  - (b) it is in the process of being constructed or adapted for such use.
- (3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on that land) is taken to be part of that dwelling.
- (4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of that dwelling.
- (5) The main subject-matter of a transaction is also taken to consist of or include an interest in a dwelling if—
- (a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
  - (b) the main subject-matter of the transaction consists of or includes an interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and
  - (c) construction or adaptation of the building, or part of a building, has not begun by the time the contract is substantially performed.
- (6) In sub-paragraph (5)—
- “contract” includes any agreement;
- “relevant deeming provision” means any of sections 44 to 45A or paragraph 5(1) or (2) of Schedule 2A or paragraph 12A of Schedule 17A;
- “substantially performed” has the same meaning as in section 44.
- (7) A building or part of a building used for a purpose specified in section 116(2) or (3) is not used as a dwelling for the purposes of sub-paragraph (2) or (5).
- (8) Where a building or part of a building is used for a purpose mentioned in sub-paragraph (7), no account is to be taken for the purposes of sub-paragraph (2) of its suitability for any other use.

*Power to modify this Schedule*

- 19 (1) The Treasury may by regulations amend or otherwise modify this Schedule for the purpose of preventing certain chargeable transactions from being higher rates transactions for the purposes of paragraph 1.
- (2) The provision which may be included in regulations under this paragraph by reason of section 114(6)(c) includes incidental or consequential provision which may cause

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a chargeable transaction to be a higher rates transaction for the purposes of paragraph 1.]

## [<sup>F80</sup>SCHEDULE 4A

### STAMP DUTY LAND TAX: HIGHER RATE FOR CERTAIN TRANSACTIONS

#### Textual Amendments

**F80** Sch. 4A inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 4](#)

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

**C2** Sch. 4A modified (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 40 para. 9\(3\)](#)

#### *Meaning of “higher threshold interest”*

- 1 (1) In this paragraph “interest in a single dwelling” means so much of the subject-matter of a chargeable transaction as consists of a chargeable interest in or over a single dwelling (together with appurtenant rights).
- (2) An interest in a single dwelling is a higher threshold interest for the purposes of this Schedule if chargeable consideration of more than [<sup>F81</sup>£500,000] is attributable to that interest.

#### Textual Amendments

**F81** Word in Sch. 4A para. 1(2) substituted (with effect in accordance with [s. 111\(4\)-\(6\)](#) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 111\(2\)](#)

#### *Transactions involving a higher threshold interest*

- 2 (1) Sub-paragraphs (2) to (8) apply to a chargeable transaction whose subject-matter consists of or includes a higher threshold interest.
- (2) If the main subject-matter of the transaction consists entirely of higher threshold interests, the transaction is a high-value residential transaction for the purposes of paragraph 3.
- (3) If the main subject-matter of the transaction includes a chargeable interest other than a higher threshold interest, the transaction (“the primary transaction”) is to be treated for the relevant purposes as two separate chargeable transactions as follows—
  - (a) a transaction whose subject-matter is all the higher threshold interests, together with any appurtenant rights;
  - (b) a transaction whose subject-matter is the remainder of the subject-matter of the primary transaction.
- (4) For those purposes, the chargeable consideration for a transaction treated as occurring under sub-paragraph (3) is so much of the chargeable consideration for the primary transaction as is attributable to that transaction.

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- (5) The transaction mentioned in sub-paragraph (3)(a) is a high-value residential transaction for the purposes of paragraph 3.
- (6) “Relevant purposes” means the purposes of—
- (a) paragraphs 3 <sup>F82</sup>, 5 to 5K and 6A to 6H] of this Schedule,
  - (b) section 55 (amount of tax chargeable: general),
  - (c) Schedule 5 (amount of tax chargeable: rent),
  - (d) Schedule 6B (transfers involving multiple dwellings), <sup>F83</sup> ...
  - <sup>F84</sup>(da) Schedule 7A (PAIF seeding relief and COACS seeding relief), and]
  - (e) any other provision of this Part, so far as it is necessary because of any of paragraphs (a) to [<sup>F85</sup>(da)] to treat the purposes in question as relevant purposes.
- (7) If a transaction treated under sub-paragraph (3) as two separate transactions is notifiable, each of the separate transactions (but not the primary transaction) is also treated as a separate, and notifiable, transaction for the purposes of section 76 (duty to deliver land transaction return).
- (8) The provisions relating to land transaction returns are to be read with any adjustments that may be necessary as a result of sub-paragraph (7).
- (9) The reference in sub-paragraph (1) to a chargeable transaction does not include a transaction to which section 74 (exercise of collective rights by tenants of flats) or section 75 (crofting community right to buy) applies.

#### Textual Amendments

- F82** Words in Sch. 4A para. 2(6) substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 40 para. 2(2)**
- F83** Word in Sch. 4A para. 2(6)(d) omitted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 16 para. 12(a)**
- F84** Sch. 4A para. 2(6)(da) inserted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by Finance Act 2016 (c. 24), **Sch. 16 para. 12(b)**
- F85** Word in Sch. 4A para. 2(6)(e) substituted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by Finance Act 2016 (c. 24), **Sch. 16 para. 12(c)**

#### *Amount of tax chargeable: higher rate for certain transactions*

- 3 (1) Where this paragraph applies to a chargeable transaction—
- (a) the amount of tax chargeable in respect of the transaction is 15% of the chargeable consideration for the transaction, and
  - (b) the transaction is not taken to be linked to any other transaction for the purposes of section [<sup>F86</sup>55(1B), (1C) and (4)].
- (2) This paragraph applies to a chargeable transaction if—
- (a) the transaction is a high-value residential transaction, and
  - (b) the condition in sub-paragraph (3) is met.
- (3) The condition is that—
- (a) the purchaser is a company,

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- (b) the acquisition is made by or on behalf of the members of a partnership one or more of whose members is a company, or
  - (c) the acquisition is made for the purposes of a collective investment scheme.
- (4) References in sub-paragraph (3) to a company do not include a company acting in its capacity as trustee of a settlement.
- (5) If there are two or more purchasers acting jointly, the condition in sub-paragraph (3) is treated as met if it is met in relation to at least one of those purchasers.
- (6) In relation to a transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 17(2) of Schedule 15, sub-paragraph (3) has effect as if the following were substituted for paragraph (b) of that sub-paragraph—
- “(b) the purchasers (see paragraph 17(3) of Schedule 15) include a company, or”.
- (7) In relation to an event that is a chargeable transaction by virtue of paragraph 17A(4) of that Schedule, sub-paragraph (3) has effect as if the following were substituted for paragraph (b) of that sub-paragraph—
- “(b) the purchasers (see paragraph 17A(5) of Schedule 15) include a company, or”.
- (8) For the purposes of sub-paragraph (3), paragraph 3 of Schedule 16 (bare trustees) applies as if sub-paragraphs (2) and (3) of that paragraph were omitted.
- (9) In the case of a transaction for which the whole or part of the chargeable consideration is rent, this paragraph has effect subject to section 56 and Schedule 5 (amount of tax chargeable: rent).
- (10) The Treasury may by order amend this paragraph for the purpose of limiting the circumstances in which the condition in sub-paragraph (3) is to be treated as met.

#### Textual Amendments

**F86** Words in Sch. 4A para. 3(1)(b) substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\)](#), [Sch. para. 13](#) (with s. 2(3)-(6))

#### *Acquisitions of interests in the same dwelling through different transactions*

- 4 (1) Sub-paragraphs (2) and (3) apply if—
- (a) the subject-matter of a chargeable transaction includes a chargeable interest in or over a dwelling,
  - (b) one or more land transactions, the subject-matter of each of which includes a chargeable interest in or over the dwelling, are linked to that chargeable transaction, and
  - (c) the total consideration attributable to the interests mentioned in paragraphs (a) and (b) (and to any appurtenant rights, but disregarding any rent) is more than [<sup>F87</sup>£500,000].
- (2) Each of those chargeable interests is treated as a higher threshold interest for the purposes of this Schedule.



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- (3) If the condition in paragraph 3(3) is met in the case of the transaction mentioned in sub-paragraph (1)(a), it is also treated as met in the case of each transaction mentioned in sub-paragraph (1)(b) that is a chargeable transaction.
- (4) The transactions referred to in this paragraph do not include any transaction to which section 74 (exercise of collective rights by tenants of flats) or section 75 (crofting community right to buy) applies.

#### Textual Amendments

**F87** Word in Sch. 4A para. 4(1)(c) substituted (with effect in accordance with s. 111(4)-(6) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 111\(3\)\(a\)](#)

#### *<sup>F88</sup>Businesses of letting, trading in or redeveloping properties*

#### Textual Amendments

**F88** Sch. 4A para. 5 substituted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 40 para. 2\(3\)](#)

- 5 (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest that is acquired exclusively for one or more of the following purposes—
- (a) exploitation as a source of rents or other receipts (other than excluded rents) in the course of a qualifying property rental business;
  - <sup>F89</sup>(aa) use as business premises for the purposes of a qualifying property rental business (other than one which gives rise to income consisting wholly or mainly of excluded rents);
  - (ab) use for the purposes of a relievable trade;]
  - <sup>F90</sup>(b) development or redevelopment and—
    - (i) resale in the course of a property development trade, or
    - (ii) exploitation falling within paragraph (a) or use falling within paragraph (aa) or (ab);]
  - (c) resale in the course of a property development trade (in a case where the chargeable transaction is part of a qualifying exchange);
  - (d) resale (as stock of the business) in the course of a property trading business.
- (2) A chargeable interest does not count as being acquired exclusively for one or more of those purposes if it is intended that a non-qualifying individual will be permitted to occupy <sup>F91</sup>a dwelling on the land].
- (3) In this paragraph—
- “excluded rents” has the same meaning as in section 133 of the Finance Act 2013;
  - “property development trade” means a trade that—
    - (a) consists of or includes buying and developing or redeveloping for resale residential or non-residential property, and
    - (b) is run on a commercial basis and with a view to profit;



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“part of a qualifying exchange” is to be construed in accordance with section 139(4) of the Finance Act 2013;

“property trading business” means a business that—

(a) consists of or includes activities in the nature of a trade of buying and selling dwellings, and

(b) is run on a commercial basis and with a view to profit;

“qualifying property rental business” has the same meaning as in section 133 of the Finance Act 2013.

[<sup>F92</sup>“relievable trade” means a trade that is run on a commercial basis and with a view to profit.]]

#### Textual Amendments

- F89** Sch. 4A para. 5(1)(aa)(ab) inserted (with effect in accordance with s. 129(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 129\(2\)\(a\)\(i\)](#)
- F90** Sch. 4A para. 5(1)(b) substituted (with effect in accordance with s. 129(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 129\(2\)\(a\)\(ii\)](#)
- F91** Words in Sch. 4A para. 5(2) substituted (with effect in accordance with s. 129(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 129\(2\)\(b\)](#)
- F92** Words in Sch. 4A para. 5(3) inserted (with effect in accordance with s. 129(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 129\(2\)\(c\)](#)

#### [<sup>F93</sup>Meaning of “non-qualifying individual”

#### Textual Amendments

- F93** Sch. 4A paras. 5A-5K and cross-headings inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 40 para. 2\(4\)](#)

- 5A (1) In paragraph 5 “non-qualifying individual”, in relation to a chargeable transaction, means any of the following—
- (a) the purchaser (other than a purchaser entering into the transaction as a member of a partnership);
  - (b) a purchaser who enters into the transaction as a member of a partnership and has a major share in the partnership,
  - (c) an individual (a “connected person”) who is connected with the purchaser;
  - (d) a relevant settlor;
  - (e) the spouse or civil partner of a connected person or of a relevant settlor;
  - (f) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor;
  - (g) a relative of the spouse or civil partner of a connected person or of a relevant settlor;
  - (h) the spouse or civil partner of a person falling within paragraph (g);
  - (i) an individual who is a major participant in a relevant collective investment scheme or is connected with a major participant in a relevant collective investment scheme.
- (2) A member of a partnership has a “major share” in the partnership if the member is entitled to a 50% or greater share—

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- (a) in the income profits of the partnership, or
  - (b) in the partnership's assets.
- (3) A collective investment scheme is a “relevant collective investment scheme” for the purposes of sub-paragraph (1)(i) if the purchaser under the chargeable transaction referred to in that sub-paragraph acquires the subject-matter of the transaction for the purposes of that scheme.
- (4) An individual who participates in a collective investment scheme is a “major participant” in the scheme if the individual—
- (a) is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or income arising from the scheme that may be distributed to participants, or
  - (b) would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.
- (5) The reference in sub-paragraph (4)(a) to profits or income arising from a collective investment scheme is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the scheme.
- (6) In this paragraph—
- “participant”, in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000;
  - “relative” means brother, sister, ancestor or lineal descendant;
  - “relevant settlor”, in relation to a chargeable transaction, means an individual who is a settlor in relation to a relevant settlement (as defined in sub-paragraph (7));
  - “settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).
- (7) Where a person, in the capacity of trustee of a settlement, is connected with a person who is the purchaser under a chargeable transaction, that settlement is a “relevant settlement” in relation to the chargeable transaction.
- (8) In sub-paragraph (7) “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected persons”: supplementary).
- (9) In this paragraph “the purchaser”, in relation to a chargeable transaction, is to be read as a reference to any of the purchasers (if there are more than one).
- (10) Section 1122 of the Corporation Tax Act 2010 (connected persons) has effect for the purposes of this paragraph, but for those purposes—
- (a) subsections (7) and (8) of that section (application of rules about connected persons to partnerships) are to be disregarded, and
  - (b) subsections (2) to (7) of section 172 of the Finance Act 2013 apply as they apply for the purposes of Part 3 of that Act.

*Trades involving making a dwelling available to the public*

- 5B (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions in sub-paragraph (2) are met.

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- (2) The conditions are that—
- (a) the higher threshold interest is acquired with the intention that it will be exploited as a source of income in the course of a qualifying trade, and
  - (b) reasonable commercial plans have been formulated to carry out that intention without delay (except so far as delay may be justified by commercial considerations or cannot be avoided).
- (3) “Qualifying trade”, in relation to a higher threshold interest, means a trade that—
- (a) is carried on on a commercial basis and with a view to profit, and
  - (b) involves, in its normal course, offering the public the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade on at least 28 days in any calendar year.
- (4) For the purposes of sub-paragraph (3), persons are not considered to have the opportunity to make use of, stay in or otherwise enjoy a dwelling unless the areas that they have the opportunity to make use of, stay in or otherwise enjoy include a significant part of the interior of the dwelling.
- (5) The size (relative to the size of the whole dwelling), nature and function of any relevant area or areas in a dwelling are taken into account in determining whether they form a significant part of the interior of the dwelling.

*Financial institutions acquiring dwellings in the course of lending*

- 5C (1) Sub-paragraph (2) applies to a chargeable transaction if the purchaser is a financial institution carrying on a business that involves the lending of money.
- (2) Paragraph 3 does not apply to the chargeable transaction so far as its subject-matter consists of a higher threshold interest that is acquired in the course of that business—
- (a) for the purpose of resale in the course of the business and,
  - (b) in connection with those lending activities.

*<sup>F94</sup> Acquisition under a regulated home reversion plan*

**Textual Amendments**

**F94** Sch. 4A para. 5CA and cross-heading inserted (with effect in accordance with s. 130(4) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 130\(2\)](#)

- 5CA (1) Paragraph 3 does not apply to a chargeable transaction if (and so far as) the purchaser—
- (a) is an authorised plan provider, and
  - (b) acquires the subject-matter of the chargeable transaction as a plan provider.
- (2) For the purposes of this paragraph the purchaser acquires the subject-matter of the chargeable transaction “as a plan provider” so far as the purchaser acquires it under a regulated home reversion plan which the purchaser enters into as plan provider.
- (3) In this paragraph—
- “authorised plan provider” means a person authorised under the Financial Services and Markets Act 2000 to carry on in the United Kingdom the

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regulated activity specified in article 63B(1) of the Regulated Activities Order (entering into regulated home reversion plan as plan provider);

“the Regulated Activities Order” means the Financial Services and Markets (Regulated Activities) Order 2001 (S.I. 2001/544);

“regulated home reversion plan” means an arrangement which is a regulated home reversion plan for the purposes of Chapter 15A of Part 2 of the Regulated Activities Order.

- (4) In this section references to entering into a regulated home reversion plan “as plan provider” are to be interpreted as if the references were in the Regulated Activities Order.]

*[<sup>F95</sup>Dwellings for occupation by certain employees etc of a relievable business]*

#### Textual Amendments

**F95** Sch. 4A para. 5D cross heading substituted (with effect in accordance with s. 131(10) of the amending Act) by Finance Act 2016 (c. 24), s. 131(3)

- 5D (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions in subparagraph (2) are met. Those conditions can only be met if the purchaser, or a relevant group member, carries on or is to carry on a relievable [<sup>F96</sup>business].
- (2) The conditions are that—
- (a) the interest is acquired for the purpose of making the dwelling available to one or more qualifying employees or qualifying partners for use as living accommodation, and
  - (b) the dwelling is to be made available as mentioned in paragraph (a) for purposes that are solely or mainly purposes of the relievable [<sup>F97</sup>business].
- (3) For the purposes of the relief under this paragraph it does not matter whether or not the individuals mentioned in subparagraph (2)(a) are identified at the time of the chargeable transaction.
- [<sup>F98</sup>(4) “Relievable business” means a trade or property rental business that is run on a commercial basis and with a view to profit.]
- (5) In this paragraph references to making a dwelling available to a qualifying employee or qualifying partner include making it available to persons who are to share the accommodation with a qualifying employee or qualifying partner as that individual's family.
- (6) Where the purchaser is a company, “relevant group member” means a company which is a member of the same group of companies as the purchaser for the purposes mentioned in paragraph 1(2) of Schedule 7 (group relief).

#### Textual Amendments

**F96** Word in Sch. 4A para. 5D(1) substituted (with effect in accordance with s. 131(10) of the amending Act) by Finance Act 2016 (c. 24), s. 131(2)(a)

**F97** Word in Sch. 4A para. 5D(2)(b) substituted (with effect in accordance with s. 131(10) of the amending Act) by Finance Act 2016 (c. 24), s. 131(2)(b)

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**F98** Sch. 4A para. 5D(4) substituted (with effect in accordance with s. 131(10) of the amending Act) by Finance Act 2016 (c. 24), s. 131(2)(c)

*More about the condition in paragraph 5D(2)(a)*

- 5E (1) In a case where the person carrying on the relievable [<sup>F99</sup>business] mentioned in paragraph 5D(1) carries it on in partnership with one or more other persons, “qualifying partner” means any individual who is a member of the partnership.
- (2) “Qualifying employee” means an individual employed for the purposes of the [<sup>F100</sup>relievable business].
- (3) In a case falling within sub-paragraph (1), the condition in paragraph 5D(2)(a) is taken not to be met if the individuals, or a class of individuals, to whom it is proposed to make the dwelling available for use as living accommodation include, or are likely to include, a member of the partnership who is (or will at the relevant time be) entitled to a 10% or greater share—
- (a) in the income profits of the partnership, or
  - (b) in any company beneficially entitled to the higher threshold interest mentioned in paragraph 5D(1), or
  - (c) in that higher threshold interest.
- (4) In addition, the condition in paragraph 5D(2)(a) is taken not to be met if the individuals, or a class of individuals, to whom it is proposed to make the dwelling available for use as living accommodation include, or are likely to include, an individual employed for the purposes of the [<sup>F101</sup>relievable business] in question who is (or will at the relevant time be)—
- (a) entitled to a 10% or greater share—
    - (i) in the income profits of the [<sup>F102</sup>relievable business], or
    - (ii) in any company that is beneficially entitled to the higher threshold interest, or
    - (iii) in that higher threshold interest, or
  - (b) employed to provide excluded domestic services.
- (5) The reference in sub-paragraph (4)(b) to an individual employed to provide excluded domestic services is to an individual the duties of whose employment include the provision of services in connection with the (actual or intended) occupation, by an individual to whom sub-paragraph (6) applies, of the dwelling mentioned in paragraph 5D(2)(a) (“the relevant dwelling”), or a linked dwelling.
- (6) This sub-paragraph applies to any individual who is connected with a person who is or is to be beneficially entitled to the higher threshold interest.
- (7) The following are “linked” dwellings for the purposes of sub-paragraph (5)—
- (a) if the conditions in section 116(2) of the Finance Act 2013 are met in relation to the relevant dwelling and another dwelling, that other dwelling;
  - (b) a dwelling that is linked to the relevant dwelling, as described in section 117(1) of the Finance Act 2013.
- (8) For the purposes of sub-paragraphs (3)(c) and (4)(a) persons who are entitled to a chargeable interest as beneficial joint tenants (or, in Scotland, as joint owners) are

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taken to be entitled to the chargeable interest as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.

(9) Section 147 of the Finance Act 2013 (meaning of “10% or greater share in a company”) applies for the purposes of this paragraph as for the purposes of section 146 of that Act.

(10) In this paragraph references to employment include the holding of an office.

#### Textual Amendments

- F99** Word in Sch. 4A para. 5E(1) substituted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(6\)\(a\)](#)
- F100** Word in Sch. 4A para. 5E(2) substituted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(6\)\(b\)](#)
- F101** Words in Sch. 4A para. 5E(4) substituted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(6\)\(c\)\(i\)](#)
- F102** Words in Sch. 4A para. 5E(4)(a)(i) substituted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(6\)\(c\)\(ii\)](#)

#### *<sup>F103</sup> Acquisition by management company of flat for occupation by caretaker*

#### Textual Amendments

- F103** [Sch. 4A para. 5EA](#) and cross-heading inserted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(4\)](#)

- 5EA (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in or over a flat which—
- (a) is one of at least three flats contained in the same premises, and
  - (b) is acquired by a tenants' management company for the purpose of making the flat available for use as caretaker accommodation.
- (2) For the purposes of this paragraph a tenants' management company makes a flat available for use “as caretaker accommodation” if it makes it available to an individual for use as living accommodation in connection with the individual's employment as caretaker of the premises.
- (3) In relation to the acquisition of a flat, a company is a “tenants' management company” if—
- (a) the tenants of two or more other flats contained in the premises are members of the company, and
  - (b) the company owns, or it is intended that the company will acquire, the freehold of the premises;
- but a company which carries on a relievable business is not a tenants' management company.
- (4) In this paragraph “premises” means premises constituting the whole or part of a building.]

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### *Farmhouses*

- 5F (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in or over a dwelling—
- (a) that is, or is to be, a farmhouse, and
  - (b) in relation to which the conditions in sub-paragraph (3) are met.
- (2) The reference in sub-paragraph (1) to a dwelling that “is or is to be a farmhouse” is to a dwelling that forms part of land that is to be occupied, or to continue to be occupied, for the purposes of a qualifying trade of farming.
- (3) The conditions are that—
- (a) the dwelling is to be occupied for the purposes of that trade by a qualifying farm worker,
  - (b) reasonable commercial plans have been formulated under which such occupation is either to continue from the effective date of the chargeable transaction or to begin without delay (except so far as delay may be justified by commercial considerations or cannot be avoided), and
  - (c) occupation of the farmhouse by a qualifying farm worker is then expected to continue as part of the normal way in which the trade is, or is to be, carried on.
- (4) In sub-paragraph (3) “qualifying farm worker” means an individual who occupies the dwelling for the purposes of the trade mentioned in that sub-paragraph and has a substantial involvement—
- (a) in the day-to-day work of the trade, or
  - (b) in the direction and control of the conduct of the trade.
- (5) “Qualifying trade of farming” means a trade of farming that is carried on—
- (a) on a commercial basis, and
  - (b) with a view to profit.
- (6) A person occupying part of a dwelling is regarded as occupying the dwelling for the purposes of this paragraph.
- (7) In this paragraph—
- (a) “farming” has the same meaning as in the Corporation Tax Acts (see section 1125 of CTA 2010), except that in this paragraph “farming” includes market gardening;
  - (b) “market gardening” has the same meaning as in the Corporation Tax Acts (see section 1125(5) of CTA 2010).

### *Withdrawal of relief*

- 5G (1) Sub-paragraph (2) applies where relief under paragraph 5 has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) a requirement in sub-paragraph (3) is not met.
- (3) The requirements are that—
- (a) the higher threshold interest (if still held by the purchaser) is held exclusively for one or more of the purposes mentioned in paragraph 5(1),



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- (b) any chargeable interest derived from the higher threshold interest that may be held by the purchaser is held exclusively for one or more of those purposes, and
  - (c) (if the higher threshold interest or a chargeable interest derived from it is held by the purchaser) no non-qualifying individual is permitted to occupy [<sup>F104</sup>any dwelling on the land].
- (4) The requirements in sub-paragraph (3)(a) and (b) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect the purposes for which the higher threshold interest was acquired to be carried out.
- (5) Sub-paragraph (6) applies if a higher threshold interest was acquired for a purpose mentioned in paragraph 5(1) but at some time in the control period the activity in question (for instance, exploitation of the interest as mentioned in paragraph 5(1) (a))—
- (a) has not yet begun, or
  - (b) has ceased.
- (6) For the purposes of sub-paragraph (3), the interest is taken to be held for the purpose in question only if reasonable steps are being taken to ensure that the purpose in question is carried out.
- (7) In this paragraph “non-qualifying individual” (in relation to the chargeable transaction mentioned in sub-paragraph (1)) has the meaning given by paragraph 5A.

#### Textual Amendments

**F104** Words in Sch. 4A para. 5G(3)(c) substituted (with effect in accordance with s. 129(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 129\(3\)](#)

- 5H (1) This paragraph applies where relief under paragraph 5B (trades involving making a dwelling open to the public) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) a requirement in sub-paragraph (3) is not met.
- (3) The requirements are that—
- (a) the higher threshold interest (if still held by the purchaser), is being exploited as a source of income in the course of a qualifying trade, and
  - (b) any chargeable interest derived from that interest that may be held by the purchaser is being exploited as mentioned in paragraph (a).
- (4) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect the chargeable interest concerned to be exploited in the manner specified.
- (5) Sub-paragraph (6) applies if at some time in the control period the higher threshold interest, or a chargeable interest derived from it—
- (a) has not begun to be exploited as mentioned in sub-paragraph (3), or
  - (b) has ceased to be so exploited.



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- (6) The requirements in sub-paragraph (3) are treated as being met if reasonable steps are being taken to ensure that the chargeable interest in question begins to be exploited as mentioned in that sub-paragraph, or that such exploitation of the interest is resumed.
- 51 (1) This paragraph applies where relief under paragraph 5C (financial institutions acquiring dwellings in the course of lending) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if any requirement in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) (but see sub-paragraphs (4) and (5)).
- (3) The requirements are that—
- (a) the purchaser continues to be a financial institution carrying on a business that involves the lending of money, and
  - (b) the interest is held for the purpose of resale in the course of the business.
- (4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—
- (a) the higher threshold interest, or
  - (b) a chargeable interest that is derived from the higher threshold interest.
- (5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser’s control, it is not reasonable to expect those requirements to be met.
- [<sup>F105</sup>51A (1) This paragraph applies where relief under paragraph 5CA (acquisition under a regulated home reversion plan) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction the purchaser holds the higher threshold interest otherwise than for the purposes of the regulated home reversion plan (as defined in paragraph 5CA).
- (3) But sub-paragraph (2) does not apply if—
- (a) after ceasing to hold the higher threshold interest for the purposes of the regulated home reversion plan, the purchaser sells the higher threshold interest without delay (except so far as delay is justified by commercial considerations or cannot be avoided), and
  - (b) at no time when the higher threshold interest is held by the purchaser as mentioned in sub-paragraph (2) is the dwelling (or any part of the dwelling) occupied by a non-qualifying individual.
- (4) In this paragraph—
- “the dwelling” means the dwelling to which the relief under paragraph 5CA relates;
  - “non-qualifying individual” is to be interpreted in accordance with paragraph 5A.]

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### Textual Amendments

**F105** Sch. 4A para. 51A inserted (with effect in accordance with s. 130(4) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 130\(3\)](#)

- 5J (1) This paragraph applies where relief under paragraph 5D (dwellings for occupation by certain employees etc) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if any requirement in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) (but see sub-paragraphs (4) and (5)).
- (3) The requirements are that—
- (a) the purchaser, or a relevant group member (as defined in paragraph 5D(6)), carries on a [<sup>F106</sup>relievable business],
  - (b) the dwelling is made available as mentioned in paragraph 5D(2)(a), and
  - (c) the dwelling is made so available for purposes that are solely or mainly purposes of the [<sup>F107</sup>relievable business].
- (4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—
- (a) the higher threshold interest, or
  - (b) a chargeable interest that is derived from the higher threshold interest.
- (5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect those requirements to be met.
- (6) Sub-paragraph (7) applies if at some time in the control period the dwelling—
- (a) has not begun to be made available as mentioned in sub-paragraph (3)(b) and (c), or
  - (b) has ceased to be so made available.
- (7) The requirements in paragraphs (b) and (c) of sub-paragraph (3) are treated as being met if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, available as mentioned in those paragraphs.

### Textual Amendments

**F106** Words in Sch. 4A para. 5J(3)(a) substituted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(7\)\(a\)](#)

**F107** Words in Sch. 4A para. 5J(3)(c) substituted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(7\)\(b\)](#)

- [<sup>F108</sup>5JA (1) This paragraph applies where relief under paragraph 5EA (acquisition by management company of flat for occupation by caretaker) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction the purchaser holds the higher threshold

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interest otherwise than for the purpose of making the flat available for use as caretaker accommodation.

- (3) For the purposes of this paragraph a tenants' management company makes a flat available for use “as caretaker accommodation” if it makes it available to an individual for use as living accommodation in connection with the individual's employment as caretaker of the premises.]

#### Textual Amendments

**F108** Sch. 4A para. 5JA inserted (with effect in accordance with s. 131(10) of the amending Act) by Finance Act 2016 (c. 24), s. 131(5)

- 5K (1) This paragraph applies where relief under paragraph 5F (farmhouses) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) the requirements in sub-paragraph (3) are not met (but see sub-paragraphs (4) and (5)).
- (3) The requirements are that—
- (a) the land mentioned in paragraph 5F(2) is occupied for the purposes of a qualifying trade of farming, and
  - (b) the dwelling is occupied for the purposes of that trade by a qualifying farm worker.
- (4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—
- (a) the higher threshold interest, or
  - (b) a chargeable interest that is derived from the higher threshold interest.
- (5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect those requirements to be met.
- (6) Sub-paragraph (7) applies if at some time in the control period a requirement in sub-paragraph (3)—
- (a) has not begun to be met, or
  - (b) has ceased to be met.
- (7) The requirement is treated as being met if reasonable steps are being taken to ensure that the requirement begins to be met, or is again met.]

#### *Partnerships: application of paragraph 2 to certain transactions*

- 6 (1) Sub-paragraphs (2) and (3) apply where the subject-matter of a transaction to which Part 3 of Schedule 15 applies consists of or includes a higher threshold interest.
- (2) The transaction is not to be treated as a high-value residential transaction by virtue of paragraph 2(2) unless the chargeable consideration for the transaction is more than [F109 £500,000].
- (3) Paragraph 2(3) to (8) does not apply to the transaction if—

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- (a) the subject-matter of the transaction includes a chargeable interest other than a higher threshold interest, and
  - (b) the result of applying paragraph 2(3) and (4) would be that chargeable consideration of [<sup>F110</sup>£500,000] or less would be attributable to the separate transaction mentioned in paragraph 2(3)(a).
- (4) For the purposes of sub-paragraph (1) and paragraph 2, the subject-matter (and the main subject-matter) of a transfer of an interest in a partnership that is a chargeable transaction by virtue of sub-paragraph (2) of paragraph 14 of Schedule 15 is—
- (a) if the transfer is a Type A transfer, the relevant partnership property as defined in sub-paragraph (5) of that paragraph, or
  - (b) if the transfer is a Type B transfer, the relevant partnership property as defined in sub-paragraph (5A) of that paragraph.
- (5) For the purposes of sub-paragraph (1) and paragraph 2, the subject-matter (and the main subject-matter) of a transfer of an interest in a partnership that is a chargeable transaction by virtue of sub-paragraph (2) of paragraph 17 of Schedule 15 is the subject-matter of the land transfer referred to in sub-paragraph (1)(a) of that paragraph.
- (6) For the purposes of sub-paragraph (1) and paragraph 2, the subject-matter (and the main subject-matter) of a chargeable transaction that is treated as occurring by virtue of sub-paragraph (4) of paragraph 17A of Schedule 15 is the subject-matter of the land transfer referred to in sub-paragraph (1)(a) of that paragraph.

#### Textual Amendments

**F109** Word in Sch. 4A para. 6(2) substituted (with effect in accordance with s. 111(4)-(6) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), s. 111(3)(b)

**F110** Word in Sch. 4A para. 6(3)(b) substituted (with effect in accordance with s. 111(4)-(6) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), s. 111(3)(c)

#### <sup>F111</sup> Modifications for cases involving alternative finance arrangements

#### Textual Amendments

**F111** Sch. 4A paras. 6A-6H and cross-headings inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 40 para. 2\(5\)](#)

- 6A (1) This paragraph applies where—
- (a) section 71A (land sold to financial institution and leased to person), section 72 (land in Scotland sold to financial institution and leased to person) or section 73 (land sold to financial institution and re-sold to person) applies, and
  - (b) the major interest in land purchased under the first transaction consists of or includes a higher threshold interest.
- (2) In this paragraph “the first transaction” means—
- (a) where section 71A applies, the transaction mentioned in section 71A(1)(a);
  - (b) where section 72 applies, the transaction mentioned in section 72(1)(a);
  - (c) where section 73 applies, the transaction mentioned in section 73(1)(a)(i).

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- (3) The condition in paragraph 3(3) is treated as being met with respect to the first transaction only if that condition is met with respect to the second transaction.
  - (4) If the second transaction would qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) and 5F(1) (disregarding the exemptions in sections 71A(3), 72(3) and 73(3) and assuming, for this purpose, that the subject-matter of the second transaction is a higher threshold interest), the first transaction is taken to qualify for relief under the same provision (and accordingly paragraph 3 does not apply in relation to the first transaction).
  - (5) The first transaction does not qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) or 5F(1) except in accordance with sub-paragraph (4).
  - (6) In this paragraph “the second transaction” has the same meaning as in section 71A, 72 or 73 (as the case requires).
- 6B
- (1) This paragraph applies where section 72A (land in Scotland sold to financial institution and person in common) applies and the major interest in land purchased under the transaction mentioned in section 72A(1)(a) (“the first transaction”) consists of or includes a higher threshold interest.
  - (2) In determining whether or not the first transaction meets the condition in paragraph 3(3) it is to be assumed that the financial institution referred to in section 72A(1) is not one of the persons acquiring the major interest in land under that transaction.
  - (3) Paragraphs 5 to 5F have effect in relation to the first transaction as they would have effect if the financial institution were not a purchaser under that transaction.

*Paragraphs 6A and 6B: application where transaction is split under paragraph 2(3)*

- 6C
- (1) Where paragraph 6A or 6B (“the modifying paragraph”) applies and the first transaction (within the meaning of that paragraph) is treated under paragraph 2(3) as two separate chargeable transactions, references in the modifying paragraph to the first transaction include those separate transactions.
  - (2) If the subject-matter of the second transaction (within the meaning of paragraph 6A) includes a chargeable interest other than a higher threshold interest, that fact is ignored in determining for the purposes of paragraph 6A—
    - (a) whether that transaction meets the condition in paragraph 3(3), or
    - (b) whether it would qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) and 5F(1).

*Alternative finance arrangements: withdrawal of relief*

- 6D
- (1) This paragraph applies where relief under paragraph 5 (businesses of letting, trading in or redeveloping properties) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.
  - (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the first transaction (“the control period”) a relevant requirement is not met.
  - (3) The relevant requirements are that—

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- (a) any relevant interest (see sub-paragraphs (5) and (6)) held by the relevant person is held by that person exclusively for one or more of the purposes mentioned in paragraph 5(1), and
  - (b) (if a relevant interest is held by the relevant person) no non-qualifying individual is permitted to occupy [<sup>F112</sup>any dwelling on the land concerned].
- (4) For the purposes of sub-paragraph (3)(a) and (b) it does not matter whether the relevant interest is held by the relevant person—
- (a) jointly or (in Scotland) in common, or
  - (b) otherwise.
- (5) In relation to relief allowed in accordance with sub-paragraph 6A(4), “relevant interest” means any of the following—
- (a) the interest acquired under the second transaction (within the meaning of paragraph 6A);
  - (b) any interest transferred to the relevant person as a result of the exercise of the right mentioned in section 71A(1)(d) or 72(1)(c);
  - (c) any chargeable interest derived from an interest such as is mentioned in paragraph (a) or (b).
- (6) In relation to relief allowed in accordance with paragraph 6B(3), “relevant interest” means any of the following—
- (a) the interest purchased under the first transaction (within the meaning of paragraph 6B);
  - (b) any interest transferred to the relevant person as a result of the exercise of the right mentioned in section 72A(1)(c);
  - (c) any chargeable interest derived from an interest such as is mentioned in paragraph (a) or (b).
- (7) In this paragraph—
- “non-qualifying individual” (in relation to the chargeable transaction mentioned in sub-paragraph (1)) has the meaning given by paragraph 5A;
  - “the relevant person” means the person (other than the financial institution) who entered into the arrangements in question as mentioned in section 71A(1), 72(1), 72A(1) or 73(1).

#### Textual Amendments

**F112** Words in Sch. 4A para. 6D(3)(b) substituted (with effect in accordance with s. 129(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 129\(4\)](#)

- 6E (1) The requirement in paragraph 6D(3)(a) does not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person's control, it is not reasonable to expect the interest in question to be held for the purpose for which the relevant person acquired that person's initial interest.
- (2) Sub-paragraph (3) applies if the relevant person's initial interest was acquired by the relevant person for a purpose mentioned in paragraph 5(1), but at some time in the control period the activity in question (for instance, exploitation as mentioned in paragraph 5(1)(a))—
- (a) has not begun in the case of a relevant interest, or
  - (b) has ceased in the case of a relevant interest.

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- (3) For the purposes of paragraph 6D(3)(a) the relevant interest is taken to be held for the purpose in question only if reasonable steps are being taken to ensure that the purpose in question is carried out.
- (4) In this paragraph—
- (a) “the control period”, “relevant interest” and “the relevant person” have the same meaning as in paragraph 6D;
  - (b) references to the relevant person's “initial interest” are to the interest mentioned in sub-paragraph (5)(a) or (6)(a) of paragraph 6D (as the case requires).
- 6F (1) This paragraph applies where relief under paragraph 5B (trades involving making a dwelling open to the public) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the first transaction (“the control period”) the requirement in sub-paragraph (3) is not met.
- (3) The requirement is that the dwelling is being exploited as a source of income in the course of a qualifying trade.
- (4) The requirement in sub-paragraph (3) does not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person's control, it is not reasonable to expect the interest in question to be exploited as mentioned in that sub-paragraph.
- (5) Sub-paragraph (6) applies if at some time in the control period that person—
- (a) has not begun to exploit the interest as a source of income in the course of a relevant trade, or
  - (b) has ceased so to exploit it.
- (6) The requirement in sub-paragraph (3) is treated as being met if reasonable steps are being taken to ensure that the relevant interest begins to be exploited as mentioned in that sub-paragraph, or that such exploitation of the interest is resumed.
- (7) In this paragraph—
- (a) “the relevant person” means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1), 72(1), 72A(1) or 73(1);
  - (b) references to a major interest in land include an undivided share in a major interest in land.
- 6G (1) This paragraph applies where relief under paragraph 5D (dwellings for occupation by certain employees etc) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.
- (2) The relief is withdrawn if at any time in the control period when the relevant person holds a relevant interest (whether jointly, or in common, or otherwise) any requirement in sub-paragraph (4) is not met.
- (3) In sub-paragraph (2) “the control period” means the three years beginning with the effective date of the first transaction.
- (4) The requirements are that—

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- (a) the relevant person, or a relevant group member, carries on a [<sup>F113</sup>relievable business],
  - (b) the dwelling is made available as mentioned in paragraph 5D(2)(a), and
  - (c) the dwelling is made so available for purposes that are solely or mainly purposes of the [<sup>F114</sup>relievable business] mentioned in sub-paragraph (a).
- (5) The requirements in sub-paragraph (4) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person's control, it is not reasonable to expect those requirements to be met.
- (6) Sub-paragraph (7) applies if at some time in the control period the relevant interest—
- (a) has not begun to be made available as mentioned in sub-paragraph (4)(b) and (c), or
  - (b) has ceased to be so made available.
- (7) The requirements in paragraphs (b) and (c) of sub-paragraph (4) are treated as being met if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, made available as mentioned in those paragraphs.
- (8) Where the relevant person is a company, “relevant group member” means a company which is a member of the same group of companies as the relevant person for the purposes mentioned in paragraph 1(2) of Schedule 7.
- (9) In this paragraph—
- (a) “relevant interest” has the same meaning as in paragraph 6D;
  - (b) “the relevant person” means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1), 72(1), 72A(1) or 73(1);
  - (c) references to a major interest in land include an undivided share in a major interest in land.

#### Textual Amendments

**F113** Words in Sch. 4A para. 6G(4)(a) substituted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(8\)\(a\)](#)

**F114** Words in Sch. 4A para. 6G(4)(c) substituted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(8\)\(b\)](#)

- 6H (1) This paragraph applies where relief under paragraph 5F (farmhouses) has been allowed, in accordance with paragraph 6A(4) or 6B(3), in relation to the purchase of a major interest in land.
- (2) The relief is withdrawn if at any time in the control period when the relevant person holds a relevant interest (whether jointly, or in common, or otherwise) any requirement in sub-paragraph (4) is not met.
- (3) In sub-paragraph (2) “the control period” means the three years beginning with the effective date of the first transaction.
- (4) The requirements are that—
- (a) the land mentioned in paragraph 5F(2) is occupied for the purposes of a qualifying trade of farming, and



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- (b) the dwelling is occupied for the purposes of that trade by a qualifying farm worker.
- (5) The requirements in sub-paragraph (4) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person's control, it is not reasonable to expect those requirements to be met.
- (6) Sub-paragraph (7) applies if at some time in the control period a requirement in sub-paragraph (4)—
  - (a) has not begun to be met, or
  - (b) has ceased to be met.
- (7) The requirement is treated as being met if reasonable steps are being taken to ensure that the requirement begins to be met, or is again met.
- (8) In this paragraph—
  - (a) “the relevant interest” has the same meaning as in paragraph 6D;
  - (b) “the relevant person” means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1), 72(1), 72A(1) or 73(1);
  - (c) references to a major interest in land include an undivided share in a major interest in land.]

#### *Meaning of “dwelling”*

- 7 (1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.
- (2) A building or part of a building counts as a dwelling if—
  - (a) it is used or suitable for use as a single dwelling, or
  - (b) it is in the process of being constructed or adapted for such use.
- (3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling.
- (4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of the dwelling.
- (5) The subject-matter of a transaction is also taken to include an interest in a dwelling if—
  - (a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
  - (b) the main subject-matter of the transaction consists of or includes an interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and
  - (c) construction or adaptation of the building, or part of the building, has not begun by the time the contract is substantially performed.
- (6) In sub-paragraph (5) “contract”, “relevant deeming provision” and “substantially performed” have the same meaning as in paragraph 7(5) of Schedule 6B.
- (7) A building or part of a building used for a purpose specified in section 116(2) or (3) is not used as a dwelling for the purposes of sub-paragraph (2) or (5).

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- (8) Where a building or part of a building is used for a purpose mentioned in sub-paragraph (7), no account is to be taken for the purposes of sub-paragraph (2) of its suitability for any other use.
- 8 (1) The Treasury may by order amend paragraph 7 so as to specify cases where use of a building is to be use of a building as a dwelling for the purposes of sub-paragraph (2) or (5) of that paragraph.
- (2) The reference in section 116(8)(a) (power to amend section 116(2) and (3)) to “the purposes of subsection (1)” includes a reference to the purposes of paragraph 7(2) and (5).

### *Interpretation*

9 In this Schedule—

“appurtenant rights”, in relation to a chargeable interest that is, or is part of, the subject-matter of a transaction, means any rights or interests appurtenant or pertaining to the chargeable interest that are acquired with it;

“attributable” means attributable on a just and reasonable basis;

“collective investment scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 235 of that Act);

“company” means a body corporate other than a partnership.

[<sup>F115</sup>“financial institution” is to be read in accordance with subsections (1) and (2) of section 73BA and, in paragraphs 6A to 6H, also in accordance with subsection (3) of that section;]

[<sup>F116</sup>“property development trade ” has the meaning given by paragraph 5(3);]

[<sup>F116</sup>“ property rental business” has the meaning given by section 133(4) of the Finance Act 2013;]

[<sup>F116</sup>“property trading business attributable” has the meaning given by paragraph 5(3);]

[<sup>F116</sup>“qualifying farm worker” has the meaning given by paragraph 5F(4);]

[<sup>F116</sup>“qualifying trade” has the meaning given by paragraph 5B(3);]

[<sup>F116</sup>“qualifying trade of farming” has the meaning given by paragraph 5F(5);]

[<sup>F117</sup>“relievable business” has the meaning given by paragraph 5D(4). ]]

#### **Textual Amendments**

**F115** Words in Sch. 4A para. 9 substituted (26.3.2015) by [Finance Act 2015 \(c. 11\), s. 68\(3\)](#)

**F116** Words in Sch. 4A para. 9 inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 40 para. 2\(6\)](#)

**F117** Words in Sch. 4A para. 9 inserted (with effect in accordance with s. 131(10) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 131\(9\)](#)

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## SCHEDULE 5

Section 56

### STAMP DUTY LAND TAX: AMOUNT OF TAX CHARGEABLE: RENT

#### *Introduction*

- 1 This Schedule provides for calculating the tax chargeable—
- in respect of a chargeable transaction for which the chargeable consideration consists of or includes rent, or
  - where such a transaction is to be taken into account as a linked transaction.

*[<sup>F118</sup>Amounts payable in respect of periods before grant of lease*

#### **Textual Amendments**

**F118** Sch. 5 para. 1A and cross-heading inserted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 10](#)

- 1A For the purposes of this Part “rent” does not include any chargeable consideration for the grant of a lease that is payable in respect of a period before the grant of the lease.]

#### *Calculation of tax chargeable in respect of rent*

- 2 (1) Tax is chargeable under this Schedule in respect of so much of the chargeable consideration as consists of rent.
- <sup>F119</sup>(2) The tax chargeable is the total of the amounts produced by taking the relevant percentage of so much of the relevant rental value as falls within each rate band.
- (3) The relevant percentages and rate bands are determined by reference to whether the relevant land—
- consists entirely of residential property (in which case Table A below applies), or
  - consists of or includes land that is not residential property (in which case Table B below applies).

TABLE A: RESIDENTIAL

<i>Rate bands</i>	<i>Percentage</i>
£0 to [ <sup>F120</sup> £125,000]	0%
Over [ <sup>F120</sup> £125,000]	1%

TABLE B: NON-RESIDENTIAL OR MIXED

<i>Rate bands</i>	<i>Percentage</i>
£0 to £150,000	0%

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<i>Rate bands</i>	<i>Percentage</i>
[ <sup>F121</sup> Over £150,000 but not over £5 million	1%
Over £5 million	2%]

- (4) For the purposes of sub-paragraphs (2) and (3)—
- (a) the relevant rental value is the net present value of the rent payable over the term of the lease, and
  - (b) the relevant land is the land that is the subject of the lease.
- (5) If the lease in question is one of a number of linked transactions for which the chargeable consideration consists of or includes rent, the above provisions are modified.
- (6) In that case the tax chargeable is determined as follows.

First, calculate the amount of the tax that would be chargeable if the linked transactions were a single transaction, so that—

- (a) the relevant rental value is the total of the net present values of the rent payable over the terms of all the leases, and
- (b) the relevant land is all land that is the subject of any of those leases.

Then, multiply that amount by the fraction:

$$\frac{NPV}{TNPV}$$

where—

*NPV* is the net present value of the rent payable over the term of the lease in question, and

*TNPV* is the total of the net present values of the rent payable over the terms of the all the leases.]

#### Textual Amendments

**F119** Sch. 5 para. 2(2)-(6) substituted for Sch. 5 para. 2(2)-(5) (1.12.2003) by The Stamp Duty Land Tax (Amendment of Schedule 5 to the Finance Act 2003) Regulations 2003 (SI 2003/2914), reg. 2 Sch. para. 1

**F120** Sum in Sch. 5 para. 2(3) substituted (with effect in accordance with s. 162(4) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 162\(2\)](#)

**F121** Words in Sch. 5 para. 2(3) substituted (with effect in accordance with s. 127(12)(13) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 127\(9\)](#)

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

**C3** Sch. 5 para. 2(3) modified (temp.) (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 10\(1\)](#)

#### *Net present value of rent payable over term of lease*

- 3 The net present value (v) of the rent payable over the term of a lease is calculated by applying the formula:

where—

*r* is the rent payable <sup>F122</sup>... [<sup>F123</sup>in respect of year *i*],

*i* is the first, second, third, etc year of the term,

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n is the term of the lease <sup>F122</sup>..., and  
T is the temporal discount rate (see paragraph 8).

**Textual Amendments**

**F122** Words in Sch. 5 para. 3 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

**F123** Words in Sch. 5 para. 3 substituted (with effect in accordance with s. 164(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 164\(2\)](#)

*Rent payable*

<sup>F124</sup>4 .....

**Textual Amendments**

**F124** Sch. 5 paras. 4-7 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

*Effect of provision for rent review*

<sup>F124</sup>5 .....

**Textual Amendments**

**F124** Sch. 5 paras. 4-7 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

*Term of lease*

<sup>F124</sup>6 .....

**Textual Amendments**

**F124** Sch. 5 paras. 4-7 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

*Treatment of lease for indefinite term*

<sup>F124</sup>7 .....

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### Textual Amendments

**F124** Sch. 5 paras. 4-7 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 4(2)** (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked **Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816)**, see Sch. 39 para. 14)

### *Temporal discount rate*

- 8 (1) For the purposes of this Schedule the “temporal discount rate” is 3.5% or such other rate as may be specified by regulations made by the Treasury.
- (2) Regulations under this paragraph may make any such provision as is mentioned in subsection (3)(b) to (f) of section 178 of the Finance Act 1989 (c. 26) (power of Treasury to set rates of interest).
- (3) Subsection (5) of that section (power of Inland Revenue to specify rate by order in certain circumstances) applies in relation to regulations under this paragraph as it applies in relation to regulations under that section.

### *Tax chargeable in respect of consideration other than rent <sup>F125</sup>: general*

### Textual Amendments

**F125** Word in Sch. 5 para. 9 heading inserted (with effect in accordance with s. 95(13) of the amending Act) by Finance Act 2008 (c. 9), **s. 95(2)**

- 9 (1) Where in the case of a transaction to which this Schedule applies there is chargeable consideration other than rent, the provisions of this Part apply in relation to that consideration as in relation to other chargeable consideration <sup>F126</sup>....
- <sup>F127</sup>(2) .....
- <sup>F128</sup>(2A) .....
- <sup>F129</sup>(3) .....
- (4) Tax chargeable under this Schedule is in addition to any tax chargeable under section 55 [<sup>F130</sup>or 74(1A)] [<sup>F131</sup>or Schedule [<sup>F132</sup>4A or] 6B] in respect of consideration other than rent.
- (5) Where a transaction to which this Schedule applies falls to be taken into account for the purposes of [<sup>F133</sup>section 55] [<sup>F134</sup>or Schedule] [<sup>F135</sup>6B] as a linked transaction, no account shall be taken of rent in determining the relevant consideration.

### Textual Amendments

**F126** Words in Sch. 5 para. 9(1) omitted (with effect in accordance with s. 127(12)(13) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 127(10)**

**F127** Sch. 5 para. 9(2) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of Finance Act 2008 (c. 9), **s. 95(2)(b)**

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- F128** Sch. 5 para. 9(2A) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(2\)\(b\)](#)
- F129** Sch. 5 para. 9(3) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(2\)\(b\)](#)
- F130** Words in Sch. 5 para. 9(4) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 35 para. 7\(2\)\(a\)\(i\)](#)
- F131** Words in Sch. 5 para. 9(4) inserted (with effect in accordance with Sch. 22 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 22 para. 6\(a\)](#)
- F132** Words in Sch. 5 para. 9(4) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 35 para. 7\(2\)\(a\)\(ii\)](#)
- F133** Words in Sch. 5 para. 9(5) substituted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 35 para. 7\(2\)\(b\)\(i\)](#)
- F134** Words in Sch. 5 para. 9(5) inserted (with effect in accordance with Sch. 22 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 22 para. 6\(b\)](#)
- F135** Words in Sch. 5 para. 9(5) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 35 para. 7\(2\)\(b\)\(ii\)](#)

F136<sup>9A</sup> .....

**Textual Amendments**

- F136** Sch. 5 para. 9A and cross-heading omitted (with effect in accordance with s. 127(12)(13) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), s. 127\(11\)](#)

*Increase of rent treated as grant of new lease*

F137<sup>10</sup> .....

**Textual Amendments**

- F137** Sch. 5 para. 10 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

*Interpretation*

F138<sup>11</sup> .....

**Textual Amendments**

- F138** Sch. 5 para. 11 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

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## F139 SCHEDULE 6

Section 57

### Textual Amendments

**F139** Sch. 6 repealed (with effect in accordance with Sch. 39 para. 10(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 39 para. 8(1)** (with Sch. 39 paras. 11-13)

## F140 SCHEDULE 6ZA

### RELIEF FOR FIRST-TIME BUYERS

### Textual Amendments

**F140** Sch. 6ZA inserted (with effect in accordance with s. 41(8) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **s. 41(3)**

## PART 1

### ELIGIBILITY FOR RELIEF

#### *Eligibility for relief*

- 1 (1) Relief may be claimed for a chargeable transaction if the following conditions are met (but this is subject to sub-paragraph (7)).
- (2) The first condition is that the main subject-matter of the transaction consists of a major interest in a single dwelling (“the purchased dwelling”).
- (3) The second condition is that the relevant consideration for the transaction (other than any consisting of rent) is not more than £500,000.
- (4) The third condition is that the purchaser, or (if more than one) each of the purchasers, is a first-time buyer who intends to occupy the purchased dwelling as the purchaser’s only or main residence.
- (5) The fourth condition is that—
- (a) the transaction is not linked to another land transaction, or
  - (b) the transaction is linked only to land transactions that are within sub-paragraph (6).
- (6) A land transaction is within this sub-paragraph if the main subject-matter of the transaction consists of—
- (a) an interest in land that is or forms part of the garden or grounds of the purchased dwelling, or
  - (b) an interest in or right over land that subsists for the benefit of—
    - (i) the purchased dwelling, or



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(ii) land that is or forms part of the garden or grounds of the purchased dwelling.

(7) Relief may not be claimed under this paragraph for a chargeable transaction if it is a higher rates transaction for the purposes of paragraph 1 of Schedule 4ZA.

*Eligibility for relief: linked transactions within paragraph 1(6)*

- 2 (1) Where a land transaction (“the main transaction”) is eligible for relief under paragraph 1 (or would be if it were a chargeable transaction), relief may also be claimed for any chargeable transaction that is linked to the main transaction.
- (2) But relief may not be claimed under this paragraph for a chargeable transaction if the purchaser, or (if more than one) any of the purchasers in relation to the transaction is not a purchaser in relation to the main transaction.

*Eligibility for relief: alternative finance arrangements*

- 3 (1) This paragraph applies in relation to a land transaction which is the first transaction under an alternative finance arrangement entered into between a person and a financial institution.
- (2) The person (rather than the institution) is to be treated as the purchaser in relation to the transaction for the purposes of paragraphs 1(4) and 2(2).
- (3) In this paragraph—  
“alternative finance arrangement” means an arrangement of a kind mentioned in section 71A(1) or 73(1),  
“financial institution” has the meaning it has in those sections (see section 73BA), and  
“first transaction”, in relation to an alternative finance arrangement, has the meaning given by section 71A(1)(a) or (as the case may be) section 73(1)(a)(i).

## PART 2

### THE RELIEF

#### *The relief*

- 4 If relief is claimed under paragraph 1 or 2 for a chargeable transaction, the amount of tax chargeable in respect of the transaction is to be determined as if in section 55(1B) (amount of tax chargeable: general) for Table A there were substituted—

“Table A: Residential

<i>Relevant consideration</i>	<i>Percentage</i>
So much as does not exceed £300,000	0%
Any remainder (so far as not exceeding £500,000)	5%”

*Status: Point in time view as at 31/12/2020.*

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### *Withdrawal of relief*

- 5 (1) This paragraph applies if—
- (a) relief is claimed under paragraph 1 or 2 for a chargeable transaction (“the first transaction”), and
  - (b) the effect of another land transaction (“the later transaction”) that is linked to the first transaction is that the first transaction ceases to be a transaction for which relief may be claimed under that paragraph.
- (2) Tax or (as the case may be) additional tax is chargeable on the first transaction as if the claim had not been made.

## PART 3

### INTERPRETATION

#### *“First-time buyer”*

- 6 (1) In this Schedule “first-time buyer” means an individual who—
- (a) has not previously been a purchaser in relation to a land transaction the main subject-matter of which was a major interest in a dwelling,
  - (b) has not previously acquired <sup>F141</sup>—
    - (i) an equivalent interest in a dwelling situated in a country or territory outside England, Wales and Northern Ireland, <sup>F142</sup>or
    - (ii) an interest of a kind mentioned in section 117(2) in a dwelling situated in Wales,]
  - (c) has not previously been, or been one of the persons who was, “the person” for the purposes of section 71A or 73 in a case where the main subject-matter of the first transaction within the meaning of the section concerned was a major interest in a dwelling, and
  - (d) would not have been such a person for those purposes in such a case if the provisions mentioned in paragraph (c) had been in force, and had had effect in the country or territory concerned at all material times (subject, where required, to appropriate modifications).
- (2) For the purposes of sub-paragraph (1)(b) and (d), ignore a lease <sup>F143</sup>or, in the case of a dwelling situated in Wales, a term of years absolute] which has less than 21 years to run at the beginning of the day after the date on which it is acquired.

#### Textual Amendments

- F141** Words in Sch. 6ZA para. 6(1)(b) inserted (1.4.2018 with effect in accordance with s. 16(4)(5) of the amending Act) by [Wales Act 2014 \(c. 29\)](#), s. 29(2)(b)(3), [Sch. 2 para. 9A\(2\)\(a\)](#); S.I. 2018/214, [art. 2\(a\)](#)
- F142** Words in Sch. 6ZA para. 6(1)(b) inserted (1.4.2018 with effect in accordance with s. 16(4)(5) of the amending Act) by [Wales Act 2014 \(c. 29\)](#), s. 29(2)(b)(3), [Sch. 2 para. 9A\(2\)\(b\)](#); S.I. 2018/214, [art. 2\(a\)](#)
- F143** Words in Sch. 6ZA para. 6(2) inserted (1.4.2018 with effect in accordance with s. 16(4)(5) of the amending Act) by [Wales Act 2014 \(c. 29\)](#), s. 29(2)(b)(3), [Sch. 2 para. 9A\(3\)](#); S.I. 2018/214, [art. 2\(a\)](#)

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*“Relevant consideration”*

- 7 In this Schedule “relevant consideration” means—
- (a) in the case of a transaction that is not one of a number of linked transactions, the chargeable consideration for the transaction, and
  - (b) in the case of a transaction that is one of a number of linked transactions, the total of the chargeable consideration for all those transactions.

*“Major interest”*

- 8 The main subject-matter of a transaction is not a major interest for the purposes of this Schedule if it is a term of years absolute which has less than 21 years to run at the beginning of the day after the effective date of the transaction.

*What counts as a dwelling*

- 9 (1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.
- (2) A building or part of a building counts as a dwelling if—
- (a) it is used or suitable for use as a single dwelling, or
  - (b) it is in the process of being constructed or adapted for such use.
- (3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on that land) is taken to be part of that dwelling.
- (4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of that dwelling.
- (5) The main subject-matter of a transaction is also taken to consist of a major interest in a dwelling if—
- (a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
  - (b) the main subject-matter of the transaction consists of a major interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and
  - (c) construction or adaptation of the building, or part of a building, has not begun by the time the contract is substantially performed.
- (6) In sub-paragraph (5)—
- “contract” includes any agreement,
  - “relevant deeming provision” means any of sections 44 to 45A or paragraph 5(1) or (2) of Schedule 2A or paragraph 12 of Schedule 17A, and
  - “substantially performed” has the same meaning as in section 44.
- (7) A building or part of a building used for a purpose specified in section 116(2) or (3) is not used as a dwelling for the purposes of sub-paragraphs (2) or (5).
- (8) Where a building or part of a building is used for a purpose mentioned in sub-paragraph (7), no account is to be taken for the purposes of sub-paragraph (2) of its suitability for any other use.]

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## [<sup>F144</sup>SCHEDULE 6A

Section 58A

### RELIEF FOR CERTAIN ACQUISITIONS OF RESIDENTIAL PROPERTY

#### Textual Amendments

**F144** Sch. 6A inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 17\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

#### *Acquisition by house-building company from individual acquiring new dwelling*

- 1 (1) Where a dwelling (“the old dwelling”) is acquired by a house-building company from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
  - (a) that the individual (whether alone or with other individuals) acquires from the house-building company a new dwelling,
  - (b) that the individual—
    - (i) occupied the old dwelling as his only or main residence at some time in the period of two years ending with the date of its acquisition, and
    - (ii) intends to occupy the new dwelling as his only or main residence,
  - (c) that each acquisition is entered into in consideration of the other, and
  - (d) that the area of land acquired by the house-building company does not exceed the permitted area.
- (3) Where the conditions in sub-paragraph (2)(a) to (c) are met but the area of land acquired by the house-building company exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.
- (4) A “house-building company” means a company that carries on the business of constructing or adapting buildings or parts of buildings for use as dwellings.  
 References in this paragraph to such a company include any company connected with it.
- (5) In this paragraph—
  - (a) references to the acquisition of the new dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling;
  - (b) references to the acquisition of the old dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
  - (c) references to the market value of the old dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

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*Acquisition by property trader from individual acquiring new dwelling*

- 2 (1) Where a dwelling (“the old dwelling”) is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
- (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals who acquire new dwellings from house-building companies,
  - (b) that the individual (whether alone or with other individuals) acquires a new dwelling from a house-building company,
  - (c) that the individual—
    - (i) occupied the old dwelling as his only or main residence at some time in the period of two years ending with the date of its acquisition, and
    - (ii) intends to occupy the new dwelling as his only or main residence,
  - (d) that the property trader does not intend—
    - (i) to spend more than the permitted amount on refurbishment of the old dwelling, or
    - (ii) to grant a lease or licence of the old dwelling, or
    - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling, and
  - (e) that the area of land acquired by the property trader does not exceed the permitted area.
- Paragraph (d)(ii) does not apply to the grant of lease or licence to the individual for a period of no more than six months.
- (3) Where the conditions in sub-paragraph (2)(a) to (d) are met, but the area of land acquired by the property trader exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.
- (4) The provisions of paragraph 1(4) (meaning of “house-building company” etc) also have effect for the purposes of this paragraph.
- (5) In this paragraph—
- (a) references to the acquisition of a new dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling;
  - (b) references to the acquisition of the old dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
  - (c) references to the market value of the old dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

*Acquisition by property trader from personal representatives*

- 3 (1) Where a dwelling is acquired by a property trader from the personal representatives of a deceased individual, the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—

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- (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from personal representatives of deceased individuals,
  - (b) that the deceased individual occupied the dwelling as his only or main residence at some time in the period of two years ending with the date of his death,
  - (c) that the property trader does not intend—
    - (i) to spend more than the permitted amount on refurbishment of the dwelling, or
    - (ii) to grant a lease or licence of the dwelling, or
    - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the dwelling, and
  - (d) that the area of land acquired does not exceed the permitted area.
- (3) Where the conditions in sub-paragraph (2)(a) to (c) are met, but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the dwelling.
- (4) In this paragraph—
- (a) references to the acquisition of the dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
  - (b) references to the market value of the dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

*Acquisition by property trader from individual where chain of transactions breaks down*

- 4 (1) Where a dwelling (“the old dwelling”) is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if—
- (a) the individual has made arrangements to sell a dwelling (“the old dwelling”) and acquire another dwelling (“the second dwelling”),
  - (b) the arrangements to sell the old dwelling fail, and
  - (c) the acquisition of the old dwelling is made for the purpose of enabling the individual’s acquisition of the second dwelling to proceed,
- and the following conditions are met.
- (2) The conditions are—
- (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals in those circumstances,
  - (b) that the individual—
    - (i) occupied the old dwelling as his only or main residence at some time in the period of two years ending with the date of its acquisition, and
    - (ii) intends to occupy the second dwelling as his only or main residence,
  - (c) that the property trader does not intend—
    - (i) to spend more than the permitted amount on refurbishment of the old dwelling, or
    - (ii) to grant a lease or licence of the old dwelling, or

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- (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling, and
  - (d) that the area of land acquired does not exceed the permitted area.
- Paragraph (c)(ii) does not apply to the grant of a lease or licence to the individual for a period of no more than six months.
- (3) Where the conditions in sub-paragraph (2)(a) to (c) are met, but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.
- (4) In this paragraph—
- (a) references to the acquisition of the second dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling;
  - (b) references to the acquisition of the old dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
  - (c) references to the market value of the old dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

*Acquisition by employer in case of relocation of employment*

- 5 (1) Where a dwelling is acquired from an individual (whether alone or with other individuals) by his employer, the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
- (a) that the individual occupied the dwelling as his only or main residence at some time in the period of two years ending with the date of the acquisition,
  - (b) that the acquisition is made in connection with a change of residence by the individual resulting from relocation of employment,
  - (c) that the consideration for the acquisition does not exceed the market value of the dwelling, and
  - (d) that the area of land acquired does not exceed the permitted area.
- (3) Where the conditions in sub-paragraph (2)(a) to (c) are met but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the dwelling.
- (4) In this paragraph “relocation of employment” means a change of the individual’s place of employment due to—
- (a) his becoming an employee of the employer,
  - (b) an alteration of the duties of his employment with the employer, or
  - (c) an alteration of the place where he normally performs those duties.
- (5) For the purposes of this paragraph a change of residence is one “resulting from” relocation of employment if—
- (a) the change is made wholly or mainly to allow the individual to have his residence within a reasonable daily travelling distance of his new place of employment, and

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- (b) his former residence is not within a reasonable daily travelling distance of that place.

The individual's "new place of employment" means the place where he normally performs, or is normally to perform, the duties of his employment after the relocation.

- (6) In this paragraph—
  - (a) references to the acquisition of the dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling;
  - (b) references to the market value of the dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area; and
  - (c) references to an individual's employer include a prospective employer.

*Acquisition by property trader in case of relocation of employment*

- 6 (1) Where a dwelling is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
  - (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals in connection with a change of residence resulting from relocation of employment,
  - (b) that the individual occupied the dwelling as his only or main residence at some time in the period of two years ending with the date of the acquisition,
  - (c) that the acquisition is made in connection with a change of residence by the individual resulting from relocation of employment,
  - (d) that the consideration for the acquisition does not exceed the market value of the dwelling,
  - (e) that the property trader does not intend—
    - (i) to spend more than the permitted amount on refurbishment of the dwelling, or
    - (ii) to grant a lease or licence of the dwelling, or
    - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the dwelling, and
  - (f) that the area of land acquired does not exceed the permitted area.

Paragraph (e)(ii) does not apply to the grant of a lease or licence to the individual for a period of no more than six months.

- (3) Where the conditions in sub-paragraph (2)(a) to (e) are met but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the dwelling.
- (4) In this paragraph "relocation of employment" means a change of the individual's place of employment due to—
  - (a) his becoming employed by a new employer,
  - (b) an alteration of the duties of his employment, or
  - (c) an alteration of the place where he normally performs those duties.



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- (5) For the purposes of this paragraph a change of residence is one “resulting from” relocation of employment if—
- (a) the change is made wholly or mainly to allow the individual to have his residence within a reasonable daily travelling distance of his new place of employment, and
  - (b) his former residence is not within a reasonable daily travelling distance of that place.

An individual’s “new place of employment” means the place where he normally performs, or is normally to perform, the duties of his employment after the relocation.

- (6) In this paragraph—
- (a) references to the acquisition of the dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
  - (b) references to the market value of the dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

*Meaning of “dwelling”, “new dwelling” and “the permitted area”*

- 7 (1) “Dwelling” includes land occupied and enjoyed with the dwelling as its garden or grounds.
- (2) A building or part of a building is a “new dwelling” if—
- (a) it has been constructed for use as a single dwelling and has not previously been occupied, or
  - (b) it has been adapted for use as a single dwelling and has not been occupied since its adaptation.
- (3) “The permitted area”, in relation to a dwelling, means land occupied and enjoyed with the dwelling as its garden or grounds that does not exceed—
- (a) an area (inclusive of the site of the dwelling) of 0.5 of a hectare, or
  - (b) such larger area as is required for the reasonable enjoyment of the dwelling as a dwelling having regard to its size and character.
- (4) Where sub-paragraph (3)(b) applies, the permitted area is taken to consist of that part of the land that would be the most suitable for occupation and enjoyment with the dwelling as its garden or grounds if the rest of the land were separately occupied.

*Meaning of “property trader” and “principal”*

- 8 (1) A “property trader” means—
- (a) a company,
  - (b) a limited liability partnership, or
  - (c) a partnership whose members are all either companies or limited liability partnerships,
- that carries on the business of buying and selling dwellings.
- (2) In relation to a property trader a “principal” means—
- (a) in the case of a company, a director;
  - (b) in the case of a limited liability partnership, a member;

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- (c) in the case of a partnership whose members are all either companies or limited liability partnerships, a member or a person who is a principal of a member.
- (3) For the purposes of this Schedule—
- (a) anything done by or in relation to a company connected with a property trader is treated as done by or in relation to that property trader, and
  - (b) references to the principals or employees of a property trader include the principals or employees of any such company.

*Meaning of “refurbishment” and “the permitted amount”*

- 9 (1) “Refurbishment” of a dwelling means the carrying out of works that enhance or are intended to enhance the value of the dwelling, but does not include—
- (a) cleaning the dwelling, or
  - (b) works required solely for the purpose of ensuring that the dwelling meets minimum safety standards.
- (2) The “permitted amount”, in relation to the refurbishment of a dwelling, is—
- (a) 10,000, or
  - (b) 5% of the consideration for the acquisition of the dwelling,
- whichever is the greater, but subject to a maximum of £20,000.

*Connected companies etc*

- 10 [F145Section 1122 of the Corporation Tax Act 2010] (connected persons) has effect for the purposes of this Schedule.

**Textual Amendments**

**F145** Words in Sch. 6A para. 10 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 415 (with Sch. 2)

*Withdrawal of relief under this Schedule*

- 11 (1) Relief under this Schedule is withdrawn in the following circumstances.
- (2) Relief under paragraph 2 (acquisition by property trader from individual acquiring new dwelling) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the old dwelling, or
  - (b) grants a lease or licence of the old dwelling, or
  - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling.

Paragraph (b) does not apply to the grant of lease or licence to the individual for a period of no more than six months.

- (3) Relief under paragraph 3 (acquisition by property trader from personal representatives) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the dwelling, or

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- (b) grants a lease or licence of the dwelling, or
  - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the dwelling.
- (4) Relief under paragraph 4 (acquisition by property trader from individual where chain of transactions breaks down) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the old dwelling, or
  - (b) grants a lease or licence of the old dwelling, or
  - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling.

Paragraph (b) does not apply to the grant of lease or licence to the individual for a period of no more than six months.

- (5) Relief under paragraph 6 (acquisition by property trader in case of relocation of employment) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the dwelling, or
  - (b) grants a lease or licence of the dwelling, or
  - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the dwelling.

Paragraph (b) does not apply to the grant of lease or licence to the individual for a period of no more than six months.

- (6) Where relief is withdrawn the amount of tax chargeable is the amount that would have been chargeable in respect of the acquisition but for the relief.]

## [<sup>F146</sup>SCHEDULE 6B

Section 58D

### TRANSFERS INVOLVING MULTIPLE DWELLINGS

#### Textual Amendments

**F146** Sch. 6B inserted (with effect in accordance with Sch. 22 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 22 para. 3](#)

#### Introduction

- 1 This Schedule is arranged as follows—
- (a) paragraph 2 identifies the transactions to which this Schedule applies,
  - (b) paragraph 3 defines key terms,
  - (c) paragraphs 4 and 5 describe the relief available if a claim is made,
  - (d) paragraph 6 provides for adjustments if circumstances change after a claim is made, and
  - (e) paragraph 7 contains rules for determining what counts as a dwelling.

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*Transactions to which this Schedule applies*

- 2 (1) This Schedule applies to a chargeable transaction that is—
- (a) within sub-paragraph (2) or sub-paragraph (3), and
  - (b) not excluded by sub-paragraph (4).
- (2) A transaction is within this sub-paragraph if its main subject-matter consists of—
- (a) an interest in at least two dwellings, or
  - (b) an interest in at least two dwellings and other property.
- (3) A transaction is within this sub-paragraph if—
- (a) its main subject-matter consists of—
    - (i) an interest in a single dwelling, or
    - (ii) an interest in a single dwelling and other property,
  - (b) it is one of a number of linked transactions, and
  - (c) the main subject-matter of at least one of the other linked transactions consists of—
    - (i) an interest in some other dwelling or dwellings, or
    - (ii) an interest in some other dwelling or dwellings and other property.
- (4) A transaction is excluded by this sub-paragraph if—
- (a) section 74 or 75 applies to it,<sup>F147</sup> ...  
 [ paragraph 3 of Schedule 4A applies to it, or]  
<sup>F148</sup>(aa)
  - (b) relief under Schedule 7<sup>F149</sup>, Schedule 7A] or Schedule 8 is available for it or would be available for it on the making of a claim or has been withdrawn from it.
- (5) A reference in this Schedule to an interest in a dwelling is to any chargeable interest in or over a dwelling.
- (6) But, in the case of a dwelling subject to a lease granted for an initial term of more than 21 years, any interest that is a superior interest in relation to the lease is to be ignored in determining whether a transaction is a relevant transaction.
- [ Sub-paragraph (6) does not apply where—
- <sup>F150</sup>(7) (a) the vendor is a qualifying body within the meaning of paragraph 5 of Schedule 9,
  - (b) the transaction is a sale under a sale and leaseback arrangement within the meaning of section 57A(2),
  - (c) that sale is the grant of a leasehold interest, and
  - (d) the leaseback element of that arrangement is exempt from charge under section 57A.]

**Textual Amendments**

**F147** Word in Sch. 6B para. 2(4)(a) omitted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 8\(a\)](#)

**F148** Sch. 6B para. 2(4)(aa) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 8\(b\)](#)

**F149** Words in Sch. 6B para. 2(4)(b) inserted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 16 para. 13](#)

*Status: Point in time view as at 31/12/2020.*

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**F150** Sch. 6B para. 2(7) inserted (with effect in accordance with s. 69(2) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 69\(1\)](#)

#### *Key terms*

- 3 (1) A chargeable transaction to which this Schedule applies is referred to in this Schedule as a “relevant transaction”.
- (2) A relevant transaction is a “single dwelling transaction” if its main subject-matter consists of—
- (a) an interest in a single dwelling, or
  - (b) an interest in a single dwelling and other property.
- (3) In relation to such a transaction, the single dwelling is referred to as “the dwelling”.
- (4) A relevant transaction is a “multiple dwelling transaction” if its main subject-matter consists of—
- (a) an interest in at least two dwellings, or
  - (b) an interest in at least two dwellings and other property.
- (5) In relation to such a transaction, those dwellings are referred to as “the dwellings”.

#### *The relief*

- 4 <sup>F151</sup>(1) If relief under this Schedule is claimed for a relevant transaction, the amount of tax chargeable in respect of the transaction is the sum of—
- (a) the tax related to the consideration attributable to dwellings (see paragraph 5(1) and (2)), and
  - (b) the tax related to the remaining consideration (if any) (see paragraph 5(7)).
- (2) “The consideration attributable to dwellings” is—
- (a) for a single dwelling transaction, so much of the chargeable consideration for the transaction as is attributable to the dwelling,
  - (b) for a multiple dwelling transaction, so much of the chargeable consideration for the transaction as is attributable to the dwellings in total.
- (3) “The remaining consideration” is the chargeable consideration for the transaction less the consideration attributable to dwellings.
- <sup>F152</sup>(4) . . . . .
- (5) If the whole or part of the chargeable consideration for a relevant transaction is rent, sub-paragraph (1) has effect subject to section 56 and Schedule 5.
- (6) “Attributable” means attributable on a just and reasonable basis.

#### **Textual Amendments**

**F151** Sch. 6B para. 4(1) substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\), Sch. para. 7\(2\)](#) (with s. 2(3)-(6))

**F152** Sch. 6B para. 4(4) omitted (with effect in accordance with s. 2(2) of the amending Act) by virtue of [Stamp Duty Land Tax Act 2015 \(c. 1\), Sch. para. 7\(3\)](#) (with s. 2(3)-(6))

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*[<sup>F153</sup>The amount of tax chargeable]*

**Textual Amendments**

**F153** Sch. 6B cross-heading substituted (with effect in accordance with s. 2(2) of the amending Act) by Stamp Duty Land Tax Act 2015 (c. 1), **Sch. para. 7(4)** (with s. 2(3)-(6))

5 [<sup>F154</sup>(1) For the purposes of paragraph 4(1)(a), “the tax related to the consideration attributable to dwellings” is determined as follows—

*Step 1* Determine the amount of tax that would be chargeable under section 55 on the assumption that—

- (a) the relevant land consisted entirely of residential property, and
- (b) the relevant consideration were the fraction produced by dividing total dwellings consideration by total dwellings.

*Step 2* Multiply the amount determined at Step 1 by total dwellings.

*Step 3* If the relevant transaction is one of a number of linked transactions, go to Step 4. Otherwise, the amount found at Step 2 is the tax related to the consideration attributable to dwellings.

*Step 4* Multiply the amount found at Step 2 by—

CD TDC

where—

“CD” is the consideration attributable to dwellings for the relevant transaction, and

“TDC” is total dwellings consideration.

- (2) But if the amount found at Step 2 of sub-paragraph (1) is less than 1% of total dwellings consideration, for the purposes of paragraph 4(1)(a) “the tax related to the consideration attributable to dwellings” is an amount equal to 1% of the consideration attributable to dwellings.]
- (3) For a transaction that is not one of a number of linked transactions, “total dwellings consideration” is the consideration attributable to dwellings for that transaction (see paragraph 4(2)).
- (4) For one of a number of linked transactions, “total dwellings consideration” is—
  - (a) the total of the consideration attributable to dwellings for that transaction and all the other linked transactions that are relevant transactions, plus
  - (b) so much of the chargeable consideration for any of the linked transactions (whether or not relevant transactions) as is not included in the calculation under paragraph (a) but is attributable to the same dwellings by reference to which that calculation is made.
- (5) “Total dwellings” is the total number of dwellings by reference to which total dwellings consideration is calculated.
- (6) In the application of sub-paragraph (1), no account is to be taken of—
  - (a) section 116(7), or
  - (b) paragraph 9A(4) of Schedule 5.

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[ In the application of sub-paragraph (1), account is to be taken of paragraph 1 of  
F155(6A) Schedule 4ZA if the relevant transaction is a higher rates transaction for the purposes  
of that paragraph.]

[<sup>F156</sup>(7) For the purposes of paragraph 4(1)(b), “the tax related to the remaining  
consideration” is the appropriate fraction of the amount of tax which (but for this  
Schedule) would be due in respect of the relevant transaction.

(8) In subsection (7) “the appropriate fraction” means—

$$\frac{\text{RC}}{\text{TDC} + \text{TRC}}$$

where—

“RC” is the remaining consideration for the relevant transaction,

“TDC” is total dwellings consideration, and

“TRC” is total remaining consideration.

(9) For a transaction that is not one of a number of linked transactions, “total remaining  
consideration” is the remaining consideration for that transaction (see paragraph  
4(3)).

(10) For one of a number of linked transactions, “total remaining consideration” is—

- (a) the total of the chargeable consideration for all those transactions, less
- (b) total dwellings consideration.]

#### Textual Amendments

**F154** Sch. 6B para. 5(1)(2) substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\)](#), [Sch. para. 7\(5\)](#) (with s. 2(3)-(6))

**F155** Sch. 6B para. 5(6A) inserted (with effect in accordance with s. 128(5)(6) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 128\(4\)](#)

**F156** Sch. 6B para. 5(7)-(10) substituted for Sch. 6B para. 5(7) (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\)](#), [Sch. para. 7\(6\)](#) (with s. 2(3)-(6))

#### *Adjustment for change of circumstances*

- 6 (1) This paragraph applies if—
- (a) relief under this Schedule is claimed for a relevant transaction,
  - (b) an event occurs in the relevant period, and
  - [<sup>F157</sup>(c) had the event occurred immediately before the effective date of the transaction, more tax (calculated according to the effective date of the transaction) would have been payable, whether because the transaction would not have been a relevant transaction or otherwise.]
- (2) If this paragraph applies, tax is chargeable on the transaction as if the event had occurred immediately before the effective date of the transaction.
- (3) In that case—
- (a) the purchaser must make a return to Her Majesty's Revenue and Customs before the end of the period of 30 days beginning with the date of the event,

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- (b) the return must contain a self-assessment of the tax chargeable in respect of the transaction on the basis of the information contained in the return,
  - (c) <sup>F158</sup> ..... and
  - (d) the additional tax payable must be paid not later than the filing date for the return.
- (4) The provisions of section 78A and Schedule 10 apply to a return under this paragraph as they apply to a return under section 76, but with references in Schedule 10 to the effective date of the transaction being read as references to the date of the event.
- (5) “The relevant period” means the shorter of—
- (a) the period of 3 years beginning with the effective date of the transaction, and
  - (b) the period beginning with the effective date of the transaction and ending with the date on which the purchaser disposes of the dwelling, or the dwellings, to a person who is not connected with the purchaser.
- (6) In relation to a transaction effected on completion of a contract that was substantially performed before completion, sub-paragraph (5) applies as if references to the effective date of the transaction were to the date on which the contract was substantially performed.
- (7) In this paragraph—
- “completion” has the same meaning as in section 44;
  - “contract” includes any agreement (including, in the case of Scotland, missives of let not constituting a lease);
  - “event” includes any change of circumstance or change of plan;
  - “substantially performed” has the same meaning as in section 44.
- (8) Section 1122 of the Corporation Tax Act 2010 (connected persons) has effect for the purposes of this paragraph.

#### Textual Amendments

**F157** Sch. 6B para. 6(1)(c) substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\), Sch. para. 7\(7\)](#) (with s. 2(3)-(6))

**F158** Sch. 6B para. 6(3)(c) omitted (with effect in accordance with s. 2(2) of the amending Act) by virtue of [Stamp Duty Land Tax Act 2015 \(c. 1\), Sch. para. 7\(8\)](#) (with s. 2(3)-(6))

#### *What counts as a dwelling*

- 7
- (1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.
  - (2) A building or part of a building counts as a dwelling if—
    - (a) it is used or suitable for use as a single dwelling, or
    - (b) it is in the process of being constructed or adapted for such use.
  - (3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling.
  - (4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of that dwelling.



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- (5) The main subject-matter of a transaction is also taken to consist of or include an interest in a dwelling if—
- (a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
  - (b) the main subject-matter of the transaction consists of or includes an interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and
  - (c) construction or adaptation of the building, or the part of a building, has not begun by the time the contract is substantially performed.
- (6) In sub-paragraph (5)—
- “contract” includes any agreement (including, in the case of Scotland, missives of let not constituting a lease);
- “relevant deeming provision” means any of sections 44 to 45A [F159 or paragraph 5(1) or (2) of Schedule 2A] or paragraph 12A or 19(3) of Schedule 17A;
- “substantially performed” has the same meaning as in section 44.
- (7) Subsections (2) to (5) of section 116 apply for the purposes of this paragraph as they apply for the purposes of subsection (1)(a) of that section.]

**Textual Amendments**

**F159** Words in Sch. 6B para. 7(6) inserted (with effect in accordance with Sch. 39 para. 11 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 39 para. 9](#)

## SCHEDULE 7

Section 62

## STAMP DUTY LAND TAX: GROUP RELIEF AND RECONSTRUCTION AND ACQUISITION RELIEFS

**PART 1**

## GROUP RELIEF

*Group relief*

- 1 (1) A transaction is exempt from charge if the vendor and purchaser are companies that at the effective date of the transaction are members of the same group.
- (2) For the purposes of group relief—
- (a) “company” means a body corporate, and
  - (b) companies are members of the same group if one is the 75% subsidiary of the other or both are 75% subsidiaries of a third company.
- (3) For the purposes of group relief a company (“company A”) is the 75% subsidiary of another company (“company B”) if company B—
- (a) is beneficial owner of not less than 75% of the ordinary share capital of company A,

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- (b) is beneficially entitled to not less than 75% of any profits available for distribution to equity holders of company A, and
  - (c) would be beneficially entitled to not less than 75% of any assets of company A available for distribution to its equity holders on a winding-up.
- (4) The ownership referred to in sub-paragraph (3)(a) is ownership either directly or through another company or companies.
- For the purposes of that provision the amount of ordinary share capital of company A owned by company B through another company or companies shall be determined in accordance with [F160]sections 1155 to 1157 of the Corporation Tax Act 2010].
- (5) In sub-paragraphs (3)(a) and (4) above “ordinary share capital”, in relation to a company, means all the issued share capital (by whatever name called) of the company, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company.
- [F161](6) Chapter 6 of Part 5 of the Corporation Tax Act 2010 (group relief: equity holders and profits or assets available for distribution) applies for the purposes of sub-paragraphs (3)(b) and (c) above as it applies for the purposes of section 151(4)(a) and (b) of that Act.
- (6A) In that Chapter as it applies for the purposes of sub-paragraphs (3)(b) and (c) above, sections 171(1)(b) and (3), 173, 174 and 176 to 178 of that Act are to be treated as omitted.]
- (7) This paragraph is subject to paragraph 2 (restrictions on availability of group relief) and [F162]paragraphs 3 and 4A] (withdrawal of group relief).

#### Textual Amendments

- F160** Words in Sch. 7 para. 1(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 416\(2\)\(a\)](#) (with Sch. 2)
- F161** Sch. 7 para. 1(6)(6A) substituted for Sch. 7 para. 1(6) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 416\(2\)\(b\)](#) (with Sch. 2)
- F162** Words in Sch. 7 para. 1(7) substituted (with effect in accordance with Sch. 10 para. 16(1)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 10 para. 3](#)

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

- C4** Sch. 7 para. 1 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\), regs. 1, 43\(2\)](#)

#### *Restrictions on availability of group relief*

- 2 (1) Group relief is not available if at the effective date of the transaction there are arrangements in existence by virtue of which, at that or some later time, a person has or could obtain, or any persons together have or could obtain, control of the purchaser but not of the vendor.

This does not apply to arrangements entered into with a view to an acquisition of shares by a company (“the acquiring company”)—

- (a) in relation to which section 75 of the Finance Act 1986 (c. 41) (stamp duty: acquisition relief) will apply,

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- (b) in relation to which the conditions for relief under that section will be met, and
- (c) as a result of which the purchaser will be a member of the same group as the acquiring company.

[<sup>F163</sup>For other exceptions to this, see sub-paragraph (3A) and paragraphs 2A and 2B.]

- (2) Group relief is not available if the transaction is effected in pursuance of, or in connection with, arrangements under which—
- (a) the consideration, or any part of the consideration, for the transaction is to be provided or received (directly or indirectly) by a person other than a group company, or
  - (b) the vendor and the purchaser are to cease to be members of the same group by reason of the purchaser ceasing to be a 75% subsidiary of the vendor or a third company.
- (3) Arrangements are within sub-paragraph (2)(a) if under them the vendor or the purchaser, or another group company, is to be enabled to provide any of the consideration, or is to part with any of it, by or in consequence of the carrying out of a transaction or transactions involving, or any of them involving, a payment or other disposition by a person other than a group company.

[<sup>F164</sup>(3A) Sub-paragraphs (1) and (2)(b) do not apply to arrangements in so far as they are for the purpose of facilitating a transfer of the whole or part of the business of a company to another company in relation to which—

- (a) section 96 of the Finance Act 1997 is intended to apply (stamp duty relief: demutualisation of insurance companies), and
- (b) the conditions for relief under that section are intended to be met.]

- (4) In sub-paragraphs (2)(a) and (3) a “group company” means a company that at the effective date of the transaction is a member of the same group as the vendor or the purchaser.

[<sup>F165</sup>(4A) Group relief is not available if the transaction—

- (a) is not effected for bona fide commercial reasons, or
- (b) forms part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

“Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.]

- (5) In this paragraph—

“arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable; and

“control” has the meaning given by [<sup>F166</sup>section 1124 of the Corporation Tax Act 2010].

#### Textual Amendments

**F163** Words in Sch. 7 para. 2(1) substituted (1.3.2013) by [The Enactment of Extra-Statutory Concessions Order 2013 \(S.I. 2013/234\)](#), arts. 1, 8 (with art. 9)

**F164** Sch. 7 para. 2(3A) inserted (with effect in accordance with s. 167(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 167(3)

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**F165** Sch. 7 para. 2(4A) inserted (with effect in accordance with Sch. 10 para. 22(1)-(3)(5) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 10 para. 19**

**F166** Words in Sch. 7 para. 2(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 416(3)** (with Sch. 2)

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

**C5** Sch. 7 para. 2 modified (25.2.2011) by [Horse Race Betting and Olympic Lottery Act 2004 \(c. 25\)](#), **ss. 4(3)(c), 40**; [S.I. 2011/462](#), art. 2

*<sup>F167</sup>Certain arrangements not within paragraph 2*

**Textual Amendments**

**F167** Sch. 7 paras. 2A, 2B inserted (1.3.2013) by [The Enactment of Extra-Statutory Concessions Order 2013 \(S.I. 2013/234\)](#), arts. 1, 7 (with art. 9)

- 2A (1) Arrangements entered into by a joint venture company which, apart from this section, would be arrangements to which paragraph 2 applies are not to be treated as such arrangements if and so long as—
- (a) the arrangements fall within sub-paragraph (2), and
  - (b) none of the contingencies mentioned in sub-paragraph (3) to which the arrangements relate has occurred.
- (2) Arrangements fall within this sub-paragraph if they are—
- (a) an agreement which provides for the transfer of shares or securities in the joint venture company to one or more members of that company on, or as a result of, one or more contingencies mentioned in sub-paragraph (3) occurring, or
  - (b) a provision in a constitutional document of the joint venture company which provides for the suspension of a member's voting rights on, or as a result of, one or more of those contingencies occurring.
- (3) The contingencies referred to in sub-paragraph (1)(b) and (2) are—
- (a) the voluntary departure of a member,
  - (b) the commencement of the liquidation, administration, administrative receivership or receivership of, or the entering into of a voluntary arrangement by, a member under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 or the commencement, or entering into, of equivalent proceedings or arrangements under the law of any country or territory outside the United Kingdom,
  - (c) a serious deterioration in the financial condition of a member,
  - (d) a change of control of a member,
  - (e) a default by a member in performing its obligations under any agreement between the members or with the joint venture company (which, for this purpose, includes any constitutional document of the joint venture company),
  - (f) an external change in the commercial circumstances in which the joint venture company operates such that its viability is threatened,
  - (g) an unresolved disagreement between the members, and

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- (h) any contingency of a similar kind to that mentioned in any of paragraphs (a) to (g) which is provided for, but not intended to happen, when the options arrangements in question were entered into.
- (4) This paragraph does not apply if a member could alone or together with connected persons dictate the terms or timing of—
- (a) the transfer of shares or securities, or
  - (b) the suspension of a member’s voting rights,
- in advance of one or more of the contingencies occurring.
- (5) For the purposes of sub-paragraph (4) members are not connected with each other by reason only of their membership of the joint venture company.
- (6) In this paragraph—
- “connected” has the same meaning as in section 1122 of the Corporation Tax Act 2010;
  - “constitutional document” means a memorandum of association, articles of association or any other similar document regulating the affairs of the joint venture company;
  - “joint venture company” means a company which—
    - (a) has two or more member companies, and
    - (b) carries on a commercial activity governed by an agreement regulating the affairs of its members;
  - “member” means a holder of shares or securities in the joint venture company.

*Certain mortgage arrangements not within paragraph 2*

- 2B (1) Arrangements entered into by a company which, apart from this paragraph, would be arrangements to which paragraph 2 applies are not to be treated as such arrangements if and so long as—
- (a) the arrangements are a mortgage, secured by way of shares or securities in the company, which on default or the happening of any other event allows the mortgagee to exercise its rights against the mortgagor, and
  - (b) the mortgagee has not exercised its rights against the mortgagor.
- (2) This paragraph does not apply if the mortgagee—
- (a) possesses greater rights in respect of the shares or securities which are the subject of the mortgage than it requires to protect its interest as mortgagee, or
  - (b) could alone or together with connected persons dictate the terms or timing of the default or the happening of any event which allows it to exercise its rights against the mortgagor.
- (3) For the purposes of sub-paragraph (2)(b) a mortgagee is not, by reason only of the mortgage, connected with a company whose shares or securities are the subject of the mortgage.
- (4) In this paragraph—
- “connected” has the same meaning as in section 1122 of the Corporation Tax Act 2010;
  - “mortgage” means—

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- (a) in England <sup>F168</sup>... , and Northern Ireland, any legal or equitable charge, and
- (b) in Scotland, any right in security.]

#### Textual Amendments

**F168** Words in Sch. 7 para. 2B(4) omitted (1.4.2018 with effect in accordance with s. 16(4)(5) of the amending Act) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 29(2)(b)(3), [Sch. 2 para. 10](#); S.I. 2018/214, art. 2(a)

#### *Withdrawal of group relief*

- 3 (1) Where in the case of a transaction (“the relevant transaction”) that is exempt from charge by virtue of paragraph 1 (group relief)—
- (a) the purchaser ceases to be a member of the same group as the vendor—
    - (i) before the end of the period of three years beginning with the effective date of the transaction, or
    - (ii) in pursuance of, or in connection with, arrangements made before the end of that period,
  - and
  - (b) at the time the purchaser ceases to be a member of the same group as the vendor (“the relevant time”), it or a relevant associated company holds a chargeable interest—
    - (i) that was acquired by the purchaser under the relevant transaction, or
    - (ii) that is derived from a chargeable interest so acquired,
 and that has not subsequently been acquired at market value under a chargeable transaction for which group relief was available but was not claimed,
- group relief in relation to the relevant transaction, or an appropriate proportion of it, is withdrawn and tax is chargeable in accordance with this paragraph.
- [<sup>F169</sup>(2) The amount chargeable is the tax that would have been chargeable in respect of the relevant transaction but for group relief if the chargeable consideration for that transaction had been an amount equal to—
- (a) the market value of the subject-matter of the transaction, and
  - (b) if the acquisition was the grant of a lease at a rent, that rent,
- or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.]
- (3) In sub-paragraphs (1) and (2) “an appropriate proportion” means an appropriate proportion having regard to the subject matter of the relevant transaction and what is held at the relevant time by the transferee company or, as the case may be, by that company and its relevant associated companies.
- (4) In this paragraph—
- “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable; and
  - “relevant associated company”, in relation to the purchaser, means a company that—
    - (a) is a member of the same group as the purchaser immediately before the purchaser ceases to be a member of the same group as the vendor, and

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(b) ceases to be a member of the same group as the vendor in consequence of the purchaser so ceasing.

(5) This paragraph has effect subject to [<sup>F170</sup>paragraphs 4 and 4ZA] (cases in which group relief not withdrawn) [<sup>F171</sup>and paragraph 4A (withdrawal of group relief in certain cases involving successive transactions)].

**Textual Amendments**

**F169** Sch. 7 para. 3(2) substituted (with effect in accordance with Sch. 10 para. 16(1)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 4\(a\)](#)

**F170** Words in Sch. 7 para. 3(5) substituted (with effect in accordance with s. 96(6) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 96\(2\)](#)

**F171** Words in Sch. 7 para. 3(5) inserted (with effect in accordance with Sch. 10 para. 16(1)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 4\(b\)](#)

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

**C6** Sch. 7 para. 3 excluded (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Mutual Societies \(Transfers of Business\) \(Tax\) Regulations 2009 \(S.I. 2009/2971\)](#), [regs. 1\(1\)](#), [33\(1\)](#)

**C7** Sch. 7 para. 3(1) modified (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), [regs. 1](#), [43\(3\)](#)

*Cases in which group relief not withdrawn*

4 (1) Group relief is not withdrawn under paragraph 3 in the following cases.

<sup>F172</sup>(2) .....

<sup>F173</sup>(3) .....

(4) The second case is where the purchaser ceases to be a member of the same group as the vendor by reason of anything done for the purposes of, or in the course of, winding up the vendor or another company that is above the vendor in the group structure.

(5) For [<sup>F174</sup>the purposes of [<sup>F175</sup>sub-paragraph (4)]] a company is “above” the vendor in the group structure if the vendor, or another company that is above the vendor in the group structure, is a 75% subsidiary of the company.

(6) The third case is where—

(a) the purchaser ceases to be a member of the same group as the vendor as a result of an acquisition of shares by another company (“the acquiring company”) in relation to which—

(i) section 75 of the Finance Act 1986 (c. 41) applies (stamp duty: acquisition relief), and

(ii) the conditions for relief under that section are met,

and

(b) the purchaser is immediately after that acquisition a member of the same group as the acquiring company.

[<sup>F176</sup>(6A) The fourth case is where—



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- (a) the purchaser ceases to be a member of the same group as the vendor as a result of the transfer of the whole or part of the vendor's business to another company (“the acquiring company”) in relation to which—
    - (i) section 96 of the Finance Act 1997 applies (stamp duty relief: demutualisation of insurance companies), and
    - (ii) the conditions for relief under that section are met, and
  - (b) the purchaser is immediately after that transfer a member of the same group as the acquiring company.]
- (7) But if in a case within sub-paragraph (6) [<sup>F177</sup>or (6A)] —
- (a) the purchaser ceases to be a member of the same group as the acquiring company—
    - (i) before the end of the period of three years beginning with the effective date of the relevant transaction, or
    - (ii) in pursuance of, or in connection with, arrangements made before the end of that period,
 and
  - (b) at the time the purchaser ceases to be a member of the same group as the acquiring company, it or a relevant associated company holds a chargeable interest—
    - (i) that was acquired by the purchaser under the relevant transaction, or
    - (ii) that is derived from an interest so acquired,
 and that has not subsequently been acquired at market value under a chargeable transaction for which group relief was available but was not claimed,
- the provisions of this Part relating to group relief apply as if the purchaser had then ceased to be a member of the same group as the vendor.
- (8) In sub-paragraph (7)—
- “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable; and
  - “relevant associated company”, in relation to the purchaser, means a company that is a member of the same group as the purchaser that ceases to be a member of the same group as the acquiring company in consequence of the purchaser so ceasing.

#### Textual Amendments

- F172** Sch. 7 para. 4(2) omitted (with effect in accordance with s. 96(6) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 96\(3\)\(a\)](#)
- F173** Sch. 7 para. 4(3) omitted (with effect in accordance with s. 96(6) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 96\(3\)\(a\)](#)
- F174** Words in Sch. 7 para. 4(5) substituted (with effect in accordance with Sch. 10 para. 16(1)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 10 para. 5\(b\)](#)
- F175** Words in Sch. 7 para. 4(5) substituted (with effect in accordance with s. 96(6) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 96\(3\)\(b\)](#)
- F176** Sch. 7 para. 4(6A) inserted (with effect in accordance with s. 167(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 167\(4\)\(a\)](#)
- F177** Words in Sch. 7 para. 4(7) inserted (with effect in accordance with s. 167(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 167\(4\)\(b\)](#)



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- 4ZA (1) Group relief is not withdrawn under paragraph 3 where the purchaser ceases to be a member of the same group as the vendor because the vendor leaves the group.
- (2) The vendor is regarded as leaving the group if the companies cease to be members of the same group by reason of a transaction relating to shares in—
- (a) the vendor, or
  - (b) another company that—
    - (i) is above the vendor in the group structure, and
    - (ii) as a result of the transaction ceases to be a member of the same group as the purchaser.
- (3) For the purpose of sub-paragraph (2) a company is “above” the vendor in the group structure if the vendor, or another company that is above the vendor in the group structure, is a 75% subsidiary of the company.
- (4) But if there is a change in the control of the purchaser after the vendor leaves the group, paragraphs 3, 4(6) and (7), 5 and 6 have effect as if the purchaser had then ceased to be a member of the same group as the vendor (but see sub-paragraph (7)).
- (5) For the purposes of this paragraph there is a change in the control of the purchaser if—
- (a) a person who controls the purchaser (alone or with others) ceases to do so,
  - (b) a person obtains control of the purchaser (alone or with others), or
  - (c) the purchaser is wound up.
- (6) For the purposes of sub-paragraph (5) a person does not control, or obtain control of, the purchaser if that person is under the control of another person or other persons.
- (7) Sub-paragraph (4) does not apply where—
- (a) there is a change in the control of the purchaser because a loan creditor (within the meaning [<sup>F179</sup>given by section 453 of the Corporation Tax Act 2010]) obtains control of, or ceases to control, the purchaser, and
  - (b) the other persons who controlled the purchaser before that change continue to do so.
- (8) In this paragraph references to “control” shall be interpreted in accordance with [<sup>F180</sup>sections 450 and 451 of the Corporation Tax Act 2010] (subject to sub-paragraph (6)).]

**Textual Amendments****F179** Words in Sch. 7 para. 4ZA(7)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 416\(4\)\(a\)](#) (with [Sch. 2](#))**F180** Words in Sch. 7 para. 4ZA(8) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 416\(4\)\(b\)](#) (with [Sch. 2](#))

*Status: Point in time view as at 31/12/2020.*

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*[<sup>F181</sup>Withdrawal of group relief in certain cases involving successive transactions*

**Textual Amendments**

**F181** Sch. 7 para. 4A and cross-heading inserted (with effect in accordance with Sch. 10 para. 16(1)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 10 para. 6**

- 4A (1) Where, in the case of a transaction (“the relevant transaction”) that is exempt from charge by virtue of paragraph 1 (group relief)—
- (a) there is a change in the control of the purchaser,
  - (b) that change occurs—
    - (i) before the end of the period of three years beginning with the effective date of the relevant transaction, or
    - (ii) in pursuance of, or in connection with, arrangements made before the end of that period,
  - (c) apart from this paragraph, group relief in relation to the relevant transaction would not be withdrawn under paragraph 3, and
  - (d) any previous transaction falls within sub-paragraph (2),
- paragraphs 3<sup>F182</sup>, 4 and 4ZA] have effect in relation to the relevant transaction as if the vendor in relation to the earliest previous transaction falling within sub-paragraph (2) were the vendor in relation to the relevant transaction.

[ Sub-paragraph (1) has effect subject to sub-paragraph (3A).]

<sup>F183</sup>(1A)

- (2) A previous transaction falls within this sub-paragraph if—
- (a) the previous transaction is exempt from charge by virtue of paragraph 1, 7 or 8,
  - (b) the effective date of the previous transaction is less than three years before the date of the event falling within sub-paragraph (1)(a),
  - (c) the chargeable interest acquired under the relevant transaction by the purchaser in relation to that transaction is the same as, comprises, forms part of, or is derived from, the chargeable interest acquired under the previous transaction by the purchaser in relation to the previous transaction, and
  - (d) since the previous transaction, the chargeable interest acquired under that transaction has not been acquired by any person under a transaction that is not exempt from charge by virtue of paragraph 1, 7 or 8.
- (3) For the purposes of [<sup>F184</sup>this paragraph] there is a change in the control of a company if—
- (a) any person who controls the company (alone or with others) ceases to do so,
  - (b) a person obtains control of the company (alone or with others), or
  - (c) the company is wound up.

References to “control” in [<sup>F185</sup>this paragraph] shall be construed in accordance with [<sup>F186</sup>sections 450 and 451 of the Corporation Tax Act 2010].

[ Sub-paragraph (1) does not apply where—

- <sup>F187</sup>(3A) (a) there is a change in the control of the purchaser because a loan creditor (within the meaning [<sup>F188</sup>given by section 453 of the Corporation Tax Act 2010]) obtains control of, or ceases to control, the purchaser, and

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- (b) the other persons who controlled the purchaser before that change continue to do so.]
- (4) If two or more transactions effected at the same time are the earliest previous transactions falling within sub-paragraph (2), the reference in sub-paragraph (1) to the vendor in relation to the earliest previous transaction is a reference to the persons who are the vendors in relation to the earliest previous transactions.
- (5) In this paragraph “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.]

**Textual Amendments**

- F182** Words in Sch. 7 para. 4A(1) substituted (with effect in accordance with s. 96(6) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 96\(5\)\(a\)](#)
- F183** Sch. 7 para. 4A(1A) inserted (with effect in accordance with s. 96(6) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 96\(5\)\(b\)](#)
- F184** Words in Sch. 7 para. 4A(3) substituted (with effect in accordance with s. 96(6) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 96\(5\)\(c\)\(i\)](#)
- F185** Words in Sch. 7 para. 4A(3) substituted (with effect in accordance with s. 96(6) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 96\(5\)\(c\)\(ii\)](#)
- F186** Words in Sch. 7 para. 4A(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 416\(5\)\(a\)](#) (with [Sch. 2](#))
- F187** Sch. 7 para. 4A(3A) inserted (with effect in accordance with s. 96(6) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 96\(5\)\(d\)](#)
- F188** Words in Sch. 7 para. 4A(3A)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 416\(5\)\(b\)](#) (with [Sch. 2](#))

*Recovery of group relief from another group company or controlling director*

- 5 (1) This paragraph applies where—
- tax is chargeable under paragraph 3 (withdrawal of group relief),
  - the amount so chargeable has been finally determined, and
  - the whole or part of the amount so chargeable is unpaid six months after the date on which it became payable.
- (2) The following persons may, by notice under paragraph 6, be required to pay the unpaid tax—
- the vendor;
  - any company that at any relevant time was a member of the same group as the purchaser and was above it in the group structure;
  - any person who at any relevant time was a controlling director of the purchaser or a company having control of the purchaser.
- (3) For the purposes of sub-paragraph (2)(b)—
- a “relevant time” means any time between the effective date of the relevant transaction and the purchaser ceasing to be a member of the same group as the vendor; and
  - a company (“company A”) is “above” another company (“company B”) in a group structure if company B, or another company that is above company B in the group structure, is a 75% subsidiary of company A.

*Status: Point in time view as at 31/12/2020.*

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(4) In sub-paragraph (2)(c)—

“director”, in relation to a company, has the meaning given by section 67(1) of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (read with subsection (2) of that section) and includes any person falling within [<sup>F189</sup>section 452(1) of the Corporation Tax Act 2010]; and

“controlling director”, in relation to a company, means a director of the company who has control of it (construing control in accordance with [<sup>F190</sup>sections 450 and 451 of the Corporation Tax Act 2010]).

#### Textual Amendments

**F189** Words in Sch. 7 para. 5(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [Sch. 1 para. 416\(6\)\(a\)](#) (with [Sch. 2](#))

**F190** Words in Sch. 7 para. 5(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [Sch. 1 para. 416\(6\)\(b\)](#) (with [Sch. 2](#))

#### *Recovery of group relief: supplementary*

- 6 (1) The Inland Revenue may serve a notice on a person within paragraph 5(2) above requiring him within 30 days of the service of the notice to pay the amount that remains unpaid.
- (2) Any such notice must be served before the end of the period of three years beginning with the date of the final determination mentioned in paragraph 5(1)(b).
- (3) The notice must state the amount required to be paid by the person on whom the notice is served.
- (4) The notice has effect—
- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
  - (b) for the purposes of appeals,
- as if it were a notice of assessment and that amount were an amount of tax due from that person.
- (5) A person who has paid an amount in pursuance of a notice under this paragraph may recover that amount from the purchaser.
- (6) A payment in pursuance of a notice under this paragraph is not allowed as a deduction in computing any income, profits or losses for any tax purpose.

## PART 2

### RECONSTRUCTION AND ACQUISITION RELIEFS

#### *Reconstruction relief*

- 7 (1) Where—
- (a) a company (“the acquiring company”) acquires the whole or part of the undertaking of another company (“the target company”) in pursuance of a scheme for the reconstruction of the target company, and

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(b) the first, second and third conditions specified below are met,  
a land transaction entered into for the purposes of or in connection with the transfer of the undertaking or part is exempt from charge.

Relief under this paragraph is referred to in this Part as “reconstruction relief”.

(2) The first condition is that the consideration for the acquisition consists wholly or partly of the issue of non-redeemable shares in the acquiring company to all the shareholders of the target company.

“Non-redeemable shares” means shares that are not redeemable shares.

(3) Where the consideration for the acquisition consists partly of the issue of non-redeemable shares as mentioned in the first condition, that condition is met only if the rest of the consideration consists wholly of the assumption or discharge by the acquiring company of liabilities of the target company.

(4) The second condition is that after the acquisition has been made—

- (a) each shareholder of each of the companies is a shareholder of the other, and
- (b) the proportion of shares of one of the companies held by any shareholder is the same, or as nearly as may be the same, as the proportion of shares of the other company held by that shareholder.

(5) The third condition is that the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

“Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.

[<sup>F191</sup>(5A) If immediately before the acquisition the target company or the acquiring company holds any of its own shares, the shares are to be treated for the purposes of sub-paragraphs (2) and (4) as having been cancelled before the acquisition (and, accordingly, the company is to be treated as if it were not a shareholder of itself).]

(6) This paragraph is subject to paragraph 9 (withdrawal of reconstruction or acquisition relief).

#### Textual Amendments

**F191** Sch. 7 para. 7(5A) inserted (with effect in accordance with s. 74(5) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 74\(3\)](#)

#### *Acquisition relief*

8 (1) Where—

- (a) a company (“the acquiring company”) acquires the whole or part of the undertaking of another company (“the target company”), and
- (b) [<sup>F192</sup>all the conditions] specified below are met,

the [<sup>F193</sup>amount] of tax chargeable on a land transaction entered into for the purposes of or in connection with the transfer of the undertaking or part is limited to [<sup>F194</sup>an amount equal to 0.5% of the chargeable consideration for the transaction].

Relief under this paragraph is referred to in this Part as “acquisition relief”.

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- (2) The first condition is that the consideration for the acquisition consists wholly or partly of the issue of non-redeemable shares in the acquiring company to—
- (a) the target company, or
  - (b) all or any of the target company’s shareholders.

“Non-redeemable shares” means shares that are not redeemable shares.

- (3) Where the consideration for the acquisition consists partly of the issue of non-redeemable shares as mentioned in the first condition, that condition is met only if the rest of the consideration consists wholly of—
- (a) cash not exceeding 10% of the nominal value of the non-redeemable shares so issued, or
  - (b) the assumption or discharge by the acquiring company of liabilities of the target company, or
  - (c) both of those things.

- (4) The second condition is that the acquiring company is not associated with another company that is a party to arrangements with the target company relating to shares of the acquiring company issued in connection with the transfer of the undertaking or part.

- [<sup>F195</sup>(5) For this purpose companies are associated if one has control of the other or both are controlled by the same person or persons.

The reference to control shall be construed in accordance with section 416 of the Taxes Act 1988.]

- [<sup>F196</sup>(5A) The third condition is that the undertaking or part acquired by the acquiring company has as its main activity the carrying on of a trade that does not consist wholly or mainly of dealing in chargeable interests.

In this sub-paragraph “trade” has the same meaning as in the Taxes Act 1988.]

- [<sup>F197</sup>(5B) The fourth condition is that the acquisition is effected for bona fide commercial reasons and does not form part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

“Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.

- (5C) In this paragraph “arrangements” include any scheme, agreement or understanding, whether or not legally enforceable.]

- (6) This paragraph is subject to paragraph 9 (withdrawal of reconstruction or acquisition relief).

#### Textual Amendments

**F192** Words in Sch. 7 para. 8(1)(b) substituted (with effect in accordance with Sch. 10 para. 16(5)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 8\(a\)](#)

**F193** Word in Sch. 7 para. 8(1) substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\)](#), [Sch. para. 8\(a\)](#) (with s. 2(3)-(6))

**F194** Words in Sch. 7 para. 8(1) substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\)](#), [Sch. para. 8\(b\)](#) (with s. 2(3)-(6))

**F195** Sch. 7 para. 8(5) substituted (with effect in accordance with Sch. 10 para. 22(1)-(3)(5) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 20\(a\)](#)



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- 9 (1) Where in the case of a transaction (“the relevant transaction”) that is exempt by virtue of reconstruction relief or is subject to a reduced rate of tax by virtue of acquisition relief—
- (a) control of the acquiring company changes—
    - (i) before the end of the period of three years beginning with the effective date of the transaction, or
    - (ii) in pursuance of, or in connection with, arrangements made before the end of that period,

and
  - (b) at the time control of the acquiring company changes (“the relevant time”), it or a relevant associated company holds a chargeable interest—
    - (i) that was acquired by the acquiring company under the relevant transaction, or
    - (ii) that is derived from an interest so acquired,

and that has not subsequently been acquired at market value under a chargeable transaction in relation to which reconstruction or acquisition relief was available but was not claimed,

reconstruction or acquisition relief in relation to the relevant transaction, or an appropriate proportion of it, is withdrawn and tax is chargeable in accordance with this paragraph.
- [<sup>F198</sup>(2) The amount chargeable is the tax that would have been chargeable in respect of the relevant transaction but for reconstruction or acquisition relief if the chargeable consideration for that transaction had been an amount equal to—
- (a) the market value of the subject-matter of the transaction, and
  - (b) if the acquisition was the grant of a lease at a rent, that rent,
- or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.]
- (3) In sub-paragraphs (1) and (2) “an appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held at the relevant time by the acquiring company or, as the case may be, by that company and any relevant associated companies.
  - (4) In this paragraph “relevant associated company”, in relation to the acquiring company, means a company—
    - (a) that is controlled by the acquiring company immediately before the control of that company changes, and
    - (b) of which control changes in consequence of the change of control of that company.
  - (5) In this paragraph—
    - (a) “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;

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- (b) “control” shall be construed in accordance with [F199 sections 450 and 451 of the Corporation Tax Act 2010]; and
  - (c) references to control of a company changing are to the company becoming controlled—
    - (i) by a different person,
    - (ii) by a different number of persons, or
    - (iii) by two or more persons at least one of whom is not the person, or one of the persons, by whom the company was previously controlled.
- (6) This paragraph has effect subject to paragraph 10 (cases in which reconstruction or acquisition relief not withdrawn).

#### Textual Amendments

**F198** Sch. 7 para. 9(2) substituted (with effect in accordance with Sch. 10 para. 16(2)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 9](#)

**F199** Words in Sch. 7 para. 9(5)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 416\(7\)](#) (with [Sch. 2](#))

#### *Cases in which reconstruction or acquisition relief not withdrawn*

- 10 (1) Reconstruction or acquisition relief is not withdrawn under paragraph 9 in the following cases.
- (2) The first case is where control of the acquiring company changes as a result of a share transaction that is effected as mentioned in any of paragraphs (a) to (d) of paragraph 3 of Schedule 3 (transactions in connection with divorce etc).
  - (3) The second case is where control of the acquiring company changes as a result of a share transaction that—
    - (a) is effected as mentioned in paragraph 4(1) of Schedule 3, and
    - (b) meets the conditions in paragraph 4(2) of that Schedule (variation of testamentary dispositions etc).
  - (4) The third case is where control of the acquiring company changes as a result of an exempt intra-group transfer.

An “exempt intra-group transfer” means a transfer of shares effected by an instrument that is exempt from stamp duty by virtue of section 42 of the Finance Act 1930 (c. 28) or section 11 of the Finance Act (Northern Ireland) 1954 (c. 23 (N. I.)) (transfers between associated bodies corporate).

But see paragraph 11 (withdrawal of relief in case of subsequent non-exempt transfer).

- (5) The fourth case is where control of the acquiring company changes as a result of a transfer of shares to another company in relation to which share acquisition relief applies.

“Share acquisition relief” means relief under section 77 of the Finance Act 1986 (c. 41) and a transfer is one in relation to which that relief applies if an instrument effecting the transfer is exempt from stamp duty by virtue of that provision. But see paragraph 11 (withdrawal in case of subsequent non-exempt transfer).



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- (6) The fifth case is where—
- (a) control of the acquiring company changes as a result of a loan creditor becoming, or ceasing to be, treated as having control of the company, and
  - (b) the other persons who were previously treated as controlling the company continue to be so treated.

“Loan creditor” here has the meaning given by [F200 section 453 of the Corporation Tax Act 2010].

#### Textual Amendments

**F200** Words in Sch. 7 para. 10(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 416(8) (with Sch. 2)

#### *Withdrawal of reconstruction or acquisition relief on subsequent non-exempt transfer*

- 11 (1) Where paragraph 10(4) (change of control of acquiring company as a result of exempt intra-group transfer) has effect to prevent the withdrawal of reconstruction or acquisition relief on a change of control of the acquiring company, but—
- (a) a company holding shares in the acquiring company to which the exempt intra-group transfer related, or that are derived from shares to which that transfer related, ceases to be a member of the same group as the target company—
    - (i) before the end of the period of three years beginning with the effective date of the relevant transaction, or
    - (ii) in pursuance of or in connection with arrangements made before the end of that period,
- and
- (b) the acquiring company or a relevant associated company, at that time (“the relevant time”), holds a chargeable interest—
    - (i) that was transferred to the acquiring company by the relevant transaction, or
    - (ii) that is derived from an interest that was so transferred,
- and that has not subsequently been transferred at market value by a chargeable transaction in relation to which reconstruction or acquisition relief was available but was not claimed,
- reconstruction or acquisition relief in relation to the relevant transaction, or an appropriate proportion of it, is withdrawn and tax is chargeable in accordance with this paragraph.
- (2) Where paragraph 10(5) (change of control of acquiring company as a result of a transfer to which share acquisition relief applies) has effect to prevent the withdrawal of reconstruction or acquisition relief on a change of control of the acquiring company, but—
- (a) control of the other company mentioned in that provision changes—
    - (i) before the end of the period of three years beginning with the effective date of the relevant transaction, or
    - (ii) in pursuance of or in connection with arrangements made before the end of that period,

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at a time when that company holds any shares transferred to it by the exempt transfer, or any shares derived from shares so transferred,

and

(b) the acquiring company or a relevant associated company, at that time (“the relevant time”), holds a chargeable interest—

(i) that was transferred to the acquiring company by the relevant transaction, or

(ii) that is derived from an interest that was so transferred,

and that has not subsequently been transferred at market value by a chargeable transaction in relation to which reconstruction or acquisition relief was available but was not claimed,

reconstruction or acquisition relief in relation to the relevant transaction, or an appropriate proportion of it, is withdrawn and tax is chargeable in accordance with this paragraph.

- (3) The amount chargeable is the tax that would have been chargeable in respect of the relevant transaction but for reconstruction or acquisition relief if the chargeable consideration for that transaction had been an amount equal to the market value of the subject matter of the transaction or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (4) In sub-paragraphs (1), (2) and (3) “an appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held at the relevant time by the acquiring company or, as the case may be, by that company and any relevant associated companies.
- (5) In this paragraph “relevant associated company”, in relation to the acquiring company, means a company—
- (a) that is controlled by the acquiring company immediately before the control of that company changes, and
- (b) of which control changes in consequence of the change of control of that company.
- (6) In this paragraph—
- (a) “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;
- (b) “control” shall be construed in accordance with [F201sections 450 and 451 of the Corporation Tax Act 2010]; and
- (c) references to control of a company changing are to the company becoming controlled—
- (i) by a different person,
- (ii) by a different number of persons, or
- (iii) by two or more persons at least one of whom is not the person, or one of the persons, by whom the company was previously controlled.

#### **Textual Amendments**

**F201** Words in Sch. 7 para. 11(6)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 416\(9\)](#) (with [Sch. 2](#))

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from another group company or controlling director*

- 12 (1) This paragraph applies where—
- (a) tax is chargeable under paragraph 9 or 11 (withdrawal of reconstruction or acquisition relief),
  - (b) the amount so chargeable has been finally determined, and
  - (c) the whole or part of the amount so chargeable is unpaid six months after the date on which it became payable.
- (2) The following persons may, by notice under paragraph 13, be required to pay the unpaid tax—
- (a) any company that at any relevant time was a member of the same group as the acquiring company and was above it in the group structure;
  - (b) any person who at any relevant time was a controlling director of the acquiring company or a company having control of the acquiring company.
- (3) For the purposes of sub-paragraph (2) “relevant time” means any time between effective date of the relevant transaction and the change of control by virtue of which tax is chargeable.
- (4) For the purposes of sub-paragraph (2)(a) a company (“company A”) is “above” another company (“company B”) in a group structure if company B, or another company that is above company B in the group structure, is a 75% subsidiary of company A.
- (5) For the purposes of sub-paragraph (2)(b)—
- (a) “director”, in relation to a company, has the meaning given by section 67(1) of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (read with subsection (2) of that section) and includes any person falling within [F202]section 452(1) of the Corporation Tax Act 2010]; and
  - (b) “controlling director”, in relation to a company, means a director of the company who has control of it (construing control in accordance with [F203]sections 450 and 451 of the Corporation Tax Act 2010).

**Textual Amendments**

**F202** Words in Sch. 7 para. 12(5)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [Sch. 1 para. 416\(10\)\(a\)](#) (with [Sch. 2](#))

**F203** Words in Sch. 7 para. 12(5)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [Sch. 1 para. 416\(10\)\(b\)](#) (with [Sch. 2](#))

*Recovery of reconstruction or acquisition relief: supplementary*

- 13 (1) The Inland Revenue may serve a notice on a person within paragraph 12(2) above requiring him within 30 days of the service of the notice to pay the amount that remains unpaid.
- (2) Any such notice must be served before the end of the period of three years beginning with the date of the final determination mentioned in paragraph 12(1)(b).
- (3) The notice must state the amount required to be paid by the person on whom the notice is served.

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- (4) The notice has effect—
- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
  - (b) for the purposes of appeals,
- as if it were a notice of assessment and that amount were an amount of tax due from that person.
- (5) A person who has paid an amount in pursuance of a notice under this paragraph may recover that amount from the acquiring company.
- (6) A payment in pursuance of a notice under this paragraph is not allowed as a deduction in computing any income, profits or losses for any tax purpose.

## [<sup>F204</sup>SCHEDULE 7A

Section 65A

### PAIF SEEDING RELIEF AND COACS SEEDING RELIEF

#### Textual Amendments

**F204** Sch. 7A inserted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 16 para. 4](#)

## PART 1

### PROPERTY AUTHORISED INVESTMENT FUNDS

#### *PAIF seeding relief*

- 1 (1) A land transaction is exempt from charge if conditions A to D are met.
- Relief under this paragraph is referred to in this Part of this Act as “PAIF seeding relief”.
- (2) Condition A is that the purchaser is a property AIF (see paragraph 2).
- (3) Condition B is that the main subject-matter of the transaction consists of a major interest in land.
- (4) Condition C is that the only consideration for the transaction is the issue of units in the property AIF to a person who is the vendor.
- (5) Condition D is that the effective date of the transaction is a day within the seeding period (see paragraph 3).
- (6) This paragraph is subject to paragraph 4 (restrictions on availability of relief) and paragraphs 5 to 8 (withdrawal of relief).

#### *Meaning of “property AIF”*

- 2 (1) This paragraph has effect for the purposes of this Schedule.

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- (2) A “property AIF” is an open-ended investment company to which Part 4A of the AIF (Tax) Regulations applies.
- (3) In sub-paragraph (2) “open-ended investment company” is to be read in accordance with regulation 7(1) and (2) of those Regulations (part of an umbrella company is regarded as an open-ended investment company).
- (4) Regulation 7(3)(a) of those Regulations applies for the purposes of this Schedule as it applies for the purposes of those Regulations but as if references to investments and scheme property were a reference to chargeable interests.
- (5) References to a property AIF are treated as including a collective investment scheme which—
  - (a) is a company incorporated under the law of an EEA State <sup>F205</sup> ..., and
  - (b) is authorised under the law of that EEA State in a way which makes it, under that law, the equivalent of a property AIF as defined in sub-paragraph (2).
- (6) In sub-paragraph (5) “collective investment scheme” has the meaning given by section 235 of FSMA 2000.

#### Textual Amendments

**F205** Words in Sch. 7A para. 2(5)(a) omitted (31.12.2020) by virtue of The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, 11(4) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

#### *Meaning of “seeding period”*

- 3 (1) In this Part of this Schedule, subject to sub-paragraph (2), the “seeding period” means—
  - (a) the period beginning with the first property seeding date and ending with the date of the first external investment into the property AIF, or
  - (b) if shorter, the period of 18 months beginning with the first property seeding date.
- (2) The property AIF may elect to bring the seeding period to an end sooner than it would otherwise end under sub-paragraph (1).

Where an election is made, the seeding period is the period beginning with the first property seeding date and ending with the date specified in the election.
- (3) An election under sub-paragraph (2) may be made—
  - (a) by being included in a notice accompanying a claim for PAIF seeding relief (see section 65A), or
  - (b) by separate notice in writing to HMRC.
- (4) In sub-paragraphs (1) and (2), “the first property seeding date” means the earliest effective date of a transaction in respect of which conditions A to C in paragraph 1 are met.
- (5) In this paragraph—

“external investment” means a non-land transaction in which the vendor is an external investor;

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“external investor” means a person other than a person who has been a vendor in a transaction—

- (a) the effective date of which is on or before the date of the non-land transaction, and
- (b) in respect of which conditions A to C in paragraph 1 are met;

“non-land transaction” means a transaction by which the property AIF acquires assets which do not consist of or include a chargeable interest.

*Restrictions on availability of relief*

- 4 (1) This paragraph restricts the availability of PAIF seeding relief for a transaction in respect of which conditions A to D in paragraph 1 are met.
- (2) PAIF seeding relief is not available unless, at the effective date of the transaction, the property AIF has arrangements in place requiring a person who is the vendor to notify the authorised corporate director of the property AIF of the following matters—
- (a) the identity of the beneficial owner of the units in the property AIF received in consideration of the transaction, and
  - (b) any disposal of units in the property AIF on or after the effective date of that transaction by that owner (or, where that person is a company, by a group company) which is or could be a relevant disposal (see paragraph 7).

In paragraph (b) “group company” means a company which is a member of the same group of companies as the person mentioned in paragraph (a) for the purposes mentioned in paragraph 1(2) of Schedule 7 (group relief).

- (3) PAIF seeding relief is not available if at the effective date of the transaction there are arrangements in existence by virtue of which, at that or some later time, a person who is the vendor makes or could make a disposal of units in the property AIF which is or could be a relevant disposal (see paragraph 7).
- (4) PAIF seeding relief is not available if the transaction—
- (a) is not effected for bona fide commercial reasons, or
  - (b) forms part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

“Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.

*Withdrawal of relief: ceasing to be property AIF*

- 5 (1) Where PAIF seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the purchaser ceases to be a property AIF—
- (a) at any time after the effective date of that transaction but within the seeding period,
  - (b) at any time in the control period (see paragraph 21), or
  - (c) in pursuance of, or in connection with, arrangements made before the end of the control period,
- then, subject to sub-paragraph (2), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.
- (2) Relief is withdrawn only if, at the time when the purchaser ceases to be a property AIF, the purchaser holds—

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- (a) the chargeable interest that was acquired by the purchaser under the relevant transaction, or
  - (b) a chargeable interest that is derived from that interest.
- (3) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for PAIF seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (4) In sub-paragraphs (1) and (3) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the purchaser at the time it ceases to be a property AIF.

*Withdrawal of relief: portfolio test not met*

- 6 (1) Where PAIF seeding relief has been allowed in respect of a transaction, and the portfolio test is not met immediately before the end of the seeding period, the relief is withdrawn and tax is chargeable in accordance with sub-paragraph (2).
- See sub-paragraph (7) for the meaning of “portfolio test”.
- (2) The amount chargeable is the amount that would have been chargeable in respect of the transaction but for PAIF seeding relief.
- (3) Where PAIF seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the portfolio test is met immediately before the end of the seeding period, but is not met—
- (a) at a time in the control period, or
  - (b) at a time after the end of the control period, where the failure is pursuant to or in connection with arrangements made before the end of that period,
- then, subject to sub-paragraph (4), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with sub-paragraph (5).
- (4) The requirement to meet the portfolio test at a time mentioned in sub-paragraph (3) (a) or (b) applies only to times when the property AIF holds—
- (a) the chargeable interest that was acquired by the property AIF under the relevant transaction, or
  - (b) a chargeable interest that is derived from that interest.
- (5) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for PAIF seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (6) In sub-paragraphs (3) and (5) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the property AIF at the time when the portfolio test is not met.
- (7) The portfolio test is a requirement that the property AIF meets—
- (a) the non-residential portfolio test (see sub-paragraph (8)), or
  - (b) the residential portfolio test (see sub-paragraph (9)).
- (8) The “non-residential portfolio test” is met at any time if—
- (a) the property AIF holds at least 10 seeded interests at that time,

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- (b) so much of the total chargeable consideration as is attributable to all the seeded interests held by the property AIF at that time (“the seeded portfolio”) is at least £100 million, and
  - (c) so much of the total chargeable consideration as is attributable to so many of those seeded interests as are interests in or over residential property (if any) does not exceed 10% of the seeded portfolio.
- (9) The “residential portfolio test” is met at any time if—
- (a) so much of the total chargeable consideration as is attributable to all the seeded interests held by the property AIF at that time is at least £100 million, and
  - (b) at least 100 of the seeded interests held by the property AIF at that time are interests in or over residential property.
- (10) In sub-paragraphs (8) and (9)—
- “seeded interest” means a chargeable interest acquired by the property AIF in a transaction for which PAIF seeding relief is allowed (whether or not relief is subsequently withdrawn to any extent) (a “seeding transaction”), and
- “total chargeable consideration” means the total of the chargeable consideration for all seeding transactions.
- (11) For the purposes of this paragraph, section 116(7) does not apply (modification of what counts as residential property).

*Withdrawal of relief: units disposed of*

- 7 (1) This paragraph applies where—
- (a) a person (“V”) makes a relevant disposal of one or more units in a property AIF—
    - (i) at any time in the seeding period,
    - (ii) at any time in the control period, or
    - (iii) in pursuance of, or in connection with, arrangements made before the end of the control period, and
  - (b) there is, in relation to that disposal, a relevant seeding transaction (see sub-paragraph (6)).
- (2) In respect of a transaction which is, in relation to the relevant disposal, a relevant seeding transaction—
- (a) PAIF seeding relief is withdrawn to the extent set out in this paragraph, and
  - (b) tax is chargeable in accordance with this paragraph.
- (3) V's disposal of units in a property AIF is a “relevant disposal” for the purposes of this paragraph if, in relation to the disposal, A exceeds B.
- (4) In this paragraph—
- “A” means—
- (a) where the value of V's investment in the property AIF immediately before the disposal is equal to or greater than the total of the chargeable consideration for all relevant seeding transactions, the total of the chargeable consideration for all relevant seeding transactions, or
  - (b) where the value of V's investment in the property AIF immediately before the disposal is less than the total of the chargeable consideration



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for all relevant seeding transactions, the value of V's investment in the property AIF immediately before the disposal, and  
“B” means the value of V's investment in the property AIF immediately after the disposal.

(5) The amount chargeable in respect of a relevant seeding transaction (“RST”) is—

$$C \text{ CCRST} \times \text{SDLT}$$

where—

“C” means the difference between A and B;

“CCRST” means the total of the chargeable consideration for all relevant seeding transactions;

“SDLT” means the amount of tax that would have been chargeable in respect of RST but for PAIF seeding relief, ignoring any amount of tax that has been charged under this paragraph in respect of RST in relation to an earlier disposal of units by V.

(6) In this paragraph—

“group company” means (where V is a company) a company which is a member of the same group of companies as V for the purposes mentioned in paragraph 1(2) of Schedule 7 (group relief);

“relevant seeding transaction”, in relation to a disposal of units by V in a property AIF, means a seeding transaction—

- (a) the effective date of which is, or is before, the date of the disposal,
- (b) in which that property AIF is the purchaser, and
- (c) in which a vendor is—

- (i) V, or

- (ii) (where V is a company) a company which is a group company at the time of the disposal;

“seeding transaction” means a transaction in respect of which PAIF seeding relief is allowed (whether or not relief is subsequently withdrawn to any extent);

“the value of V's investment in the property AIF” at a particular time means the market value of all units in the property AIF held at that time by—

- (a) V, and

- (b) (where V is a company) a company which—

- (i) is a group company at that time, and

- (ii) before that time, has been a vendor in one or more seeding transactions in which the property AIF was the purchaser.

(7) For the purposes of this paragraph, the “market value” on a particular date of units in the property AIF is an amount equal to the buying price (that is, the lower price) published by the authorised corporate director on that date (or, if no such price is published on that date, on the latest date before).

*Withdrawal of relief: dwelling occupied by non-qualifying individual*

8 (1) This paragraph applies to a transaction (“the relevant transaction”) if—

- (a) PAIF seeding relief has been allowed in respect of the transaction,

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- (b) the main subject-matter of the transaction consists of a chargeable interest in or over land which is or includes a dwelling, and
- (c) a non-qualifying individual (see paragraph 9) is permitted to occupy the dwelling at any time on or after the effective date of the transaction.

The dwelling which a non-qualifying individual is permitted to occupy is referred to as “the disqualifying dwelling”.

- (2) The relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.

This is subject to sub-paragraphs (3) and (4).

- (3) Relief is withdrawn only if, at the time a non-qualifying individual is permitted to occupy the disqualifying dwelling, the property AIF holds a chargeable interest in or over that dwelling—
  - (a) that was acquired by the property AIF under the relevant transaction, or
  - (b) that is derived from an interest so acquired.
- (4) Where a non-qualifying individual is first permitted to occupy the disqualifying dwelling at a time after the end of the control period, relief is withdrawn only if, at that time, the purchaser in the relevant transaction fails to meet the genuine diversity of ownership condition set out in regulation 9A of the AIF (Tax) Regulations.

For the purposes of this sub-paragraph, regulation 9A(2)(a) of those Regulations is to be read as if the words “throughout the accounting period” were omitted.

- (5) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for PAIF seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (6) In sub-paragraphs (2) and (5), an “appropriate proportion” means an appropriate proportion having regard to the extent to which the subject-matter of the relevant transaction was an interest in or over land other than the disqualifying dwelling.

- 9 (1) In paragraph 8 “non-qualifying individual”, in relation to a land transaction and a property AIF, means any of the following—
  - (a) an individual who is a major participant in the property AIF;
  - (b) an individual who is connected with a major participant in the property AIF;
  - (c) an individual who is connected with the property AIF;
  - (d) a relevant settlor;
  - (e) the spouse or civil partner of an individual falling within paragraph (b), (c) or (d);
  - (f) a relative of an individual falling within paragraph (b), (c) or (d), or the spouse or civil partner of a relative of an individual falling within paragraph (b), (c) or (d);
  - (g) a relative of the spouse or civil partner of an individual falling within paragraph (b), (c) or (d);
  - (h) the spouse or civil partner of an individual falling within paragraph (g).
- (2) An individual who participates in a property AIF is a “major participant” in it if the individual—

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- (a) is entitled to a share of at least 50% either of all the profits or income arising from the property AIF or of any profits or income arising from it that may be distributed to participants, or
  - (b) would in the event of the winding up of the property AIF be entitled to 50% or more of the assets of the property AIF that would then be available for distribution among the participants.
- (3) The reference in sub-paragraph (2)(a) to profits or income arising from the property AIF is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the property AIF.
- (4) In this paragraph—  
“relative” means brother, sister, ancestor or lineal descendant;  
“relevant settlor”, in relation to a land transaction, means an individual who is a settlor in relation to a relevant settlement (as defined in sub-paragraph (5));  
“settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).
- (5) Where a person, in the capacity of trustee of a settlement, is connected with a person who is the purchaser under a land transaction, that settlement is a “relevant settlement” in relation to the transaction.
- (6) In sub-paragraph (5) “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected” persons: supplementary).
- (7) Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this paragraph, but for those purposes, subsections (7) and (8) of that section (application of rules about connected persons to partnerships) are to be disregarded.

## PART 2

### CO-OWNERSHIP AUTHORISED CONTRACTUAL SCHEMES

#### *COACS seeding relief*

- 10 (1) A land transaction is exempt from charge if conditions A to D are met.
- Relief under this paragraph is referred to in this Part of this Act as “COACS seeding relief”.
- (2) Condition A is that the purchaser is a co-ownership authorised contractual scheme (see section 102A).
- (3) Condition B is that the main subject-matter of the transaction consists of a major interest in land.
- (4) Condition C is that the only consideration for the transaction is the issue of units in the co-ownership authorised contractual scheme to a person who is the vendor.
- (5) Condition D is that the effective date of the transaction is a day within the seeding period (see paragraph 11).
- (6) This paragraph is subject to paragraph 12 (restrictions on availability of relief) and paragraphs 13, 14, 16, 17 and 18 (withdrawal of relief).

*Status: Point in time view as at 31/12/2020.*

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*Meaning of “seeding period”*

- 11 (1) In this Part of this Schedule, subject to sub-paragraph (2), the “seeding period” means—
- (a) the period beginning with the first property seeding date and ending with the date of the first external investment into the co-ownership authorised contractual scheme, or
  - (b) if shorter, the period of 18 months beginning with the first property seeding date.
- (2) The co-ownership authorised contractual scheme may elect to bring the seeding period to an end sooner than it would otherwise end under sub-paragraph (1).
- Where an election is made, the seeding period is the period beginning with the first property seeding date and ending with the date specified in the election.
- (3) An election under sub-paragraph (2) may be made—
- (a) by being included in a notice accompanying a claim for COACS seeding relief (see section 65A), or
  - (b) by separate notice in writing to HMRC.
- (4) In sub-paragraphs (1) and (2), “the first property seeding date” means the earliest effective date of a transaction in respect of which conditions A to C in paragraph 10 are met.
- (5) In this paragraph—
- “external investment” means a non-land transaction in which the vendor is an external investor;
- “external investor” means a person other than a person who has been a vendor in a transaction—
- (a) the effective date of which is on or before the date of the non-land transaction, and
  - (b) in respect of which conditions A to C in paragraph 10 are met;
- “non-land transaction” means a transaction by which the scheme acquires assets which do not consist of or include a chargeable interest.

*Restrictions on availability of relief*

- 12 (1) This paragraph restricts the availability of COACS seeding relief for a transaction in respect of which conditions A to D in paragraph 10 are met.
- (2) COACS seeding relief is not available unless, at the effective date of the transaction, the arrangements constituting the co-ownership authorised contractual scheme require a person who is the vendor to notify the operator of the scheme of the following matters—
- (a) the identity of the beneficial owner of the units in the scheme received in consideration of the transaction, and
  - (b) any disposal of units in the scheme on or after the effective date of that transaction by that owner (or, where that person is a company, by a group company) which is or could be a relevant disposal (see paragraph 17).

In paragraph (b) “group company” means a company which is a member of the same group of companies as the person mentioned in paragraph (a) for the purposes mentioned in paragraph 1(2) of Schedule 7 (group relief).

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- (3) COACS seeding relief is not available if at the effective date of the transaction there are arrangements in existence by virtue of which, at that or some later time, a person who is the vendor makes or could make a disposal of units in the co-ownership authorised contractual scheme which is or could be a relevant disposal (see paragraph 17).
- (4) COACS seeding relief is not available if the transaction—
- (a) is not effected for bona fide commercial reasons, or
  - (b) forms part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

“Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.

*Withdrawal of relief: ceasing to be co-ownership authorised contractual scheme*

- 13 (1) Where COACS seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the purchaser ceases to be a co-ownership authorised contractual scheme—
- (a) at any time after the effective date of that transaction but within the seeding period,
  - (b) at any time in the control period (see paragraph 21), or
  - (c) in pursuance of, or in connection with, arrangements made before the end of the control period,
- then, subject to sub-paragraph (2), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.
- (2) Relief is withdrawn only if, at the time when the purchaser ceases to be a co-ownership authorised contractual scheme, the purchaser holds—
- (a) the chargeable interest that was acquired by the purchaser under the relevant transaction, or
  - (b) a chargeable interest that is derived from that interest.
- (3) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for COACS seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (4) In sub-paragraphs (1) and (3) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the purchaser at the time it ceases to be a co-ownership authorised contractual scheme.

*Withdrawal of relief: genuine diversity of ownership condition not met*

- 14 (1) Where COACS seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the genuine diversity of ownership condition (see paragraph 15) is not met—
- (a) immediately before the end of the seeding period,
  - (b) at a time in the control period, or
  - (c) at a time after the end of the control period, where the failure is pursuant to or in connection with arrangements made before the end of that period,

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then, subject to sub-paragraph (2), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.

- (2) The requirement to meet the genuine diversity of ownership condition at a time mentioned in sub-paragraph (1) applies only to times when the co-ownership authorised contractual scheme holds—
  - (a) the chargeable interest that was acquired by the scheme under the relevant transaction, or
  - (b) a chargeable interest that is derived from that interest.
- (3) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for COACS seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (4) In sub-paragraphs (1) and (3) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the scheme at the time when the genuine diversity of ownership condition is not met.
- (5) For the purposes of this paragraph, the operator of a co-ownership authorised contractual scheme may apply to HMRC in writing for clearance that the scheme meets the genuine diversity of ownership condition, and where an application is made, HMRC must notify the scheme of its decision within 28 days of the receipt of all the information that is needed to make the decision.
- (6) Any such clearance has effect only for so long as the information on which HMRC relies in granting clearance is materially unchanged and the scheme is operated in accordance with it (including, in particular, continuing to operate in accordance with condition C of the genuine diversity of ownership condition).

*Genuine diversity of ownership condition*

- 15 (1) This paragraph has effect for the purposes of paragraphs 14 and 18(4).
- (2) A co-ownership authorised contractual scheme meets the genuine diversity of ownership condition at any time when it meets conditions A to C.
- (3) Condition A is that the scheme documents, which are available to investors and to HMRC, contain—
  - (a) a statement specifying the intended categories of investor,
  - (b) an undertaking that units in the scheme will be widely available, and
  - (c) an undertaking that units in the scheme will be marketed and made available in accordance with the requirements of sub-paragraph (6)(a).
- (4) Condition B is that—
  - (a) the specification of the intended categories of investor does not have a limiting or deterrent effect, and
  - (b) any other terms or conditions governing participation in the scheme do not have a limiting or deterrent effect.
- (5) In sub-paragraph (4) “limiting or deterrent effect” means an effect which—
  - (a) limits investors to a limited number of specific persons or specific groups of connected persons, or

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- (b) deters a reasonable investor falling within one of (what are specified as) the intended categories of investor from investing in the scheme.
- (6) Condition C is that—
  - (a) units in the scheme are marketed and made available—
    - (i) sufficiently widely to reach the intended categories of investors, and
    - (ii) in a manner appropriate to attract those categories of investors, and
  - (b) a person who falls within one of the intended categories of investors can, upon request to the operator of the scheme, obtain information about the scheme and acquire units in it.
- (7) A scheme is not regarded as failing to meet condition C at any time by reason of the scheme's having, at that time, no capacity to receive additional investments, unless—
  - (a) the capacity of the scheme to receive investments in it is fixed by the scheme documents (or otherwise), and
  - (b) a pre-determined number of specific persons or specific groups of connected persons make investments in the scheme which collectively exhaust all, or substantially all, of that capacity.
- (8) A co-ownership authorised contractual scheme also meets the genuine diversity of ownership condition at any time when—
  - (a) there is a feeder fund in relation to the scheme (see paragraph 20), and
  - (b) conditions A to C are met in relation to the scheme after taking into account—
    - (i) the scheme documents relating to the feeder fund, and
    - (ii) the intended investors in the feeder fund.
- (9) Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this paragraph.

*Withdrawal of relief: portfolio test not met*

- 16 (1) Where COACS seeding relief has been allowed in respect of a transaction, and the portfolio test is not met immediately before the end of the seeding period, the relief is withdrawn and tax is chargeable in accordance with sub-paragraph (2).
- See sub-paragraph (7) for the meaning of “portfolio test”.
- (2) The amount chargeable is the amount that would have been chargeable in respect of the transaction but for COACS seeding relief.
  - (3) Where COACS seeding relief has been allowed in respect of a transaction (“the relevant transaction”), and the portfolio test is met immediately before the end of the seeding period, but is not met—
    - (a) at a time in the control period, or
    - (b) at a time after the end of the control period, where the failure is pursuant to or in connection with arrangements made before the end of that period,then, subject to sub-paragraph (4), the relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with sub-paragraph (5).
  - (4) The requirement to meet the portfolio test at a time mentioned in sub-paragraph (3)
    - (a) or (b) applies only to times when the co-ownership authorised contractual scheme holds—

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- (a) the chargeable interest that was acquired by the scheme under the relevant transaction, or
  - (b) a chargeable interest that is derived from that interest.
- (5) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for COACS seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (6) In sub-paragraphs (3) and (5) an “appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relevant transaction and what is held by the scheme at the time when the portfolio test is not met.
- (7) The portfolio test is a requirement that the scheme meets—
- (a) the non-residential portfolio test (see sub-paragraph (8)), or
  - (b) the residential portfolio test (see sub-paragraph (9)).
- (8) The “non-residential portfolio test” is met at any time if—
- (a) the scheme holds at least 10 seeded interests at that time,
  - (b) so much of the total chargeable consideration as is attributable to all the seeded interests held by the scheme at that time (“the seeded portfolio”) is at least £100 million, and
  - (c) so much of the total chargeable consideration as is attributable to so many of those seeded interests as are interests in or over residential property (if any) does not exceed 10% of the seeded portfolio.
- (9) The “residential portfolio test” is met at any time if—
- (a) so much of the total chargeable consideration as is attributable to all the seeded interests held by the scheme at that time is at least £100 million, and
  - (b) at least 100 of the seeded interests held by the scheme at that time are interests in or over residential property.
- (10) In sub-paragraphs (8) and (9)—
- “seeded interest” means a chargeable interest acquired by the scheme in a transaction for which COACS seeding relief is allowed (whether or not relief is subsequently withdrawn to any extent) (a “seeding transaction”), and
- “total chargeable consideration” means the total of the chargeable consideration for all seeding transactions.
- (11) For the purposes of this paragraph, section 116(7) does not apply (modification of what counts as residential property).

*Withdrawal of relief: units disposed of*

- 17 (1) This paragraph applies where—
- (a) a person (“V”) makes a relevant disposal of one or more units in a co-ownership authorised contractual scheme—
    - (i) at any time in the seeding period,
    - (ii) at any time in the control period, or
    - (iii) in pursuance of, or in connection with, arrangements made before the end of the control period, and
  - (b) there is, in relation to that disposal, a relevant seeding transaction (see sub-paragraph (6)).



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- (2) In respect of a transaction which is, in relation to the relevant disposal, a relevant seeding transaction—
- (a) COACS seeding relief is withdrawn to the extent set out in this paragraph, and
  - (b) tax is chargeable in accordance with this paragraph.
- (3) V's disposal of units in a scheme is a “relevant disposal” for the purposes of this paragraph if, in relation to the disposal, A exceeds B.
- (4) In this paragraph—
- “A” means—
    - (a) where the value of V's investment in the scheme immediately before the disposal is equal to or greater than the total of the chargeable consideration for all relevant seeding transactions, the total of the chargeable consideration for all relevant seeding transactions, or
    - (b) where the value of V's investment in the scheme immediately before the disposal is less than the total of the chargeable consideration for all relevant seeding transactions, the value of V's investment in the scheme immediately before the disposal, and
  - “B” means the value of V's investment in the scheme immediately after the disposal.
- (5) The amount chargeable in respect of a relevant seeding transaction (“RST”) is—
- $$C \text{ CCRST} \times \text{SDLT}$$
- where—
- “C” means the difference between A and B;
  - “CCRST” means the total of the chargeable consideration for all relevant seeding transactions;
  - “SDLT” means the amount of tax that would have been chargeable in respect of RST but for COACS seeding relief, ignoring any amount of tax that has been charged under this paragraph in respect of RST in relation to an earlier disposal of units by V.
- (6) In this paragraph—
- “group company” means (where V is a company) a company which is a member of the same group of companies as V for the purposes mentioned in paragraph 1(2) of Schedule 7 (group relief);
  - “relevant seeding transaction”, in relation to a disposal of units by V in a co-ownership authorised contractual scheme, means a seeding transaction—
    - (a) the effective date of which is, or is before, the date of the disposal,
    - (b) in which that scheme is the purchaser, and
    - (c) in which a vendor is—
      - (i) V, or
      - (ii) (where V is a company) a company which is a group company at the time of the disposal;
  - “seeding transaction” means a transaction in respect of which COACS seeding relief is allowed (whether or not relief is subsequently withdrawn to any extent);

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“the value of V's investment in the scheme” at a particular time means the market value of all units in the co-ownership authorised contractual scheme held at that time by—

- (a) V, and
- (b) (where V is a company) a company which—
  - (i) is a group company at that time, and
  - (ii) before that time, has been a vendor in one or more seeding transactions in which the scheme was the purchaser.

- (7) For the purposes of this paragraph, the “market value” on a particular date of units in the scheme is an amount equal to the buying price (that is, the lower price) published by the operator on that date (or, if no such price is published on that date, on the latest date before).

*Withdrawal of relief: dwelling occupied by non-qualifying individual*

- 18 (1) This paragraph applies to a transaction (“the relevant transaction”) if—
- (a) COACS seeding relief has been allowed in respect of the transaction,
  - (b) the main subject-matter of the transaction consists of a chargeable interest in or over land which is or includes a dwelling, and
  - (c) a non-qualifying individual (see paragraph 19) is permitted to occupy the dwelling at any time on or after the effective date of the transaction.

The dwelling which a non-qualifying individual is permitted to occupy is referred to as “the disqualifying dwelling”.

- (2) The relief, or an appropriate proportion of it, is withdrawn, and tax is chargeable in accordance with this paragraph.

This is subject to sub-paragraphs (3) and (4).

- (3) Relief is withdrawn only if, at the time a non-qualifying individual is permitted to occupy the disqualifying dwelling, the co-ownership authorised contractual scheme holds a chargeable interest in or over that dwelling—
- (a) that was acquired by the scheme under the relevant transaction, or
  - (b) that is derived from an interest so acquired.

- (4) Where a non-qualifying individual is first permitted to occupy the disqualifying dwelling at a time after the end of the control period, relief is withdrawn only if, at that time, the scheme fails to meet the genuine diversity of ownership condition (see paragraph 15).

- (5) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for COACS seeding relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.

- (6) In sub-paragraphs (2) and (5), an “appropriate proportion” means an appropriate proportion having regard to the extent to which the subject-matter of the relevant transaction was an interest in or over land other than the disqualifying dwelling.

- 19 (1) In paragraph 18 “non-qualifying individual”, in relation to a land transaction and a co-ownership authorised contractual scheme, means any of the following—
- (a) an individual who is a major participant in the scheme;
  - (b) an individual who is connected with a major participant in the scheme;

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- (c) an individual who is connected with the operator of the scheme (see section 102A) or the depositary of the scheme;
  - (d) a relevant settlor;
  - (e) the spouse or civil partner of an individual falling within paragraph (b), (c) or (d);
  - (f) a relative of an individual falling within paragraph (b), (c) or (d), or the spouse or civil partner of a relative of an individual falling within paragraph (b), (c) or (d);
  - (g) a relative of the spouse or civil partner of an individual falling within paragraph (b), (c) or (d);
  - (h) the spouse or civil partner of an individual falling within paragraph (g).
- (2) An individual who participates in a scheme is a “major participant” in it if the individual—
- (a) is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or income arising from it that may be distributed to participants, or
  - (b) would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.
- (3) The reference in sub-paragraph (2)(a) to profits or income arising from the scheme is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the scheme.
- (4) In this paragraph—
- “depositary”, in relation to a co-ownership authorised contractual scheme, means the person to whom the property subject to the scheme is entrusted for safekeeping;
  - “relative” means brother, sister, ancestor or lineal descendant;
  - “relevant settlor”, in relation to a land transaction, means an individual who is a settlor in relation to a relevant settlement (as defined in sub-paragraph (5));
  - “settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).
- (5) Where a person, in the capacity of trustee of a settlement, is connected with a person who is the purchaser under a land transaction, that settlement is a “relevant settlement” in relation to the transaction.
- (6) In sub-paragraph (5) “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected” persons: supplementary).
- (7) Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this paragraph, but for those purposes, subsections (7) and (8) of that section (application of rules about connected persons to partnerships) are to be disregarded.

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### PART 3

#### INTERPRETATION

##### *“Feeder fund” and “units”*

20

In this Schedule—

a “feeder fund” of a property AIF means a unit trust scheme—

- (a) one of the main objects of which is investment in the property AIF, and
- (b) which is managed by the same person as the property AIF;

a “feeder fund” of a co-ownership authorised contractual scheme means an open-ended investment company, an offshore fund or a unit trust scheme—

- (a) one of the main objects of which is investment in the co-ownership authorised contractual scheme, and
- (b) which is managed by the same person as the scheme;

“units in the property AIF” means—

- (a) units in the property AIF (and, where the property AIF is a part of an umbrella company as mentioned in regulation 7(1) and (2) of the AIF (Tax) Regulations, this means units in the separate pool to which that part of the umbrella company relates), and
- (b) units in a feeder fund of the property AIF;

“units in the co-ownership authorised contractual scheme” means—

- (a) units in the co-ownership authorised contractual scheme (and, where the co-ownership authorised contractual scheme is a sub-scheme of an umbrella COACS (see section 102A(3) and (4)), this means units in the separate pool to which that sub-scheme relates), and
- (b) units in a feeder fund of the scheme;

“units” means the rights or interests (however described) of the participants in the property AIF or the co-ownership authorised contractual scheme.

##### *Interpretation of other terms*

21

In this Schedule—

the “AIF (Tax) Regulations” means the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964);

“arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;

“attributable” means attributable on a just and reasonable basis;

“authorised corporate director”, in relation to a property AIF, has the same meaning as in regulation 8 of the AIF (Tax) Regulations;

“COACS seeding relief” means relief under paragraph 10;

“control period” means the period of 3 years beginning with the day following the last day of the seeding period;

“co-ownership authorised contractual scheme” is to be construed in accordance with section 102A (see in particular subsections (2), (5), (7) and (8) of that section);

“CTA 2010” means the Corporation Tax Act 2010;

“FSMA 2000” means the Financial Services and Markets Act 2000;

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the “genuine diversity of ownership condition”, in relation to a co-ownership authorised contractual scheme, has the meaning given by paragraph 15;

“ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005;

“non-qualifying individual” has the meaning given by paragraph 9 (in relation to a property AIF) and paragraph 19 (in relation to a co-ownership authorised contractual scheme);

“offshore fund” has the meaning given by section 355 of the Taxation (International and Other Provisions) Act 2010;

“open-ended investment company” has the meaning given by section 236 of FSMA 2000;

“operator”, in relation to a co-ownership authorised contractual scheme, has the same meaning as in section 102A;

“PAIF seeding relief” means relief under paragraph 1;

“participant” is to be read in accordance with section 235 of FSMA 2000;

“portfolio test” has the meaning given by paragraph 6(7) (in relation to a property AIF) and paragraph 16(7) (in relation to a co-ownership authorised contractual scheme);

“property AIF” is to be construed in accordance with paragraph 2 (see in particular sub-paragraphs (2), (3) and (5) of that paragraph);

“relevant disposal” has the meaning given by paragraph 7(3) (in relation to a property AIF) and paragraph 17(3) (in relation to a co-ownership authorised contractual scheme);

“seeding period” has the meaning given by paragraph 3 (in relation to a property AIF) and paragraph 11 (in relation to a co-ownership authorised contractual scheme);

“unit trust scheme” has the meaning given by section 237(1) of FSMA 2000.]

## SCHEDULE 8

Section 68

### STAMP DUTY LAND TAX: CHARITIES RELIEF

#### *Charities relief*

- 1 (1) A land transaction is exempt from charge if the purchaser is a charity and the following conditions are met.

Relief under [F206this Schedule] is referred to in this Part as “charities relief”.

- (2) The first condition is that the purchaser must intend to hold the subject-matter of the transaction for qualifying charitable purposes, F207 ...
- (3) The second condition is that the transaction must not have [F208been] entered into for the purpose of avoiding tax under this Part (whether by the purchaser or any other person).
- [F209(3A) For the purposes of this Schedule, a charity (“C”) holds a chargeable interest for qualifying charitable purposes if it holds it—

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- (a) for use in furtherance of the charitable purposes of C or another charity, or
- (b) as an investment from which the profits are applied to the charitable purposes of C.]

F210(4) . . . . .

#### Textual Amendments

- F206** Words in Sch. 8 para. 1(1) substituted (with effect in accordance with s. 302(7) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **s. 302(3)**
- F207** Words in Sch. 8 para. 1(2) omitted (with effect in accordance with Sch. 23 para. 5 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 23 para. 2(a)**
- F208** Word in Sch. 8 para. 1(3) substituted (with effect in accordance with Sch. 23 para. 5 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 23 para. 2(b)**
- F209** Sch. 8 para. 1(3A) inserted (with effect in accordance with Sch. 23 para. 5 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 23 para. 2(c)**
- F210** Sch. 8 para. 1(4) omitted (with effect in accordance with art. 14 of the amending S.I.) by virtue of [Finance Act 2010 \(c. 13\)](#), **Sch. 6 paras. 19, 34(2)**; S.I. 2012/736, art. 14

#### *Withdrawal of charities relief*

- 2 (1) Where in the case of a transaction (“the relevant transaction”) that is exempt by virtue of [F211this Schedule] —
- (a) a disqualifying event occurs—
    - (i) before the end of the period of three years beginning with the effective date of the transaction, or
    - (ii) in pursuance of, or in connection with, arrangements made before the end of that period,
  - and
  - (b) at the time of the disqualifying event the purchaser holds a chargeable interest—
    - (i) that was acquired by the purchaser under the relevant transaction, or
    - (ii) that is derived from an interest so acquired,
 charities relief in relation to the relevant transaction, or an appropriate proportion of it, is withdrawn and tax is chargeable in accordance with this paragraph.
- (2) The amount chargeable is the amount that would have been chargeable in respect of the relevant transaction but for charities relief or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (3) For the purposes of this paragraph a “disqualifying event” means—
- (a) the purchaser ceasing to be established for charitable purposes only, or
  - (b) the subject-matter of the transaction, or any interest or right derived from it, being used or held by the purchaser otherwise than for qualifying charitable purposes.
- (4) In sub-paragraphs (1) and (2) an “appropriate proportion” means an appropriate proportion having regard to—
- (a) what was acquired by the purchaser under the relevant transaction and what is held by the purchaser at the time of the disqualifying event, and

*Status: Point in time view as at 31/12/2020.*

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- (b) the extent to which what is held by the purchaser at that time becomes used or held for purposes other than qualifying charitable purposes.

- (5) In this paragraph “qualifying charitable purposes” has the same meaning as in paragraph 1.

#### Textual Amendments

**F211** Words in Sch. 8 para. 2(1) substituted (with effect in accordance with s. 302(7) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 302\(4\)](#)

*[<sup>F212</sup>Cases where first condition not fully met*

#### Textual Amendments

**F212** Sch. 8 para. 3 and cross-heading inserted (with effect in accordance with s. 302(7) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 302\(1\)](#)

- 3 (1) This paragraph applies where—
  - (a) a land transaction is not exempt from charge under paragraph 1 because the first condition in that paragraph is not met, but
  - (b) the purchaser (“C”) intends to hold the greater part of the subject-matter of the transaction for qualifying charitable purposes.
- (2) In such a case—
  - (a) the transaction is exempt from charge, but
  - (b) for the purposes of paragraph 2 (withdrawal of charities relief) “disqualifying event” includes—
    - (i) any transfer by C of a major interest in the whole or any part of the subject-matter of the transaction, or
    - (ii) any grant by C at a premium of a low-rental lease of the whole or any part of that subject-matter,  
that is not made in furtherance of the charitable purposes of C.
- (3) For the purposes of sub-paragraph (2)(b)(ii)—
  - (a) a lease is granted “at a premium” if there is consideration other than rent, and
  - (b) a lease is a “low-rental” lease if the annual rent (if any) [<sup>F213</sup>is less than £1,000] a year.
- (4) In relation to a transaction that, by virtue of this paragraph, is a disqualifying event for the purposes of paragraph 2—
  - (a) the date of the event for those purposes is the effective date of the transaction;
  - (b) paragraph 2 has effect as if—
    - (i) in sub-paragraph (1)(b), for “at the time of” there were substituted “immediately before”,
    - (ii) in sub-paragraph (4)(a), for “at the time of” there were substituted “immediately before and immediately after”, and
    - (iii) sub-paragraph (4)(b) were omitted.
- (5) In this paragraph—

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“qualifying charitable purposes” has the same meaning as in paragraph 1;  
“rent” has the same meaning as in Schedule 5 (amount of tax chargeable:  
rent) and “annual rent” has the same meaning as in paragraph [<sup>F214</sup>9A] of  
that Schedule.]

#### Textual Amendments

**F213** Words in Sch. 8 para. 3(3)(b) substituted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(7\)\(a\)](#)

**F214** Word in Sch. 8 para. 3(5) substituted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(7\)\(b\)](#)

*[<sup>F215</sup>Joint purchasers: partial relief*

#### Textual Amendments

**F215** Sch. 8 paras. 3A-3C and cross-headings inserted (with effect in accordance with Sch. 23 para. 5 of the amending Act) by [Finance Act 2014 \(c. 26\), Sch. 23 para. 3](#)

- 3A (1) Sub-paragraphs (3) to (5) apply in any case where—
- (a) there are two or more purchasers under a land transaction,
  - (b) the purchasers acquire the subject-matter of the transaction as tenants in common (or, in Scotland, as owners in common),
  - (c) at least one of them is, and at least one of them is not, a qualifying charity, and
  - (d) no purchaser enters into the transaction for the purpose of the avoidance of tax under this Part (whether by that purchaser or another person).
- (2) A charity (“C”) that is a purchaser under a land transaction is a “qualifying charity” in relation to the transaction if C intends to hold its undivided share of the subject-matter of the transaction for qualifying charitable purposes.
- (3) The tax chargeable in respect of the transaction is reduced by the amount of the relief under sub-paragraph (4).
- (4) The relief is equal to the relevant proportion of the tax that would have been chargeable in respect of the transaction without this Schedule.
- (5) The “relevant proportion”, in the case of a qualifying charity, is the lower of P1 and P2, where—
- P1 is the proportion of the subject-matter of the transaction that is acquired by all the qualifying charities that are purchasers under the transaction (in aggregate);
- P2 is the proportion of the chargeable consideration for the transaction that is given by all the qualifying charities that are purchasers under the transaction (in aggregate).

*Withdrawal of relief given under paragraph 3A*

- 3B (1) This paragraph applies where—
- (a) relief has been given under paragraph 3A in respect of a transaction (“the relevant transaction”),



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- (b) a disqualifying event occurs in relation to a qualifying charity (“C”) which was a purchaser under the transaction, and
  - (c) the disqualifying event occurs in the circumstances required by sub-paragraphs (2) and (3).
- (2) The disqualifying event must occur—
  - (a) before the end of the period of 3 years beginning with the effective date of the transaction, or
  - (b) in pursuance of, or in connection with, arrangements made before the end of that period.
- (3) At the time of the disqualifying event C must hold a chargeable interest that—
  - (a) was acquired by C under the relevant transaction, or
  - (b) is derived from an interest so acquired.
- (4) There is a “disqualifying event” in relation to C if—
  - (a) C ceases to be established for charitable purposes only, or
  - (b) the chargeable interest acquired by C under the transaction, or any interest or right derived from that interest, is used or held by C otherwise than for qualifying charitable purposes.
- (5) C's portion of the relief mentioned in sub-paragraph (1)(a), or an appropriate proportion of C's portion of that relief, is withdrawn and tax is chargeable in accordance with this paragraph.
- (6) The amount chargeable is equal to C's portion of the relief or, as the case may be, the appropriate proportion of C's portion of the relief.
- (7) C's portion of the relief depends on whether P1 or P2 was lower in the calculation under paragraph 3A(5).
- (8) If P1 was lower, C's portion of the relief is equal to—
$$p1 P1 \times R$$
where—

p1 is the proportion of the subject-matter of the transaction that was acquired by C under the transaction;

P1 has the same meaning as in paragraph 3A(5);
- (9) If P2 was lower, C's portion of the relief is equal to—
$$p2 P2 \times R$$
where—

p2 is the proportion of chargeable consideration for the transaction that was given by C;

P2 has the same meaning as in paragraph 3A(5);
- (10) In sub-paragraphs (5) and (6) “appropriate proportion” means an appropriate proportion having regard to—
  - (a) what was acquired by C under the relevant transaction and what is held by C at the time of the disqualifying event, and

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- (b) the extent to which what is held by C at that time becomes used or held for purposes other than qualifying charitable purposes.

*Partial relief: charity not fully meeting the “qualifying charity” condition*

- 3C (1) This paragraph applies where—
- (a) a charity (“C”) is one of two or more purchasers acquiring the subject-matter of a land transaction (“the relevant transaction”) as tenants in common (or, in Scotland, as owners in common),
  - (b) C is not a qualifying charity in relation to the transaction,
  - (c) paragraph 3A(3) to (5) would apply if C were a qualifying charity, and
  - (d) C intends to hold the greater part of its undivided share of the subject-matter of the transaction for qualifying charitable purposes.
- (2) In such a case—
- (a) paragraph 3A has effect as if C were a qualifying charity, but
  - (b) for the purposes of paragraph 3B (withdrawal of relief under paragraph 3A) “disqualifying event” includes any additional disqualifying transaction.
- (3) The following are “additional disqualifying transactions” if they are not made in furtherance of the charitable purposes of C—
- (a) any transfer by C of a major interest in the whole or any part of the chargeable interest acquired by C under the relevant transaction;
  - (b) any grant by C at a premium of a low-rental lease of the whole or any part of that chargeable interest.
- (4) Paragraph 3(3) (meaning of “at a premium” and “low-rental”) applies for the purposes of sub-paragraph (3)(b) as it applies for the purposes of paragraph 3(2)(b)(ii).
- (5) In relation to a transaction that, by virtue of this paragraph, is a disqualifying event for the purposes of paragraph 3B—
- (a) the date of the event for those purposes is the effective date of the transaction;
  - (b) paragraph 3B has effect with the modifications in sub-paragraph (6).
- (6) The modifications to paragraph 3B are—
- (a) in sub-paragraph (3), for “At the time of” substitute “Immediately before”;
  - (b) in sub-paragraph (10)(a), for “at the time of” substitute “immediately before and immediately after”;
  - (c) omit sub-paragraph (10)(b).]

### *[<sup>F216</sup>Charitable trusts*

#### **Textual Amendments**

**F216** Sch. 8 para. 4 and cross-heading inserted (with effect in accordance with s. 302(7) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), s. 302(2)

- 4 (1) This Schedule applies in relation to a charitable trust as it applies in relation to a charity.
- (2) In this paragraph “charitable trust” means—

*Status: Point in time view as at 31/12/2020.*

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- (a) a trust of which all the beneficiaries are charities, or
- (b) a unit trust scheme in which all the unit holders are charities,

F217 ...

- (3) In this Schedule as it applies by virtue of this paragraph—
- (a) [F218 references in paragraph 1(3A) to the charitable purposes of C are to those of] the beneficiaries or unit holders, or any of them;
  - (b) the [F219 references] to the purchaser in paragraph 2(3)(a)[F219], and to C in paragraph 3B(4)(a), are] to any of the beneficiaries or unit holders;
  - (c) the [F220 references in paragraphs 3(2)(b) and 3C(3) to the charitable purposes of C are] to those of the beneficiaries or unit holders, or any of them.]

#### Textual Amendments

**F217** Words in Sch. 8 para. 4(2) omitted (with effect in accordance with art. 14 of the commencing S.I.) by virtue of Finance Act 2010 (c. 13), Sch. 6 paras. 20, 34(2); S.I. 2012/736, art. 14

**F218** Words in Sch. 8 para. 4(3)(a) substituted (with effect in accordance with Sch. 23 para. 5 of the amending Act) by Finance Act 2014 (c. 26), Sch. 23 para. 4(a)

**F219** Words in Sch. 8 para. 4(3)(b) substituted (with effect in accordance with Sch. 23 para. 5 of the amending Act) by Finance Act 2014 (c. 26), Sch. 23 para. 4(b)

**F220** Words in Sch. 8 para. 4(3)(c) substituted (with effect in accordance with Sch. 23 para. 5 of the amending Act) by Finance Act 2014 (c. 26), Sch. 23 para. 4(c)

## SCHEDULE 9

Section 70

### STAMP DUTY LAND TAX: RIGHT TO BUY, SHARED OWNERSHIP LEASES ETC

#### *Right to buy transactions*

- 1 (1) In the case of a right to buy transaction—
- (a) section 51(1) (contingent consideration to be included in chargeable consideration on assumption that contingency will occur) does not apply, and
  - (b) any consideration that would be payable only if a contingency were to occur, or that is payable only because a contingency has occurred, does not count as chargeable consideration.
- (2) A “right to buy transaction” means—
- (a) the sale of a dwelling at a discount, or the grant of a lease of a dwelling at a discount, by a relevant public sector body, or
  - (b) the sale of a dwelling, or the grant of a lease of a dwelling, in pursuance of the preserved right to buy.
- (3) The following are relevant public sector bodies for the purposes of sub-paragraph (2)
- (a):
    - Government**
    - A Minister of the Crown
    - The Scottish Ministers
    - A Northern Ireland department

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### **Local Government**

A local housing authority within the meaning of the Housing Act 1985 (c. 68)

A county council in England

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), the common good of such a council or any trust under its control

A district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

### **Social housing**

[<sup>F221</sup>The Regulator of Social Housing]

Scottish Homes

The Northern Ireland Housing Executive

[<sup>F222</sup>A non-profit registered provider of social housing]

A registered social landlord

A housing action trust established under Part 3 of the Housing Act 1988 (c. 50)

### **New towns and development corporations [<sup>F223</sup> etc.]**

The [<sup>F224</sup>Homes and Communities Agency]

[<sup>F225</sup>The Greater London Authority so far as exercising its housing or regeneration functions or its new towns and urban development functions]

A development corporation established by an order made, or having effect as if made, under the New Towns Act 1981 (c. 64)

A development corporation established by an order made, or having effect as if made, under the New Towns (Scotland) Act 1968 (c. 16)

A new town commission established under section 7 of the New Towns Act (Northern Ireland) 1965 (c. 13 (N.I.))

An urban development corporation established by an order made under section 135 of the Local Government, Planning and Land Act 1980 (c. 65)

<sup>F226</sup> .....

### **Police**

A [<sup>F227</sup>local policing body] within the meaning of section 101(1) of the Police Act 1996 (c. 16)

[<sup>F228</sup>The Scottish Police Authority]

The Northern Ireland Policing Board

### **Miscellaneous**

An Education and Libraries Board within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

The United Kingdom Atomic Energy Authority

Any person mentioned in paragraphs (g), (k), (l) or (n) of section 61(11) of the Housing (Scotland) Act 1987 (c. 26)

A body prescribed for the purposes of this sub-paragraph by Treasury order.

(4) For the purposes of sub-paragraph (2)(b) the transfer of a dwelling, or the grant of a lease of a dwelling, is made in pursuance of the preserved right to buy if—

(a) the vendor is—

(i) in England and Wales, a person against whom the right to buy under Part 5 of the Housing Act 1985 (c. 68) is exercisable by virtue of section 171A of that Act, or

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(ii) in Scotland, a person against whom the right to buy under section 61 of the Housing (Scotland) Act 1987 is exercisable by virtue of section 81A of that Act,

(which provide for the preservation of the right to buy on disposal to a private sector landlord),

- (b) the purchaser is the qualifying person for the purposes of the preserved right to buy, and
- (c) the dwelling is the qualifying dwelling-house in relation to the purchaser.

<sup>F229</sup>(5) . . . . .

[<sup>F230</sup>(6) A grant under section 19 of the Housing and Regeneration Act 2008 which—

- (a) is made by virtue of section 35 of that Act, or
- (b) is otherwise made to a relevant provider of social housing (within the meaning of section 35 of that Act) in respect of discounts given by the provider on disposals of dwellings to tenants,

does not count as part of the chargeable consideration for a right to buy transaction to which the vendor is a relevant provider of social housing.]

[<sup>F231</sup>(7) A grant by the Greater London Authority which—

- (a) is made by virtue of section 35 of the Housing and Regeneration Act 2008 as applied by section 333ZE of the Greater London Authority Act 1999, or
- (b) is otherwise made to a relevant provider of social housing (within the meaning of section 35 of the Housing and Regeneration Act 2008) in respect of discounts given by the provider on disposals of dwellings to tenants,

does not count as part of the chargeable consideration for a right to buy transaction to which the vendor is a relevant provider of social housing.]

### Textual Amendments

- F221** Words in Sch. 9 para. 1(3) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\)](#), **Sch. 9 para. 32(2)(a)**; S.I. 2010/862, art. 2 (with Sch.)
- F222** Words in Sch. 9 para. 1(3) inserted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\)](#), **Sch. 9 para. 32(2)(b)**; S.I. 2010/862, art. 2 (with Sch.)
- F223** Word in Sch. 9 para. 1(3) inserted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\)](#), **Sch. 8 para. 80(2)(a)**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F224** Words in Sch. 9 para. 1(3) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\)](#), **Sch. 8 para. 80(2)(b)**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F225** Words in Sch. 9 para. 1(3) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\)](#), **Sch. 19 para. 41(2)(a)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F226** Words in Sch. 9 para. 1(3) omitted (1.4.2006) by virtue of [The Welsh Development Agency \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3226\)](#), arts. 1(2), 7, **Sch. 2 para. 14** (with art. 3(1))
- F227** Words in Sch. 9 substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), **Sch. 16 para. 314**; S.I. 2011/3019, art. 3, Sch. 1
- F228** Words in Sch. 9 para. 1(3) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 40**
- F229** Sch. 9 para. 1(5) omitted (E.W.) (26.1.2019) by virtue of [Abolition of the Right to Buy and Associated Rights \(Wales\) Act 2018 \(anaw 1\), s. 11\(3\)\(4\)](#), **Sch. 1 para. 4(2)**; S.I. 2018/100, art. 2(b) (with art. 3) (with savings in S.I. 2019/110, reg. 5)

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**F230** Sch. 9 para. 1(6) inserted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 9 para. 32(4)**; S.I. 2010/862, art. 2 (with Sch.)

**F231** Sch. 9 para. 1(7) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 41(2)(b)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)

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

**C8** Sch. 9 para. 1(3) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, **Sch. para. 1** (with art. 6) (see S.I. 2008/3068, art. 2(1)(b))

*Shared ownership lease: election for market value treatment*

- 2 (1) This paragraph applies where—
- (a) a lease is granted—
    - (i) by a qualifying body, or
    - (ii) in pursuance of the preserved right to buy,
  - (b) the conditions in sub-paragraph (2) are met, and
  - (c) the purchaser elects for tax to be charged in accordance with this paragraph.
- (2) The conditions are as follows—
- (a) the lease must be of a dwelling;
  - (b) the lease must give the lessee or lessees exclusive use of the dwelling;
  - (c) the lease must provide for the lessee or lessees to acquire the reversion;
  - (d) the lease must be granted partly in consideration of rent and partly in consideration of a premium calculated by reference to—
    - (i) the market value of the dwelling, or
    - (ii) a sum calculated by reference to that value;
  - (e) the lease must contain a statement of—
    - (i) the market value of the dwelling, or
    - (ii) the sum calculated by reference to that value,
 by reference to which the premium is calculated.
- (3) An election for tax to be charged in accordance with this paragraph must be included in the land transaction return made in respect of the grant of the lease, or in an amendment of that return, and is irrevocable, so that the return may not be amended so as to withdraw the election.
- (4) Where this paragraph applies the chargeable consideration for the grant of the lease shall be taken to be the amount stated in the lease in accordance with sub-paragraph (2)(e)(i) or (ii).

As to the tax treatment of the acquisition of the reversion in pursuance of the lease, see paragraph 3.

[<sup>F232</sup>(4A) Where this paragraph applies no account shall be taken for the purposes of stamp duty land tax of the rent mentioned in sub-paragraph (2)(d).]

- (5) Section 118 (meaning of “market value”) does not apply in relation to the reference in sub-paragraph (2)(e) above to the market value of the dwelling.

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### Textual Amendments

**F232** Sch. 9 para. 2(4A) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 78

#### *Transfer of reversion under shared ownership lease where election made for market value treatment*

- 3 The transfer of the reversion to the lessee or lessees under the terms of a lease to which paragraph 2 applies (shared ownership lease: election for market value treatment) is exempt from charge if—
- (a) an election was made for tax to be charged in accordance with that paragraph, and
  - (b) any tax chargeable in respect of the grant of the lease has been paid.

#### *Shared ownership lease: election where staircasing allowed*

- 4 (1) This paragraph applies where—
- (a) a lease is granted by a qualifying body or in pursuance of the preserved right to buy,
  - (b) the conditions in sub-paragraph (2) below are met, and
  - (c) the purchaser elects for tax to be charged in accordance with this paragraph.
- (2) The conditions are as follows—
- (a) the lease must be of a dwelling;
  - (b) the lease must give the lessee or lessees exclusive use of the dwelling;
  - (c) the lease must provide that the lessee or lessees may, on the payment of a sum, require the terms of the lease to be altered so that the rent payable under it is reduced;
  - (d) the lease must be granted partly in consideration of rent and partly in consideration of a premium calculated by reference to—
    - (i) the premium obtainable on the open market for the grant of a lease containing the same terms as the lease but with the substitution of the minimum rent for the rent payable under the lease, or
    - (ii) a sum calculated by reference to that premium;
  - (e) the lease must contain a statement of the minimum rent and of—
    - (i) the premium obtainable on the open market, or
    - (ii) the sum calculated by reference to that premium,by reference to which the premium is calculated.
- (3) An election for tax to be charged in accordance with this paragraph must be included in the land transaction return made in respect of the grant of the lease, or in an amendment of that return, and is irrevocable, so that the return may not be amended so as to withdraw the election.
- (4) Where this paragraph applies—
- (a) the rent in consideration of which the lease is granted shall be taken to be the minimum rent stated in the lease in accordance with sub-paragraph (2) (e), and

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- (b) the chargeable consideration for the grant other than rent shall be taken to be the amount stated in the lease in accordance with sub-paragraph (2)(e)(i) or (ii).

[<sup>F233</sup>(4A) See paragraph 15 for further provision in connection with relief for first-time buyers.]

- (5) In this paragraph the “minimum rent” means the lowest rent which could become payable under the lease if it were altered as mentioned in sub-paragraph (2)(c) at the date when the lease is granted.

**Textual Amendments**

**F233** Sch. 9 para. 4(4A) inserted (with effect in accordance with s. 42(7) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 42\(2\)](#)

*[<sup>F234</sup>Shared ownership lease: treatment of staircasing transaction*

**Textual Amendments**

**F234** Sch. 9 para. 4A and cross-heading inserted (with effect in accordance with s. 303(4) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 303\(1\)](#)

- 4A (1) This paragraph applies where under a shared ownership lease—
- (a) the lessee or lessees have the right, on the payment of a sum, to require the terms of the lease to be altered so that the rent payable under it is reduced, and
  - (b) by exercising that right the lessee or lessees acquire an interest, additional to one already held, calculated by reference to the market value of the dwelling and expressed as a percentage of the dwelling or its value (a “share of the dwelling”).
- (2) Such an acquisition is exempt from charge if—
- (a) an election was made for tax to be charged in accordance with paragraph 2 or, as the case may be, paragraph 4 and any tax chargeable in respect of the grant of the lease has been paid, or
  - (b) immediately after the acquisition the total share of the dwelling held by the lessee or lessees does not exceed 80%.
- (3) In this paragraph “shared ownership lease” means a lease granted—
- (a) by a qualifying body, or
  - (b) in pursuance of the preserved right to buy,
- in relation to which the conditions in paragraph 2(2) or 4(2) are met.
- (4) Section 118 (meaning of “market value”) does not apply in relation to the references in this paragraph to the market value of the dwelling.]



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<sup>F235</sup> *Shared ownership lease: grant not linked with staircasing transactions etc*

**Textual Amendments**

**F235** Sch. 9 para. 4B and cross-heading inserted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(8\)](#)

- 4B (1) For the purpose of determining the [<sup>F236</sup>amount] of tax chargeable on the grant of a shared ownership lease of a dwelling, the grant shall be treated as if it were not linked to—
- (a) any acquisition of an interest in the dwelling to which paragraph 4A applies, or
  - (b) a transfer of the reversion to the lessee or lessees under the terms of the lease.
- (2) In this paragraph “shared ownership lease” has the same meaning as in paragraph 4A.]

**Textual Amendments**

**F236** Word in Sch. 9 para. 4B(1) substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\), Sch. para. 14](#) (with s. 2(3)-(6))

*Shared ownership leases: meaning of “qualifying body” and “preserved right to buy”*

- 5 (1) This paragraph has effect for the purposes of paragraphs [<sup>F237</sup>2, 4 and 4A] (shared ownership leases: election as to basis of taxation).
- (2) A “qualifying body” means—
- (a) a local housing authority within the meaning of the Housing Act 1985 (c. 68);
  - (b) a housing association within the meaning of—
    - (i) the Housing Associations Act 1985 (c. 69), or
    - (ii) Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));
  - (c) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50);
  - (d) the Northern Ireland Housing Executive;
  - <sup>F238</sup>(e) the Homes and Communities Agency;]
  - <sup>F239</sup>(ea) the Greater London Authority so far as exercising its housing or regeneration functions or its new towns and urban development functions;]
  - (f) a development corporation established by an order made, or having effect as if made, under the New Towns Act 1981 (c. 64).
  - <sup>F240</sup>(g) a [<sup>F241</sup>private registered provider] of social housing that is not within paragraph (b) (subject to sub-paragraph (2A)).]
- <sup>F242</sup>(2A) A [<sup>F243</sup>private registered provider] of social housing within sub-paragraph (2)(g) (“R”) is only a qualifying body in relation to a lease of premises if the following has been funded with the assistance of a grant or other financial assistance [<sup>F244</sup>made or given] under section 19 of the Housing and Regeneration Act 2008 [<sup>F245</sup>or by the Greater London Authority] —

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- (a) the purchase or construction of the premises by R (or a person connected with R), or
  - (b) the adaptation of the premises by R (or a person connected with R) for use as a dwelling.
- (2B) [<sup>F246</sup>Section 1122 of the Corporation Tax Act 2010] (connected persons) has effect for the purposes of sub-paragraph (2A).]
- (3) A lease is granted “in pursuance of the preserved right to buy” if—
- (a) the vendor is a person against whom the right to buy under Part 5 of the Housing Act 1985 is exercisable by virtue of section 171A of that Act (preservation of right to buy on disposal to private sector landlord),
  - (b) the lessee is, or lessees are, the qualifying person for the purposes of the preserved right to buy, and
  - (c) the lease is of a dwelling that is the qualifying dwelling-house in relation to the purchaser.

#### Textual Amendments

- F237** Words in Sch. 9 para. 5(1) substituted (with effect in accordance with s. 303(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **s. 303(2)**
- F238** Sch. 9 para. 5(2)(e) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 80(3)**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F239** Sch. 9 para. 5(2)(ea) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 41(3)(a)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F240** Sch. 9 para. 5(2)(g) inserted (with effect in accordance with s. 81(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **s. 81(6)(a)**
- F241** Words in Sch. 9 para. 5(2)(g) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 2 para. 25(b)**
- F242** Sch. 9 para. 5(2A)(2B) inserted (with effect in accordance with s. 81(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **s. 81(6)(b)**
- F243** Words in Sch. 9 para. 5(2A) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 2 para. 25(b)**
- F244** Words in Sch. 9 para. 5(2A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 41(3)(b)(i)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F245** Words in Sch. 9 para. 5(2A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 41(3)(b)(ii)**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F246** Words in Sch. 9 para. 5(2B) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 417(2)** (with Sch. 2)

#### *Rent to mortgage or rent to loan: chargeable consideration*

- 6 (1) The chargeable consideration for a rent to mortgage or rent to loan transaction is determined in accordance with this paragraph.
- (2) A “rent to mortgage transaction” means—
- (a) the transfer of a dwelling to a person, or
  - (b) the grant of a lease of a dwelling to a person,
- pursuant to the exercise by that person of the right to acquire on rent to mortgage terms under Part 5 of the Housing Act 1985 (c. 68).

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- (3) The chargeable consideration for such a transaction is equal to the price that, by virtue of section 126 of the Housing Act 1985, would be payable for—
- (a) a transfer of the dwelling to the person (where the rent to mortgage transaction is a transfer), or
  - (b) the grant of a lease of the dwelling to the person (where the rent to mortgage transaction is the grant of a lease),
- if the person were exercising the right to buy under Part 5 of that Act.
- (4) A “rent to loan transaction” means the execution of a heritable disposition in favour of a person pursuant to the exercise by that person of the right to purchase a house by way of the rent to loan scheme in Part 3 of the Housing (Scotland) Act 1987 (c. 26).
- (5) The chargeable consideration for such a transaction is equal to the price that, by virtue of section 62 of the Housing (Scotland) Act 1987, would be payable for the house if the person were exercising the right to purchase under section 61 of that Act.

*<sup>F247</sup>Shared ownership trust: introduction*

**Textual Amendments**

**F247** Sch. 9 paras. 7-11 and cross-headings inserted (with effect in accordance with s. 77(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **s. 77(1)**

- 7 (1) In this Schedule “shared ownership trust” means a trust of land, within the meaning of section 1 of the Trusts of Land and Appointment of Trustees Act 1996, which satisfies the following conditions.
- (2) Condition 1 is that the trust property is—
- (a) a dwelling, and
  - (b) in England <sup>F248</sup>...
- (3) Condition 2 is that one of the beneficiaries (“the social landlord”) is a qualifying body <sup>F249</sup>....
- (4) Condition 3 is that the terms of the trust—
- (a) provide for one or more of the individual beneficiaries (“the purchaser”) to have exclusive use of the trust property as the only or main residence of the purchaser,
  - (b) require the purchaser to make an initial payment to the social landlord (“the initial capital”),
  - (c) require the purchaser to make additional payments to the social landlord by way of compensation under section 13(6)(a) of the Trusts of Land and Appointment of Trustees Act 1996 (“rent-equivalent payments”),
  - (d) enable the purchaser to make other additional payments to the social landlord (“equity-acquisition payments”),
  - (e) determine the initial beneficial interests of the social landlord and of the purchaser by reference to the initial capital,
  - (f) specify a sum, equating or relating to the market value of the dwelling, by reference to which the initial capital was calculated, and

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- (g) provide for the purchaser's beneficial interest in the trust property to increase, and the social landlord's to diminish (or to be extinguished), as equity-acquisition payments are made.
- (5) Section 118 (meaning of “market value”) does not apply to this paragraph.
- (6) In Condition 1 “dwelling” includes—
- (a) a building which is being constructed or adapted for use as a dwelling,
  - (b) land which is to be used for the purpose of the construction of a dwelling, and
  - (c) land which is, or is to become, the garden or grounds of a dwelling.
- [ In Condition 2 “qualifying body” means—
- <sup>F250</sup>(7) (a) a qualifying body within the meaning of paragraph 5(2)(a) to (f), or
- (b) a [<sup>F251</sup>private registered provider] of social housing within paragraph 5(2)(g) (subject to sub-paragraph (8)).
- (8) A [<sup>F252</sup>private registered provider] of social housing within paragraph 5(2)(g) (“R”) is only a qualifying body in relation to a shared ownership trust if the following has been or is being funded with the assistance of a grant or other financial assistance [<sup>F253</sup>made or given] under section 19 of the Housing and Regeneration Act 2008 [<sup>F254</sup>or by the Greater London Authority] —
- (a) the purchase or construction of the trust property by R (or a person connected with R), or
  - (b) the adaptation of the trust property by R (or a person connected with R) for use as a dwelling.
- (9) [<sup>F255</sup>Section 1122 of the Corporation Tax Act 2010] (connected persons) has effect for the purposes of sub-paragraph (8).]

#### Textual Amendments

- F248** Words in Sch. 9 para. 7(2)(b) omitted (1.4.2018 with effect in accordance with s. 16(4)(5) of the amending Act) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 29(2)(b)(3), [Sch. 2 para. 11](#); S.I. 2018/214, art. 2(a)
- F249** Words in Sch. 9 para. 7(3) omitted (with effect in accordance with s. 81(8) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), s. 81(7)(a)
- F250** Sch. 9 para. 7(7)-(9) inserted (with effect in accordance with s. 81(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), s. 81(7)(b)
- F251** Words in Sch. 9 para. 7(7) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 2 para. 25\(c\)](#)
- F252** Words in Sch. 9 para. 7(8) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 2 para. 25\(c\)](#)
- F253** Words in Sch. 9 para. 7(8) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 41\(4\)\(a\)](#); S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F254** Words in Sch. 9 para. 7(8) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 41\(4\)\(b\)](#); S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F255** Words in Sch. 9 para. 7(9) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [Sch. 1 para. 417\(3\)](#) (with Sch. 2)

#### *Shared ownership trust: “purchaser”*

- 8 For the purposes of the application of stamp duty land tax in relation to a shared ownership trust, the person (or persons) identified as the purchaser in accordance

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with paragraph 7, and not the social landlord or any other beneficiary, is (or are) to be treated as the purchaser of the trust property.

*Shared ownership trust: election for market value treatment*

- 9 (1) This paragraph applies where—
- (a) a shared ownership trust is declared, and
  - (b) the purchaser elects for tax to be charged in accordance with this paragraph.
- (2) An election must be included in—
- (a) the land transaction return for the declaration of the shared ownership trust, or
  - (b) an amendment of that return.
- (3) An election may not be revoked.
- (4) Where this paragraph applies—
- (a) the chargeable consideration for the declaration of the shared ownership trust shall be taken to be the amount stated in accordance with paragraph 7(4)(f), and
  - (b) no account shall be taken for the purposes of stamp duty land tax of rent-equivalent payments.
- (5) The transfer to the purchaser of an interest in the trust property upon the termination of the trust is exempt from charge if—
- (a) an election was made under this paragraph, and
  - (b) any tax chargeable in respect of the declaration of the shared ownership trust has been paid.

*Shared ownership trust: treatment of staircasing transaction*

- 10 (1) An equity-acquisition <sup>F256</sup>... payment under a shared ownership trust, and the consequent increase in the purchaser's beneficial interest, shall be exempt from charge if—
- (a) an election was made under paragraph 9, and
  - (b) any tax chargeable in respect of the declaration of trust has been paid.
- (2) An equity-acquisition <sup>F257</sup>... payment under a shared ownership trust, and the consequent increase in the purchaser's beneficial interest, shall also be exempt from charge if following the increase the purchaser's beneficial interest does not exceed 80% of the total beneficial interest in the trust property.

**Textual Amendments**

**F256** Word in Sch. 9 para. 10(1) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(9\)](#)

**F257** Word in Sch. 9 para. 10(2) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(9\)](#)

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*Shared ownership trust: treatment of additional payments where no election made*

- 11 Where no election has been made under paragraph 9 in respect of a shared ownership trust—
- (a) the initial capital shall be treated for the purposes of stamp duty land tax as chargeable consideration other than rent, and
  - (b) any rent-equivalent <sup>F258</sup>... payment by the purchaser shall be treated for the purposes of stamp duty land tax as a payment of rent.]

**Textual Amendments**

**F258** Word in Sch. 9 para. 11(b) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(9\)](#)

*[<sup>F259</sup>Shared ownership trust: declaration not linked with staircasing transactions etc*

**Textual Amendments**

**F259** Sch. 9 para. 12 and cross-heading inserted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(10\)](#)

- 12 For the purpose of determining the [<sup>F260</sup>amount] of tax chargeable on the declaration of a shared ownership trust, the declaration shall be treated as if it were not linked to—
- (a) any equity-acquisition payment under the trust or any consequent increase in the purchaser's beneficial interest in the trust property, or
  - (b) a transfer to the purchaser of an interest in the trust property upon the termination of the trust.]

**Textual Amendments**

**F260** Word in Sch. 9 para. 12 substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\), Sch. para. 15](#) (with s. 2(3)-(6))

*[<sup>F261</sup>Rent to shared ownership lease: charge to tax*

**Textual Amendments**

**F261** Sch. 9 paras. 13, 14 and cross-headings inserted (with effect in accordance with s. 82(2)(3) of the amending Act) by [Finance Act 2009 \(c. 10\), s. 82\(1\)](#)

- 13 (1) The chargeable consideration for transactions forming part of a rent to shared ownership lease scheme is determined in accordance with this paragraph.
- (2) A “rent to shared ownership lease scheme” means a scheme or arrangement under which a qualifying body—
- (a) grants an assured shorthold tenancy of a dwelling to a person (“the tenant”) or persons (“the tenants”), and

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- (b) subsequently grants a shared ownership lease of the dwelling or another dwelling to the tenant or one or more of the tenants.
- (3) The following transactions are to be treated as if they were not linked to each other—
  - (a) the grant of the assured shorthold tenancy,
  - (b) the grant of the shared ownership lease, and
  - (c) any other land transaction between the qualifying body and the tenant, or any of the tenants, entered into as part of the scheme.
- (4) For the purpose of determining the effective date of the grant of the shared ownership lease, the possession of the dwelling by the tenant or tenants pursuant to the assured shorthold tenancy is to be disregarded.
- (5) In this paragraph—
  - “assured shorthold tenancy” has the same meaning as in Part 1 of the Housing Act 1988;
  - “qualifying body” has the same meaning as in paragraph 5;
  - “shared ownership lease” has the same meaning as in paragraph 4A.

*Rent to shared ownership trust: charge to tax*

- 14
- (1) The chargeable consideration for transactions forming part of a rent to shared ownership trust scheme is determined in accordance with this paragraph.
  - (2) A “rent to shared ownership trust scheme” means a scheme or arrangement under which—
    - (a) a qualifying body grants an assured shorthold tenancy of a dwelling to a person (“the tenant”) or persons (“the tenants”), and
    - (b) the tenant, or one or more of tenants, subsequently becomes the purchaser under a shared ownership trust of the dwelling, or another dwelling, under which the qualifying body is the social landlord.
  - (3) The following transactions are to be treated as if they were not linked to each other—
    - (a) the grant of the assured shorthold tenancy,
    - (b) the declaration of the shared ownership trust, and
    - (c) any other land transaction between the qualifying body and the tenant, or any of the tenants, entered into as part of the scheme.
  - (4) For the purpose of determining the effective date of the declaration of the shared ownership trust, the possession of the dwelling by the tenant or tenants pursuant to the assured shorthold tenancy is to be disregarded.
  - (5) In this paragraph—
    - “assured shorthold tenancy” has the same meaning as in Part 1 of the Housing Act 1988;
    - “qualifying body” has the same meaning as in paragraph 5;
    - “social landlord” and “purchaser”, in relation to a shared ownership trust, have the same meaning as in paragraph 7.]



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*<sup>F262</sup>Relief for first-time buyers: shared ownership lease where election made*

**Textual Amendments**

**F262** Sch. 9 para. 15 and cross-heading inserted (with effect in accordance with s. 42(7) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 42\(3\)](#)

- 15           Where—
- (a) paragraph 4 applies, and
  - (b) relief is claimed under paragraph 1 of Schedule 6ZA in respect of the grant of the lease concerned,
- no tax is chargeable in respect of so much of the chargeable consideration for the grant as consists of rent.]

*<sup>F263</sup>Relief for first-time buyers: shared ownership lease where no election made*

**Textual Amendments**

**F263** Sch. 9 paras. 15A, 15B and cross-headings inserted (with effect in accordance with s. 42(7) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 42\(4\)](#)

- 15A (1) This paragraph applies where—
- (a) a shared ownership lease is granted, and
  - (b) no election is made for tax to be charged in accordance with paragraph 2 or 4.
- (2) For the purpose of determining whether the second condition in paragraph 1 of Schedule 6ZA is met in respect of the grant, the chargeable consideration for the grant is to be treated as being the amount stated in the lease in accordance with paragraph 2(2)(e) or paragraph 4(2)(e)(i) or (ii).
- (3) If relief is claimed in respect of the grant under paragraph 1 of Schedule 6ZA no tax is chargeable in respect of so much of the chargeable consideration for the grant as consists of rent.
- (4) In this paragraph “shared ownership lease” has the same meaning as in paragraph 4A.

*Relief for first-time buyers: shared ownership trust where no election made*

- 15B (1) This paragraph applies where—
- (a) a shared ownership trust is declared, and
  - (b) no election is made for tax to be charged in accordance with paragraph 9.
- (2) For the purpose of determining whether the second condition in paragraph 1 of Schedule 6ZA is met in respect of the declaration, the chargeable consideration for the declaration is to be treated as being the sum specified in the trust in accordance with paragraph 7(4)(f).
- (3) If relief is claimed in respect of the declaration under paragraph 1 of Schedule 6ZA no tax is chargeable in respect of any rent-equivalent payment treated by reason of paragraph 11(b) as rent.]



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<sup>F264</sup><sup>F265</sup>*No relief for first-time buyers for staircasing transactions etc]*

**Textual Amendments**

**F264** Sch. 9 para. 16 and cross-heading inserted (with effect in accordance with s. 41(8) of the amending Act) by [Finance Act 2018 \(c. 3\), s. 41\(5\)](#)

**F265** Sch. 9 para. 16 cross-heading substituted (with effect in accordance with [s. 42\(7\)](#) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 42\(5\)](#)

16 (1) This paragraph applies where—

<sup>F266</sup>(a) .....

<sup>F267</sup>(b) .....

(c) paragraph 4A applies in relation to the acquisition of an interest (but the acquisition is not exempt from charge by virtue of sub-paragraph (2) of that paragraph),

<sup>F268</sup>(d) ..... OR

(e) an equity-acquisition payment is made under a shared ownership trust (but the equity-acquisition payment, and the consequential increase in the purchaser's beneficial interest, are not exempt from charge by virtue of paragraph 10).

(2) Schedule 6ZA (relief for first-time buyers) does not apply in relation to—

<sup>F269</sup>(a) .....

(b) the acquisition of the interest,

<sup>F270</sup>(c) ..... OR

(d) the equity-acquisition payment and the consequential increase in the purchaser's beneficial interest.]

**Textual Amendments**

**F266** Sch. 9 para. 16(1)(a) omitted (with effect in accordance with [s. 42\(7\)](#) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), s. 42\(6\)\(a\)](#)

**F267** Sch. 9 para. 16(1)(b) omitted (with effect in accordance with [s. 42\(7\)](#) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), s. 42\(6\)\(a\)](#)

**F268** Sch. 9 para. 16(1)(d) omitted (with effect in accordance with [s. 42\(7\)](#) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), s. 42\(6\)\(a\)](#)

**F269** Sch. 9 para. 16(2)(a) omitted (with effect in accordance with [s. 42\(7\)](#) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), s. 42\(6\)\(b\)](#)

**F270** Sch. 9 para. 16(2)(c) omitted (with effect in accordance with [s. 42\(7\)](#) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), s. 42\(6\)\(b\)](#)

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## SCHEDULE 10

Section 78

### STAMP DUTY LAND TAX: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

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

- C9** Sch. 10 applied (with modifications) (with effect in accordance with Sch. 61 para. 29(2)(a) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 61 para. 7\(9\)](#)

### PART 1

#### LAND TRANSACTION RETURNS

##### *Contents of return*

- 1 (1) A land transaction return must—
- (a) be in the prescribed form,
  - (b) contain the prescribed information, and
  - (c) include a declaration by the purchaser (or each of them) that the return is to the best of his knowledge correct and complete.
- [<sup>F271</sup>(1A) Sub-paragraph (1)(c) is subject to paragraphs 1A and 1B.]
- (2) In sub-paragraph (1) “prescribed” means prescribed by regulations made by the Inland Revenue.
  - (3) The regulations may make different provision for different kinds of return.
  - (4) Regulations under sub-paragraph (1)(b) may require the provision of information corresponding to any of the particulars formerly required under—
    - (a) Schedule 2 to the Finance Act 1931 (c. 28) (requirement to deliver particulars of land transactions in Great Britain), or
    - (b) section 244 of the Finance Act 1994 (c. 9) (corresponding provision for Northern Ireland).
  - (5) The return is treated as containing any information provided by the purchaser for the purpose of completing the return.

#### **Textual Amendments**

- F271** Sch. 10 para. 1(1A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, [3\(a\)](#)

*Status: Point in time view as at 31/12/2020.*

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*f<sup>F272</sup> Declaration by agent*

**Textual Amendments**

**F272** Sch. 10 paras. 1A, 1B and cross-headings inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **3(b)**

- 1A. (1) Where —
- (a) the purchaser (or each of them) authorises an agent to complete a land transaction return,
  - (b) the purchaser (or each of them) makes a declaration that, with the exception of the effective date, the information provided in the return is to the best of his knowledge correct and complete, and
  - (c) the land transaction return includes a declaration by the agent that the effective date provided in the return is to the best of his knowledge correct, the requirement in paragraph 1(1)(c) shall be deemed to be met.
- (2) Sub-paragraph (1) applies only where the return is in a form specified by the Inland Revenue for the purposes of that sub-paragraph.
- (3) Nothing in this paragraph affects the liability of the purchaser (or each of them) under this Part of this Act.

*Declaration by the relevant Official Solicitor*

- 1B. (1) Where —
- (a) the purchaser (or any of them) is a person under a disability,
  - (b) the Official Solicitor is acting for the purchaser (or any of them), and
  - (c) the land transaction return includes a declaration by the Official Solicitor that the return is to the best of his knowledge correct and complete, the requirement in paragraph 1(1)(c) shall be deemed to be met.
- (2) Sub-paragraph (1) applies only where the return is in a form specified by the Inland Revenue for the purposes of that sub-paragraph.
- (3) Nothing in this paragraph affects the liability of the purchaser (or each of them) under this Part of this Act.
- (4) In this paragraph “the Official Solicitor” means the Official Solicitor to the Supreme Court of England and Wales or the Official Solicitor to the Supreme Court of Northern Ireland (as the case requires).]

*Meaning of filing date and delivery of return*

- 2 (1) References in this Part of this Act to the filing date, in relation to a land transaction return, are to the last day of the period within which the return must be delivered.
- (2) References in this Part of this Act to the delivery of a land transaction return are to the delivery of a return that—
- (a) complies with the requirements of paragraph 1(1) (contents of return), <sup>F273</sup> ...
  - <sup>F273</sup>(b) .....

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### Textual Amendments

**F273** Sch. 10 para. 2(2)(b) repealed (with effect in accordance with s. 80(9) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 80(7), [Sch. 27 Pt. 4\(4\)](#)

#### *Failure to deliver return: flat-rate penalty*

- 3 (1) A person who is required to deliver a land transaction return and fails to do so by the filing date is liable to a flat-rate penalty under this paragraph.
- He may also be liable to a tax-related penalty under paragraph 4.
- (2) The penalty is—
- (a) £100 if the return is delivered within three months after the filing date, and
  - (b) £200 in any other case.

#### *Failure to deliver return: tax-related penalty*

- 4 (1) A purchaser who is required to deliver a land transaction return in respect of a chargeable transaction and fails to do so within twelve months after the filing date is liable to a tax-related penalty under this paragraph.
- This is in addition to any flat-rate penalty under paragraph 3.
- (2) The penalty is an amount not exceeding the amount of tax chargeable in respect of the transaction.

#### *Formal notice to deliver return: daily penalty*

- 5 (1) If it appears to the Inland Revenue—
- (a) that a purchaser required to deliver a land transaction return in respect of a chargeable transaction has failed to do so, and
  - (b) that the filing date has now passed,
- they may issue a notice requiring him to deliver a land transaction return in respect of the transaction.
- (2) The notice must specify—
- (a) the transaction to which it relates, and
  - (b) the period for complying with the notice (which must not be less than 30 days from the date of issue of the notice).
- (3) If the purchaser does not comply with the notice within the specified period, the Inland Revenue may apply to the [<sup>F274</sup>tribunal] for an order imposing a daily penalty.
- (4) On such an application the [<sup>F275</sup>tribunal] may direct that the purchaser shall be liable to a penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which he is notified of the direction.
- (5) This paragraph does not affect, and is not affected by, any penalty under paragraph 3 or 4 (flat-rate or tax-related penalty for failure to deliver return).

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**Textual Amendments**

- F274** Word in Sch. 10 para. 5(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 374(2)**
- F275** Word in Sch. 10 para. 5(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 374(3)**

*Amendment of return by purchaser*

- 6 (1) The purchaser may amend a land transaction return given by him by notice to the Inland Revenue.
- (2) The notice must be in such form, and contain such information, as the Inland Revenue may require.
- [<sup>F276</sup>(2A) If the effect of the amendment would be to entitle the purchaser to a repayment of tax, the notice must be accompanied by—
- (a) the contract for the land transaction; and
  - (b) the instrument (if any) by which that transaction was effected.]
- (3) Except as otherwise provided, an amendment may not be made more than twelve months after the filing date.

**Textual Amendments**

- F276** Sch. 10 para. 6(2A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **3(c)**

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

- C10** Sch. 10 para. 6(2A)(3) excluded (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), s. **43(6)**

*Correction of return by Revenue*

- 7 (1) The Inland Revenue may amend a land transaction return so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).
- [<sup>F277</sup>(1A) The power under sub-paragraph (1) may, in such circumstances as the Commissioners for Her Majesty's Revenue and Customs may specify in regulations, be exercised—
- (a) in relation to England and Wales, by the Chief Land Registrar;
  - <sup>F278</sup>(b) .....
  - (c) in relation to Northern Ireland, by the Registrar of Titles or the registrar of deeds;
  - (d) in any case, by such other persons with functions relating to the registration of land as the regulations may specify.]
- (2) A correction under this paragraph is made by notice to the purchaser.
- (3) No such correction may be made more than nine months after—
- (a) the day on which the return was delivered, or

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- (b) if the correction is required in consequence of an amendment under paragraph 6, the day on which that amendment was made.
- (4) A correction under this paragraph is of no effect if the purchaser—
  - (a) amends the return so as to reject the correction, or
  - (b) after the end of the period within which he may amend the return, but within three months from the date of issue of the notice of correction, gives notice rejecting the correction.
- (5) Notice under sub-paragraph (4)(b) must be given to the officer of the Board by whom notice of the correction was given.

**Textual Amendments**

**F277** Sch. 10 para. 7(1A) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 47(4)

**F278** Sch. 10 para. 7(1A)(b) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of Scotland Act 2012 (c. 11), s. 44(2)(b)(3)(b), Sch. 3 para. 25(2) (with s. 29(5)(6)); S.I. 2015/637, art. 2

*Penalty for incorrect or uncorrected return*

F279<sup>g</sup> .....

**Textual Amendments**

**F279** Sch. 10 para. 8 omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122(2), Sch. 40 para. 21(k) (ii); S.I. 2009/571, art. 2

**PART 2**

DUTY TO KEEP AND PRESERVE RECORDS

*Duty to keep and preserve records*

- 9 (1) A purchaser who is required to deliver a land transaction return must—
  - (a) keep such records as may be needed to enable him to deliver a correct and complete return, and
  - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved [<sup>F280</sup>until the end of the later of the relevant day and the] date on which—
  - (a) an enquiry into the return is completed, or
  - (b) if there is no enquiry, the Inland Revenue no longer have power to enquire into the return.
- [<sup>F281</sup>(2A) “The relevant day” means—
  - (a) the sixth anniversary of the effective date of the transaction, or
  - (b) such earlier day as may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs (and different days may be specified for different cases).]

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- (3) The records required to be kept and preserved under this paragraph include—
- (a) relevant instruments relating to the transaction, in particular, any contract or conveyance, and any supporting maps, plans or similar documents;
  - (b) records of relevant payments, receipts and financial arrangements.
- [<sup>F282</sup>(4) The Commissioners for Her Majesty's Revenue and Customs may by regulations—
- (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
  - (b) provide that those records include supporting documents so specified.
- (5) Regulations under this paragraph may make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).
- (6) “Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.]

#### Textual Amendments

- F280** Words in Sch. 10 para. 9(2) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 5\(2\)](#); [S.I. 2010/815, art. 2](#)
- F281** Sch. 10 para. 9(2A) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 5\(3\)](#); [S.I. 2010/815, art. 2](#)
- F282** Sch. 10 para. 9(4)-(6) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 5\(4\)](#); [S.I. 2010/815, art. 2](#)

#### *Preservation of information [<sup>F283</sup>etc]*

#### Textual Amendments

- F283** Word in Sch. 10 para. 10 cross-heading substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 7](#); [S.I. 2010/815, art. 2](#)

- [<sup>F284</sup>10 The duty under paragraph 9 to preserve records may be satisfied—
- (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means,
- subject to any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.]

#### Textual Amendments

- F284** Sch. 10 para. 10 substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 98\(2\), Sch. 50 para. 6](#); [S.I. 2010/815, art. 2](#)

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*Penalty for failure to keep and preserve records*

- 11 (1) A person who fails to comply with paragraph 9 in relation to a transaction is liable to a penalty not exceeding £3,000, subject to the following exception.
- (2) No penalty is incurred if the Inland Revenue are satisfied that any facts that they reasonably require to be proved, and that would have been proved by the records, are proved by other documentary evidence provided to them.

**PART 3**

ENQUIRY INTO RETURN

*Notice of enquiry*

- 12 (1) The Inland Revenue may enquire into a land transaction return if they give notice of their intention to do so (“notice of enquiry”)—
- (a) to the purchaser,
- (b) before the end of the enquiry period.
- (2) The enquiry period is the period of nine months—
- (a) after the filing date, if the return was delivered on or before that date;
- (b) after the date on which the return was delivered, if the return was delivered after the filing date;
- (c) after the date on which the amendment was made, if the return is amended under paragraph 6 (amendment by purchaser).

[<sup>F285</sup>This is subject to the following qualification.]

[<sup>F286</sup>(2A) If—

- (a) the Inland Revenue give notice, within the period specified in sub-paragraph (2), of their intention to enquire into a land transaction return delivered under section 80 (adjustment where contingency ceases or consideration is ascertained), 81 (further return where relief withdrawn) [<sup>F287</sup>, 81A (return or further return in consequence of later linked transaction) or paragraph 6 of Schedule 6B (adjustment for change of circumstances)], and
- (b) it appears to the Inland Revenue to be necessary to give a notice under this paragraph in respect of an earlier land transaction return in respect of the same land transaction,

a notice may be given notwithstanding that the period referred to in sub-paragraph (2) has elapsed in relation to that earlier land transaction.]

- (3) A return that has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) of the return under paragraph 6.

**Textual Amendments**

**F285** Words in Sch. 10 para. 12(2) added (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **4(2)(a)**

**F286** Sch. 10 para. 12(2A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **4(2)(b)**



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**F287** Words in Sch. 10 para. 12(2A) substituted (with effect in accordance with Sch. 22 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 22 para. 7](#)

*Scope of enquiry*

- 13 (1) An enquiry extends to anything contained in the return, or required to be contained in the return, that relates—
- (a) to the question whether tax is chargeable in respect of the transaction, or
  - (b) to the amount of tax so chargeable.
- This is subject to the following exception.
- (2) If the notice of enquiry is given as a result of an amendment of the return under paragraph 6 (amendment by purchaser)—
- (a) at a time when it is no longer possible to give notice of enquiry under paragraph 12, or
  - (b) after an enquiry into the return has been completed,
- the enquiry into the return is limited to matters to which the amendment relates or that are affected by the amendment.

*Notice to produce documents etc for purposes of enquiry*

**F288** 14 .....

**Textual Amendments**

**F288** Sch. 10 paras. 14-16 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(4\)](#) (with art. 7(2))

*Appeal against notice to produce documents etc*

**F288** 15 .....

**Textual Amendments**

**F288** Sch. 10 paras. 14-16 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(4\)](#) (with art. 7(2))

*Penalty for failure to produce documents etc*

**F288** 16 .....

**Textual Amendments**

**F288** Sch. 10 paras. 14-16 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(4\)](#) (with art. 7(2))

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*Amendment of self-assessment during enquiry to prevent loss of tax*

- 17 (1) If at a time when an enquiry is in progress into a land transaction return the Inland Revenue form the opinion—
- (a) that the amount stated in the self-assessment contained in the return as the amount of tax payable is insufficient, and
  - (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,
- they may by notice in writing to the purchaser amend the assessment to make good the deficiency.
- (2) In the case of an enquiry that under paragraph 13(2) is limited to matters arising from an amendment of the return, sub-paragraph (1) above applies only so far as the deficiency is attributable to the amendment.
- (3) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
  - (b) ending with the day on which the enquiry is completed.

*Amendment of return by taxpayer during enquiry*

- 18 (1) This paragraph applies if a return is amended under paragraph 6 (amendment by purchaser) at a time when an enquiry is in progress into the return.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) So far as the amendment affects the amount stated in the self-assessment included in the return as the amount of tax payable, it does not take effect while the enquiry is in progress and—
- (a) if the Inland Revenue state in the closure notice that they have taken the amendments into account and that—
    - (i) the amendment has been taken into account in formulating the amendments contained in the notice, or
    - (ii) their conclusion is that the amendment is incorrect,
 the amendment shall not take effect;
  - (b) otherwise, the amendment takes effect when the closure notice is issued.
- (4) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
  - (b) ending with the day on which the enquiry is completed.

*Referral of questions to <sup>F289</sup>the tribunal] during enquiry*

**Textual Amendments**

**F289** Words in Sch. 10 para. 19 cross-heading heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 378\(2\)](#)

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- 19 (1) At any time when an enquiry is in progress into a land transaction return any question arising in connection with the subject-matter of the enquiry may be referred [<sup>F290</sup>to the tribunal for determination].
- (2) Notice of referral must be given—
- (a) jointly by the purchaser and the Inland Revenue,
  - <sup>F291</sup>(b) .....
  - (c) to the [<sup>F292</sup>tribunal].
- <sup>F293</sup>(3) .....
- (4) More than one notice of referral may be given under this paragraph in relation to an enquiry.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which the notice of enquiry was given, and
  - (b) ending with the day on which the enquiry is completed.

**Textual Amendments**

- F290** Words in Sch. 10 para. 19(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(3)**
- F291** Sch. 10 para. 19(2)(b) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(4)(a)**
- F292** Word in Sch. 10 para. 19(2)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(4)(b)**
- F293** Sch. 10 para. 19(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(5)**

*Withdrawal of notice of referral*

- 20 (1) The Inland Revenue or the purchaser may withdraw a notice of referral under paragraph 19 <sup>F294</sup>....
- <sup>F295</sup>(2) .....

**Textual Amendments**

- F294** Words in Sch. 10 para. 20(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 379(2)**
- F295** Sch. 10 para. 20(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 379(3)**

*Effect of referral on enquiry*

- 21 (1) While proceedings on a referral under paragraph 19 are in progress in relation to an enquiry—
- (a) no closure notice shall be given in relation to the enquiry, and
  - (b) no application may be made for a direction to give such a notice.

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- (2) For the purposes of this paragraph proceedings on a referral are in progress where—
- (a) notice of referral has been given,
  - (b) the notice has not been withdrawn, and
  - (c) the questions referred have not been finally determined.
- (3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when—
- (a) it has been determined by the [<sup>F296</sup>tribunal], and
  - (b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

**Textual Amendments**

**F296** Word in Sch. 10 para. 21(3)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 380**

*Effect of determination*

- 22 (1) The determination of a question referred to the [<sup>F297</sup>tribunal] under paragraph 19 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination shall be taken into account by the Inland Revenue—
- (a) in reaching their conclusions on the enquiry, and
  - (b) in formulating any amendments of the return required to give effect to those conclusions.
- (3) Any right of appeal under paragraph 35 (appeals against assessments etc) may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.

**Textual Amendments**

**F297** Word in Sch. 10 para. 22(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 381**

*Completion of enquiry*

- 23 (1) An enquiry under paragraph 12 is completed when the Inland Revenue by notice (a “closure notice”) inform the purchaser that they have completed their enquiries and state their conclusions.
- (2) A closure notice must either—
- (a) state that in the opinion of the Inland Revenue no amendment of the return is required, or
  - (b) make the amendments of the return required to give effect to their conclusions.
- (3) A closure notice takes effect when it is issued.

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*Direction to complete enquiry*

- 24 (1) The purchaser may apply to the [<sup>F298</sup>tribunal] for a direction that the Inland Revenue give a closure notice within a specified period.
- [<sup>F299</sup>(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).]
- (3) The [<sup>F300</sup>tribunal] hearing the application shall give a direction unless <sup>F301</sup>... satisfied that the Inland Revenue have reasonable grounds for not giving a closure notice within a specified period.

**Textual Amendments**

- F298** Word in Sch. 10 para. 24(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 382(2)**
- F299** Sch. 10 para. 24(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 382(3)**
- F300** Word in Sch. 10 para. 24(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 382(4)(a)**
- F301** Words in Sch. 10 para. 24(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 382(4)(b)**

**PART 4**

REVENUE DETERMINATION IF NO RETURN DELIVERED

*Determination of tax chargeable if no return delivered*

- 25 (1) If in the case of a chargeable transaction no land transaction return is delivered by the filing date, the Inland Revenue may make a determination (a “Revenue determination”) to the best of their information and belief of the amount of tax chargeable in respect of the transaction.
- (2) Notice of the determination must be served on the purchaser, stating the date on which it is issued.
- (3) No Revenue determination may be made more than [<sup>F302</sup>4 years] after the effective date of the transaction.

**Textual Amendments**

- F302** Words in Sch. 10 para. 25(3) substituted (1.4.2011) by [Finance Act 2009 \(c. 10\)](#), s. 99(2), **Sch. 51 para. 15(2)**; [S.I. 2010/867](#), art. 2(2)

*Determination to have effect as a self-assessment*

- 26 (1) A Revenue determination has effect for enforcement purposes as if were a self-assessment by the purchaser.
- (2) In sub-paragraph (1) “for enforcement purposes” means for the purposes of the following provisions of this Part of this Act—

*Status: Point in time view as at 31/12/2020.*

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- (a) the provisions of this Schedule providing for tax-related penalties;
  - (b) section 87 (interest on unpaid tax);
  - (c) section 91 and Schedule 12 (collection and recovery of unpaid tax etc).
- (3) Nothing in this paragraph affects any liability of the purchaser to a penalty for failure to deliver a return.

*Determination superseded by actual self-assessment*

- 27 (1) If after a Revenue determination has been made the purchaser delivers a land transaction return in respect of the transaction, the self-assessment included in that return supersedes the determination.
- (2) Sub-paragraph (1) does not apply to a return delivered—
- (a) more than [<sup>F303</sup>4 years] after the day on which the power to make the determination first became exercisable, or
  - (b) more than twelve months after the date of the determination,
- whichever is the later.
- (3) Where—
- (a) proceedings have been begun for the recovery of any tax charged by a Revenue determination, and
  - (b) before the proceedings are concluded the determination is superseded by a self-assessment,
- the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.
- [<sup>F304</sup>(4) Where—
- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by a Revenue determination, and
  - (b) before that action is concluded, the determination is superseded by a self-assessment,
- that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not yet been paid and does not exceed the original amount.]

**Textual Amendments**

**F303** Words in Sch. 10 para. 27(2)(a) substituted (1.4.2011) by Finance Act 2009 (c. 10), s. 99(2), Sch. 51 para. 15(3); S.I. 2010/867, art. 2(2)

**F304** Sch. 10 para. 27(4) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), Sch. 8 para. 41

*Status: Point in time view as at 31/12/2020.*

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## PART 5

### REVENUE ASSESSMENTS

#### *Assessment where loss of tax discovered*

- 28 (1) If the Inland Revenue discover as regards a chargeable transaction that—
- (a) an amount of tax that ought to have been assessed has not been assessed, or
  - (b) an assessment to tax is or has become insufficient, or
  - (c) relief has been given that is or has become excessive,
- they may make an assessment (a “discovery assessment”) in the amount or further amount that ought in their opinion to be charged in order to make good to the Crown the loss of tax.
- (2) The power to make a discovery assessment in respect of a transaction for which the purchaser has delivered a return is subject to the restrictions specified in paragraph 30.

#### *Assessment to recover excessive repayment of tax*

- 29 (1) If an amount of tax has been repaid to any person that ought not to have been repaid to him, that amount may be assessed and recovered as if it were unpaid tax.
- (2) Where the repayment was made with interest, the amount assessed and recovered may include the amount of interest that ought not to have been paid.
- (3) The power to make an assessment under this paragraph in respect of a transaction for which the purchaser has delivered a land transaction return is subject to the restrictions specified in paragraph 30.

#### *Restrictions on assessment where return delivered*

- 30 (1) If the purchaser has delivered a land transaction return in respect of the transaction in question, an assessment under paragraph 28 or 29 in respect of the transaction—
- (a) may only be made in the two cases specified in sub-paragraphs (2) and (3) below, and
  - (b) may not be made in the circumstances specified in sub-paragraph (5) below.
- (2) The first case is where the situation mentioned in paragraph 28(1) or 29(1) is attributable to fraudulent or negligent conduct on the part of—
- (a) the purchaser,
  - (b) a person acting on behalf of the purchaser, or
  - (c) a person who was a partner of the purchaser at the relevant time.
- (3) The second case is where the Inland Revenue, at the time they—
- (a) ceased to be entitled to give a notice of enquiry into the return, or
  - (b) completed their enquiries into the return,
- could not have been reasonably expected, on the basis of the information made available to them before that time, to be aware of the situation mentioned in paragraph 28(1) or 29(1).
- (4) For this purpose information is regarded as made available to the Inland Revenue if—

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- (a) it is contained in a land transaction return made by the purchaser,
- (b) it is contained in any documents produced or information provided to the Inland Revenue for the purposes of an enquiry into any such return, or
- (c) it is information the existence of which, and the relevance of which as regards the situation mentioned in paragraph 28(1) or 29(1)—
  - (i) could reasonably be expected to be inferred by the Inland Revenue from information falling within paragraphs (a) or (b) above, or
  - (ii) are notified in writing to the Inland Revenue by the purchaser or a person acting on his behalf.

(5) No assessment may be made if—

- (a) the situation mentioned in paragraph 28(1) or 29(1) is attributable to a mistake in the return as to the basis on which the tax liability ought to have been computed, and
- (b) the return was in fact made on the basis or in accordance with the practice generally prevailing at the time it was made.

#### *Time limit for assessment*

31 (1) The general rule is that no assessment may be made more than [<sup>F305</sup>4 years] after the effective date of the transaction to which it relates.

[<sup>F306</sup>(2) An assessment of a person to tax in a case involving a loss of tax brought about carelessly by the purchaser or a related person may be made at any time not more than 6 years after the effective date of the transaction to which it relates (subject to sub-paragraph (2A)).

(2A) An assessment of a person to tax in a case involving a loss of tax—

- (a) brought about deliberately by the purchaser or a related person,
- (b) attributable to a failure by the person to comply with an obligation under section 76(1) or paragraph 3(3)(a), 4(3)(a) or 8(3)(a) of Schedule 17A, <sup>F307</sup>...
- (c) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of the Finance Act 2004 (obligation of parties to tax avoidance schemes to provide information to Her Majesty's Revenue and Customs), [<sup>F308</sup>or
- (d) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the person was under an obligation to notify the Commissioners for Her Majesty's Revenue and Customs under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so,]

may be made at any time not more than 20 years after the effective date of the transaction to which it relates.]

(3) An assessment under paragraph 29 (assessment to recover excessive repayment of tax) is not out of time—

- (a) in a case where notice of enquiry is given into the land transaction return delivered by the person concerned, if it is made before the enquiry is completed;
- (b) in any case, if it is made within one year after the repayment in question was made.

(4) Where the purchaser has died—



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- (a) any assessment on the personal representatives of the deceased must be made within [<sup>F309</sup>4 years] after his death, and
  - (b) an assessment shall not be made by virtue of sub-paragraph (2) in respect of a transaction of which the effective date was more than six years before the death.
- (5) Any objection to the making of an assessment on the ground that the time limit for making it has expired can only be made on an appeal against the assessment.
- [<sup>F310</sup>(6) In this paragraph “related person”, in relation to a purchaser, means—
- (a) a person acting on behalf of the purchaser, or
  - (b) a person who was a partner of the purchaser at the relevant time.]

#### Textual Amendments

- F305** Words in Sch. 10 para. 31(1) substituted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\)](#), [Sch. 51 para. 15\(5\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F306** Sch. 10 para. 31(2)(2A) substituted for Sch. 10 para. 31(2) (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\)](#), [Sch. 51 para. 15\(6\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F307** Word in Sch. 10 para. 31(2A) omitted (17.7.2014) by virtue of [Finance Act 2014 \(c. 26\), s. 277\(5\)\(a\)](#) (with [ss. 269-271](#))
- F308** Sch. 10 para. 31(2A)(d) and preceding word inserted (17.7.2014) by [Finance Act 2014 \(c. 26\), s. 277\(5\)\(b\)](#) (with [ss. 269-271](#))
- F309** Words in Sch. 10 para. 31(4)(a) substituted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\)](#), [Sch. 51 para. 15\(7\)](#); [S.I. 2010/867, art. 2\(2\)](#)
- F310** Sch. 10 para. 31(6) inserted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\)](#), [Sch. 51 para. 15\(8\)](#); [S.I. 2010/867, art. 2\(2\)](#)

[<sup>F311</sup>Losses brought about carelessly or deliberately

#### Textual Amendments

- F311** Sch. 10 para. 31A and cross-heading inserted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\)](#), [Sch. 51 para. 15\(9\)](#); [S.I. 2010/867, art. 2\(2\)](#)

- 31A (1) This paragraph applies for the purposes of paragraph 31.
- (2) A loss of tax is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that loss.
- (3) Where—
- (a) information is provided to Her Majesty's Revenue and Customs,
  - (b) the person who provided the information, or the person on whose behalf the information was provided, discovers some time later that the information was inaccurate, and
  - (c) that person fails to take reasonable steps to inform Her Majesty's Revenue and Customs,
- any loss of tax brought about by the inaccuracy is to be treated as having been brought about carelessly by that person.

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- (4) References to a loss of tax brought about deliberately by a person include a loss of tax brought about as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by or on behalf of that person.]

*Assessment procedure*

- 32 (1) Notice of an assessment must be served on the purchaser.
- (2) The notice must state—
- (a) the tax due,
  - (b) the date on which the notice is issued, and
  - (c) the time within which any appeal against the assessment must be made.
- (3) After notice of the assessment has been served on the purchaser, the assessment may not be altered except in accordance with the express provisions of this Part of this Act.
- (4) Where an officer of the Board has decided to make an assessment to tax, and has taken all other decisions needed for arriving at the amount of the assessment, he may entrust to some other officer of the Board responsibility for completing the assessing procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment.

**PART 6**

RELIEF IN CASE OF [<sup>F312</sup>OVERPAID TAX OR] EXCESSIVE ASSESSMENT

**Textual Amendments**

**F312** Words in Sch. 10 Pt. 6 heading inserted (with effect in accordance with s. 28(2) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 12 para. 4\(2\)](#)

*Relief in case of double assessment*

- 33 (1) A person who believes he has been assessed to tax more than once in respect of the same matter may make a claim [<sup>F313</sup>to the Inland Revenue for relief against any double charge] .

<sup>F314</sup>(2) . . . . .

<sup>F314</sup>(3) . . . . .

[<sup>F315</sup>(4) An appeal may be made against a decision on a claim for relief under this paragraph.]

**Textual Amendments**

**F313** Words in Sch. 10 para. 33(1) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 299\(7\)\(a\)](#)

**F314** Sch. 10 para. 33(2)(3) repealed (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 299\(7\)\(b\)](#), [Sch. 42 Pt. 4\(2\)](#)

**F315** Sch. 10 para. 33(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), [art. 1\(2\)](#), [Sch. 1 para. 383](#)

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*[<sup>F316</sup>Claim for relief for overpaid tax etc*

**Textual Amendments**

**F316** Sch. 10 paras. 34-34E substituted for Sch. 10 para. 34 (with effect in accordance with s. 28(2) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 12 para. 2](#)

- 34 (1) This paragraph applies where—
- (a) a person has paid an amount by way of tax but believes that the tax was not due, or
  - (b) a person has been assessed as liable to pay an amount by way of tax, or there has been a determination to that effect, but the person believes that the tax is not due.
- (2) The person may make a claim to the Commissioners for Her Majesty's Revenue and Customs for repayment or discharge of the amount.
- (3) Paragraph 34A makes provision about cases in which the Commissioners for Her Majesty's Revenue and Customs are not liable to give effect to a claim under this paragraph.
- (4) The following make further provision about making and giving effect to claims under this paragraph—
- (a) paragraphs 34B to 34D, and
  - (b) Schedule 11A.
- (5) Paragraph 34E makes provision about the application of this paragraph and paragraphs 34A to 34D to amounts paid under contract settlements.
- (6) The Commissioners for Her Majesty's Revenue and Customs are not liable to give relief in respect of a case described in sub-paragraph (1)(a) or (b) except as provided—
- (a) by this Schedule and Schedule 11A (following a claim under this paragraph), or
  - (b) by or under another provision of this Part of this Act.
- (7) For the purposes of this paragraph and paragraphs 34A to 34E, an amount paid by one person on behalf of another is treated as paid by the other person.]

*[<sup>F316</sup>Cases in which Commissioners not liable to give effect to a claim*

- 34A (1) The Commissioners for Her Majesty's Revenue and Customs are not liable to give effect to a claim under paragraph 34 if or to the extent that the claim falls within a case described in this paragraph.
- (2) Case A is where the amount paid, or liable to be paid, is excessive by reason of—
- (a) a mistake in a claim or election, or
  - (b) a mistake consisting of making or giving, or failing to make or give, a claim or election.
- (3) Case B is where the claimant is or will be able to seek relief by taking other steps under this Part of this Act.
- (4) Case C is where the claimant—

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- (a) could have sought relief by taking such steps within a period that has now expired, and
  - (b) knew, or ought reasonably to have known, before the end of that period that such relief was available.
- (5) Case D is where the claim is made on grounds that—
- (a) have been put to a court or tribunal in the course of an appeal by the claimant relating to the amount paid or liable to be paid, or
  - (b) have been put to Her Majesty's Revenue and Customs in the course of an appeal by the claimant relating to that amount that is treated as having been determined by a tribunal (by virtue of paragraph 37 (settling of appeals by agreement)).
- (6) Case E is where the claimant knew, or ought reasonably to have known, of the grounds for the claim before the latest of the following—
- (a) the date on which an appeal by the claimant relating to the amount paid, or liable to be paid, in the course of which the ground could have been put forward (a “relevant appeal”) was determined by a court or tribunal (or is treated as having been so determined),
  - (b) the date on which the claimant withdrew a relevant appeal to a court or tribunal, and
  - (c) the end of the period in which the claimant was entitled to make a relevant appeal to a court or tribunal.
- (7) Case F is where the amount in question was paid or is liable to be paid—
- (a) in consequence of proceedings enforcing the payment of that amount brought against the claimant by Her Majesty's Revenue and Customs, or
  - (b) in accordance with an agreement between the claimant and Her Majesty's Revenue and Customs settling such proceedings.
- (8) Case G is where—
- (a) the amount paid, or liable to be paid, is excessive by reason of a mistake in calculating the claimant's liability to tax, and
  - (b) liability was calculated in accordance with the practice generally prevailing at the time.
- [ Case G does not apply where the amount paid, or liable to be paid, is tax which has<sup>F317</sup>(9) been charged contrary to EU law.
- (10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—
- (a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or
  - (b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).]

#### **Textual Amendments**

**F317** Sch. 10 para. 34A(9)(10) inserted (with effect in accordance with s. 231(5) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [s. 231\(4\)](#)

*Status: Point in time view as at 31/12/2020.*

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### *Making a claim*

- 34B (1) A claim under paragraph 34 may not be made more than 4 years after the effective date of the transaction.
- (2) A claim under paragraph 34 may not be made by being included in a land transaction return.

### *The claimant: partnerships*

- 34C (1) This paragraph applies where an amount is paid, or is liable to be paid, in respect of a land transaction entered into as purchaser by or on behalf of the members of a partnership (within the meaning of Schedule 15).
- (2) Paragraphs 6 and 8 of Schedule 15 do not apply to a claim under paragraph 34 in respect of the amount.
- (3) A claim under paragraph 34 in respect of the amount—
- (a) may be made by a relevant person who has been nominated to make the claim by all of the relevant persons, and
  - (b) may not be made by any other person.
- (4) In relation to such a claim, references in paragraph 34A to the claimant are to any of the relevant persons.
- (5) The relevant persons are—
- (a) any person who was a partner in the partnership at the effective date of the transaction, and
  - (b) the personal representative of such a person.

### *Assessment of claimant in connection with claim*

- 34D (1) This paragraph applies where—
- (a) a claim is made under paragraph 34,
  - (b) the grounds for giving effect to the claim also provide grounds for a discovery assessment on the claimant in respect of any land transaction, and
  - (c) such an assessment could be made but for a relevant restriction.
- (2) The reference to the claimant in subsection (1)(b) includes—
- (a) in relation to a claim for an amount paid or liable to be paid in respect of a land transaction entered into as purchaser by or on behalf of the members of a partnership (within the meaning of Schedule 15), a responsible partner within the meaning of paragraph 6(2) of Schedule 15;
  - (b) in relation to a claim for an amount paid or liable to be paid in respect of a land transaction entered into by trustees of a settlement (within the meaning of Schedule 16), a responsible trustee within the meaning of paragraph 5(3) of Schedule 16.
- (3) The following are relevant restrictions—
- (a) the restrictions in paragraph 30, and
  - (b) the expiry of a time limit for making a discovery assessment.
- (4) Where this paragraph applies—
- (a) the relevant restrictions are to be disregarded, and

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- (b) the discovery assessment is not out of time if it is made before the final determination of the claim.
- (5) A claim is not finally determined until it, or the amount to which it relates, can no longer be varied (whether on appeal or otherwise).

#### *Contract settlements*

- 34E (1) In paragraph 34(1)(a) the reference to an amount paid by a person by way of tax includes an amount paid by a person under a contract settlement in connection with tax believed to be due.
- (2) Sub-paragraphs (3) to (6) apply if the person who paid the amount under the contract settlement (“the payer”) and the person from whom the tax was due (“the taxpayer”) are not the same person.
- (3) In relation to a claim under paragraph 34 in respect of that amount—
- (a) the references to the claimant in paragraph 34A(5) to (7) (Cases D, E and F) have effect as if they included the taxpayer,
  - (b) the reference to the claimant in paragraph 34A(8) (Case G) has effect as if it were a reference to the taxpayer,
  - (c) the reference to the claimant in paragraph 34D(1)(b) has effect as if it were a reference to the taxpayer, and
  - (d) references to tax in Schedule 11A (as it applies to a claim under paragraph 34) include such an amount.
- (4) Sub-paragraph (5) applies where the grounds for giving effect to a claim by the payer in respect of the amount also provide grounds for a discovery assessment on the taxpayer in respect of any land transaction.
- (5) The Commissioners for Her Majesty's Revenue and Customs may set any amount repayable to the payer by virtue of the claim against any amount payable by the taxpayer by virtue of the assessment.
- (6) The obligations of the Commissioners for Her Majesty's Revenue and Customs and the taxpayer are discharged to the extent of any set-off under sub-paragraph (5).
- (7) “Contract settlement” means an agreement made in connection with any person's liability to make a payment to the Commissioners for Her Majesty's Revenue and Customs under or by virtue of an enactment.]

## PART 7

### [<sup>F318</sup>REVIEWS AND APPEALS]

#### **Textual Amendments**

**F318** Sch. 10 Pt. 7 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 385**

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### *Right of appeal*

- 35 (1) An appeal may be brought against—
- (a) an amendment of a self-assessment under paragraph 17 (amendment by Revenue during enquiry to prevent loss of tax),
  - (b) a conclusion stated or amendment made by a closure notice,
  - (c) a discovery assessment,<sup>F319</sup> ...
  - (d) an assessment under paragraph 29 (assessment to recover excessive repayment)<sup>F320</sup>, or
  - (e) a Revenue determination under paragraph 25 (determination of tax chargeable if no return delivered).]

<sup>F321</sup>(2) .....

- (3) [<sup>F322</sup>If] An appeal under sub-paragraph (1)(a) against an amendment of a self-assessment [<sup>F323</sup>is] made while an enquiry is in progress [<sup>F324</sup>none of the steps mentioned in paragraph 36A(2)(a) to (c) may be taken in relation to the appeal] until the enquiry is completed.

#### **Textual Amendments**

- F319** Word in Sch. 10 para. 35(1)(c) omitted (with effect in accordance with reg. 1 of the amending S.I.) by virtue of [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **5(2)(a)**
- F320** Sch. 10 para. 35(1)(e) and word added (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **5(2)(b)**
- F321** Sch. 10 para. 35(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 386(2)**
- F322** Word in Sch. 10 para. 35(3) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 386(3)(a)**
- F323** Word in Sch. 10 para. 35(3) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 386(3)(b)**
- F324** Words in Sch. 10 para. 35(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 386(3)(c)**

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

- C11** Sch. 10 para. 35(1)(b) excluded (with application in accordance with Sch. 31 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **ss. 208(10)(11)(d)**

### *Notice of appeal*

- 36 (1) Notice of an appeal under paragraph 35 must be given—
- (a) in writing,
  - (b) within 30 days after the specified date,
  - (c) to the relevant officer of the Board.
- (2) In relation to an appeal under paragraph 35(1)(a)—
- (a) the specified date is the date on which the notice of amendment was issued, and
  - (b) the relevant officer of the Board is the officer by whom the notice of amendment was given.



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- (3) In relation to an appeal under paragraph 35(1)(b)—
- (a) the specified date is the date on which the closure notice was issued, and
  - (b) the relevant officer of the Board is the officer by whom the closure notice was given.
- (4) In relation to an appeal under paragraph 35(1)(c) or (d)—
- (a) the specified date is the date on which the notice of assessment was issued, and
  - (b) the relevant officer of the Board is the officer by whom the notice of assessment was given.
- [<sup>F325</sup>(4A) In relation to an appeal under paragraph 35(1)(e) —
- (a) the specified date is the date on which the Revenue determination was issued, and
  - (b) the relevant officer of the Board is the officer by whom the determination was made.]
- (5) The notice of appeal must specify the grounds of appeal.
- [<sup>F326</sup>(5A) The only grounds on which an appeal lies under paragraph 35(1)(e) are that—
- (a) the purchase to which the determination relates did not take place,
  - (b) the interest in the land to which the determination relates has not been purchased,
  - (c) the contract for the purchase of the interest to which the determination relates has not been substantially performed, or
  - (d) the land transaction is [<sup>F327</sup>not notifiable] (for example, because the land transaction is exempt from charge under Schedule 3).]
- <sup>F328</sup>(6) .....

#### Textual Amendments

- F325** Sch. 10 para. 36(4A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **5(3)(a)**
- F326** Sch. 10 para. 36(5A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **5(3)(b)**
- F327** Words in Sch. 10 para. 36(5A)(d) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 30 para. 7**
- F328** Sch. 10 para. 36(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 387**

*[<sup>F329</sup>Appeal: HMRC review or determination by tribunal*

#### Textual Amendments

- F329** Sch. 10 paras. 36A-36I and cross-headings inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 388**

36A (1) This paragraph applies if notice of appeal has been given to HMRC.



*Status: Point in time view as at 31/12/2020.*

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- (2) In such a case—
- (a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see paragraph 36B),
  - (b) HMRC may notify the appellant of an offer to review the matter in question (see paragraph 36C), or
  - (c) the appellant may notify the appeal to the tribunal (see paragraph 36D).
- (3) See paragraphs 36G and 36H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.
- (4) This paragraph does not prevent the matter in question from being dealt with in accordance with paragraph 37(1) (settling of appeals by agreement).

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

**C12** Sch. 10 paras. 36A-36I applied by The Stamp Duty Land Tax (Administration) Regulations 2003 (SI 2003/2837), reg. 20(3) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 116**)

*Appellant requires review by HMRC*

- 36B (1) Sub-paragraphs (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.
- (2) HMRC must, within the relevant period, notify the appellant of HMRC's view of the matter in question.
- (3) HMRC must review the matter in question in accordance with paragraph 36E.
- (4) The appellant may not notify HMRC that the appellant requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—
- (a) the appellant has already given a notification under this paragraph in relation to the matter in question,
  - (b) HMRC have given a notification under paragraph 36C in relation to the matter in question, or
  - (c) the appellant has notified the appeal to the tribunal under paragraph 36D.
- (5) In this paragraph “relevant period” means—
- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
  - (b) such longer period as is reasonable.

*HMRC offer review*

- 36C (1) Sub-paragraphs (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.
- (2) When HMRC notify the appellant of the offer, HMRC must also notify the appellant of HMRC's view of the matter in question.
- (3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with paragraph 36E.

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- (4) If the appellant does not give HMRC such a notification within the acceptance period, HMRC’s view of the matter in question is to be treated as if it were contained in an agreement in writing under paragraph 37(1) for the settlement of that matter.
- (5) The appellant may not give notice under paragraph 37(2) (desire to withdraw from agreement) in a case where sub-paragraph (4) applies.
- (6) Sub-paragraph (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under paragraph 36H.
- (7) HMRC may not notify the appellant of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—
  - (a) HMRC have already given a notification under this paragraph in relation to the matter in question,
  - (b) the appellant has given a notification under paragraph 36B in relation to the matter in question, or
  - (c) the appellant has notified the appeal to the tribunal under paragraph 36D.
- (8) In this paragraph “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

*Notifying appeal to the tribunal*

- 36D (1) This paragraph applies in a case where paragraph 36A applies.
- (2) The appellant may notify the appeal to the tribunal.
  - (3) If the appellant notifies the appeal to the tribunal, the tribunal is to decide the matter in question.
  - (4) Sub-paragraphs (2) and (3) do not apply in a case where—
    - (a) HMRC have given a notification of their view of the matter in question under paragraph 36B, or
    - (b) HMRC have given a notification under paragraph 36C in relation to the matter in question.
  - (5) In a case falling within sub-paragraph (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by paragraph 36G or 36H.

*Nature of review etc*

- 36E (1) This paragraph applies if HMRC are required by paragraph 36B or 36C to review the matter in question.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
  - (3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
    - (a) by HMRC in deciding the matter in question, and
    - (b) by any person in seeking to resolve disagreement about the matter in question.

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- (4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that HMRC’s view of the matter in question is to be—
  - (a) upheld,
  - (b) varied, or
  - (c) cancelled.
- (6) HMRC must notify the appellant of the conclusions of the review and their reasoning within—
  - (a) the period of 45 days beginning with the relevant day, or
  - (b) such other period as may be agreed.
- (7) In sub-paragraph (6) “relevant day” means—
  - (a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC’s view of the matter in question,
  - (b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant’s acceptance of the offer.
- (8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the period specified in sub-paragraph (6), the review is treated as having concluded that HMRC’s view of the matter in question (see paragraphs 36B(2) and 36C(2)) is upheld.
- (9) If sub-paragraph (8) applies, HMRC must notify the appellant of the conclusions which the review is treated as having reached.

*Effect of conclusions of review*

- 36F (1) This paragraph applies if HMRC give notice of the conclusions of a review (see paragraph 36E).
- (2) The conclusions are to be treated as if they were an agreement in writing under paragraph 37(1) for the settlement of the matter in question.
  - (3) The appellant may not give notice under paragraph 37(2) (desire to withdraw from agreement) in a case where sub-paragraph (2) applies.
  - (4) Sub-paragraph (2) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under paragraph 36G.

*Notifying appeal to tribunal after review concluded*

- 36G (1) This paragraph applies if—
- (a) HMRC have given notice of the conclusions of a review in accordance with paragraph 36E, or
  - (b) the period specified in paragraph 36E(6) has ended and HMRC have not given notice of the conclusions of the review.
- (2) The appellant may notify the appeal to the tribunal within the post-review period.
  - (3) If the post-review period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

*Status: Point in time view as at 31/12/2020.*

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- (4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.
- (5) In this paragraph “post-review period” means—
- (a) in a case falling with sub-paragraph (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 36E(6), or
  - (b) in a case falling within sub-paragraph (1)(b), the period that—
    - (i) begins with the day following the last day of the period specified in paragraph 36E(6), and
    - (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 36E(9).

*Notifying appeal to tribunal after review offered but not accepted*

- 36H (1) This paragraph applies if—
- (a) HMRC have offered to review the matter in question (see paragraph 36C), and
  - (b) the appellant has not accepted the offer.
- (2) The appellant may notify the appeal to the tribunal within the acceptance period.
- (3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.
- (4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.
- (5) In this paragraph “acceptance period” has the same meaning as in paragraph 36C.

*Other interpretation*

- 36I (1) In paragraphs 36A to 36H—
- (a) “matter in question” means the matter to which an appeal relates;
  - (b) a reference to a notification is a reference to a notification in writing.
- (2) In paragraphs 36A to 36H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—
- (a) notification of HMRC’s view under paragraph 36B(2),
  - (b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 36C,
  - (c) notification of the conclusions of a review under paragraph 36E(6), and
  - (d) notification of the conclusions of a review under paragraph 36E(9).
- (3) But if a notification falling within any of the sub-paragraphs of paragraph (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.]

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### *Settling of appeals by agreement*

- 37 (1) If, before an appeal under paragraph 35 is determined, the appellant and the Inland Revenue agree that the decision appealed against—
- (a) should be upheld without variation,
  - (b) should be varied in a particular manner, or
  - (c) should be discharged or cancelled,
- the same consequences shall follow, for all purposes, as would have followed if, at the time the agreement was come to, the [<sup>F330</sup>tribunal] had determined the appeal and had upheld the decision without variation, varied it in that manner or discharged or cancelled it, as the case may be.
- (2) Sub-paragraph (1) does not apply if, within 30 days from the date when the agreement was come to, the appellant gives notice in writing to the Inland Revenue that he wishes to withdraw from the agreement.
- (3) Where the agreement is not in writing—
- (a) sub-paragraphs (1) and (2) do not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the Inland Revenue to the appellant or by the appellant to the Inland Revenue, and
  - (b) the references in those provisions to the time when the agreement was come to shall be read as references to the time when the notice of confirmation was given.
- (4) Where—
- (a) the appellant notifies the Inland Revenue, orally or in writing, that he does not wish to proceed with the appeal, and
  - (b) the Inland Revenue do not, within 30 days after that notification, give the appellant notice in writing indicating that they are unwilling that the appeal should be withdrawn,
- the provisions of sub-paragraphs (1) to (3) have effect as if, at the date of the appellant's notification, the appellant and the Inland Revenue had come to an agreement (orally or in writing, as the case may be) that the decision under appeal should be upheld without variation.
- (5) References in this paragraph to an agreement being come to with an appellant, and to the giving of notice or notification by or to the appellant, include references to an agreement being come to, or notice or notification being given by or to, a person acting on behalf of the appellant in relation to the appeal.

#### **Textual Amendments**

**F330** Word in Sch. 10 para. 37(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 389](#)

### *Recovery of tax not postponed by appeal*

- 38 (1) Where there is an appeal <sup>F331</sup>... under paragraph 35, the tax charged by the amendment or assessment in question remains due and payable as if there had been no appeal.
- (2) Sub-paragraph (1) is subject to—

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paragraph 39 (direction by [<sup>F332</sup>the tribunal] postponing payment), and  
 paragraph 40 (agreement to postpone payment).

**Textual Amendments**

**F331** Words in Sch. 10 para. 38(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 390(2)**

**F332** Words in Sch. 10 para. 38(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 390(3)**

*Direction by [<sup>F333</sup>the tribunal] to postpone payment*

**Textual Amendments**

**F333** Words in Sch. 10 para. 39 cross-heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(2)**

39<sup>F334</sup>(1) If the appellant has grounds for believing that the amendment or assessment overcharges the appellant to tax, or as a result of the conclusion stated in the closure notice the tax charged on the appellant is excessive, the appellant may—

- (a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;
- (b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC’s decision on the amount to be postponed.

An application under sub-paragraph (a) must state the amount believed to be overcharged to tax and the grounds for that belief.]

<sup>F335</sup>(2) .....

(3) An application may be made more than 30 days after the specified date if there is a change in the circumstances of the case as a result of which the appellant has grounds for believing that he is overcharged to tax by the decision appealed against.

(4) If, after any determination on such an application of the amount of tax the payment of which should be postponed, there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, he may, [<sup>F336</sup>if the parties cannot agree on a revised determination, apply, at any time before the determination of the appeal, to the tribunal for a revised] determination of that amount.

[<sup>F337</sup>(5) An application under this paragraph is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).]

(6) The amount of tax of which payment is to be postponed pending the determination of the appeal is the amount (if any) by which it appears <sup>F338</sup>..., that there are reasonable grounds for believing that the appellant is overcharged.

(7) Where an application is made under this paragraph, the date on which any tax of which payment is not postponed is due and payable shall be determined as if the tax

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were charged by an amendment or assessment of which notice was issued on the date on which the application was determined and against which there was no appeal.

- (8) On the determination of the appeal—
- (a) the date on which any tax payable in accordance with that determination is due and payable shall, so far as it is tax the payment of which had been postponed, or which would not have been charged by the amendment or assessment if there had been no appeal, be determined as if the tax were charged by an amendment or assessment—
    - (i) of which notice was issued on the date on which [<sup>F339</sup>HMRC] issues to the appellant a notice of the total amount payable in accordance with the determination, and
    - (ii) against which there had been no appeal, and
  - (b) any tax overpaid shall be repaid.
- [<sup>F340</sup>(9) Sub-paragraphs (10) and (11) apply where a person has been given an accelerated payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn.
- (10) Nothing in this paragraph enables the postponement of the payment of (as the case may be)—
- (a) the understated tax to which the payment specified in the notice under section 220(2)(b) of that Act relates, or
  - (b) the disputed tax specified in the notice under section 221(2)(b) of that Act.
- (11) Accordingly, if the payment of an amount of tax within sub-paragraph (10)(b) is postponed by virtue of this paragraph immediately before the accelerated payment notice is given, it ceases to be so postponed with effect from the time that notice is given, and the tax is due and payable—
- (a) if no representations were made under section 222 of that Act in respect of the notice, on or before the last day of the period of 90 days beginning with the day the notice is given, and
  - (b) if representations were so made, on or before whichever is later of—
    - (i) the last day of the 90 day period mentioned in paragraph (a), and
    - (ii) the last day of the period of 30 days beginning with the day on which HMRC's determination in respect of those representations is notified under section 222 of that Act.]

#### Textual Amendments

- F334** Sch. 10 para. 39(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(3)**
- F335** Sch. 10 para. 39(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(4)**
- F336** Words in Sch. 10 para. 39(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(5)**
- F337** Sch. 10 para. 39(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(6)**
- F338** Words in Sch. 10 para. 39(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(7)**
- F339** Word in Sch. 10 para. 39(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(8)**

*Status: Point in time view as at 31/12/2020.*

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**F340** Sch. 10 para. 39(9)-(11) inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 224(3)

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

**C13** Sch. 10 para. 39(11) modified (17.7.2014) by Finance Act 2014 (c. 26), s. 227(9)(c)

*Agreement to postpone payment of tax*

- 40 (1) If the appellant and the relevant officer of the Board agree that payment of an amount of tax should be postponed pending the determination of the appeal, the same consequences shall follow, for all purposes, as would have followed if, at the time the agreement was come to, the [<sup>F341</sup>tribunal] had made a direction to the same effect.

This is without prejudice to the making of a further agreement or of a further direction.

- (2) Where the agreement is not in writing—

- (a) sub-paragraph (1) does not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the relevant officer of the Board to the appellant or by the appellant to that officer, and
- (b) the reference in that provision to the time when the agreement was come to shall be read as a reference to the time when notice of confirmation was given.

- (3) References in this paragraph to an agreement being come to with an appellant, and to the giving of notice to or by the appellant, include references to an agreement being come to, or notice being given to or by, a person acting on behalf of the appellant in relation to the appeal.

[<sup>F342</sup>(4) Sub-paragraphs (9) to (11) of paragraph 39 apply for the purposes of this paragraph as they apply for the purposes of paragraph 39.]

**Textual Amendments**

**F341** Word in Sch. 10 para. 40(1) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 392

**F342** Sch. 10 para. 40(4) inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 224(4)

*[<sup>F343</sup>Tribunal determinations*

**Textual Amendments**

**F343** Sch. 10 paras. 41-46 and cross-headings inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 393

- 41 The determination of the tribunal in relation to any proceedings under the enactments relating to stamp duty land tax shall be final and conclusive except as otherwise provided in—

- (a) sections 9 to 14 of the Tribunals, Courts and Enforcement Act 2007,
- (b) the Taxes Management Act 1970 applied as modified, or
- (c) the enactments relating to stamp duty land tax.



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### *Assessments and self assessments*

- 42 (1) In this paragraph any reference to an appeal means an appeal under paragraphs 33(4) or 35(1).
- (2) If, on an appeal notified to the tribunal, the tribunal decides—
- (a) that the appellant is overcharged by a self-assessment; or
  - (b) that the appellant is overcharged by an assessment other than a self-assessment,
- the assessment shall be reduced accordingly, but otherwise the assessment shall stand good.
- (3) If, on appeal it appears to the tribunal—
- (a) that the appellant is undercharged to stamp duty land tax by a self-assessment; or
  - (b) that the appellant is undercharged by an assessment other than a self-assessment,
- the assessment shall be increased accordingly.
- (4) Where, on an appeal against an assessment other than a self-assessment which—
- (a) assesses an amount which is chargeable to stamp duty land tax, and
  - (b) charges stamp duty land tax on the amount assessed,
- it appears to the tribunal as mentioned in sub-paragraphs (2) or (3), it may, unless the circumstances of the case otherwise require, reduce or increase only the amount assessed; and where an appeal is so determined the stamp duty land tax charged by that assessment shall be taken to have been reduced or increased accordingly.

### *Payment of stamp duty land tax where there is a further appeal*

- 43 (1) Where a party to an appeal to the tribunal under paragraph 35 makes a further appeal, notwithstanding that the further appeal is pending, stamp duty land tax shall nevertheless be payable or repayable in accordance with the determination of the tribunal or court as the case may be.
- (2) But if the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court—
- (a) if too much stamp duty land tax has been paid, the amount overpaid shall be refunded with such interest, if any, as may be allowed by that order or judgment; and
  - (b) if too little stamp duty land tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment.
- [ Sub-paragraph (4) applies where—
- <sup>F344</sup>(3) (a) an accelerated payment notice has been given to a party to the appeal under Chapter 3 of Part 4 of the Finance Act 2014 (and not withdrawn), and
- (b) the assessment to which the appeal relates has effect, or partly has effect, to counteract the whole or part of the asserted advantage (within the meaning of section 219(3) of that Act) by reason of which the notice was given.
- (4) If, on the application of HMRC, the relevant court or tribunal considers it necessary for the protection of the revenue, it may direct that sub-paragraph (1) does not apply

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so far as the stamp duty land tax relates to the counteraction of the whole or part of the asserted advantage, and—

- (a) give permission to withhold all or part of any repayment, or
- (b) require the provision of adequate security before repayment is made.

- (5) “Relevant court or tribunal” means the tribunal or court from which permission or leave to appeal is sought.]

#### **Textual Amendments**

**F344** Sch. 10 para. 43(3)-(5) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. 225(2)

#### *Late notice of appeal*

- 44 (1) This paragraph applies in a case where—
- (a) notice of appeal may be given to HMRC under this Schedule or any other provision of Part 4 of this Act, but
  - (b) no notice is given before the relevant time limit.
- (2) Notice may be given after the relevant time limit if—
- (a) HMRC agree, or
  - (b) where HMRC do not agree, the tribunal gives permission.
- (3) If the following conditions are met, HMRC shall agree to notice being given after the relevant time limit.
- (4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.
- (5) Condition B is that HMRC are satisfied that there was reasonable excuse for not giving the notice before the relevant time limit.
- (6) Condition C is that HMRC are satisfied that request under sub-paragraph (4) was made without unreasonable delay after the reasonable excuse ceased.
- (7) If a request of the kind referred to in sub-paragraph (4) is made, HMRC must notify the appellant whether or not HMRC agree to the appellant giving notice of appeal after the relevant time limit.
- (8) In this paragraph “relevant time limit”, in relation to notice of appeal, means the time before which the notice is to be given (but for this paragraph).

*Questions to be determined by the relevant <sup>F345</sup>tribunal]*

#### **Textual Amendments**

**F345** Word in Sch. 10 para. 45 cross-heading substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), [Sch. 1 para. 270\(a\)](#) (with Sch. 5)

*Status: Point in time view as at 31/12/2020.*

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- 45 (1) Where the question in any dispute on any appeal under [<sup>F346</sup>paragraph] 35(1) is a question of the market value of the subject matter of the land transaction that question shall be determined on a reference by the relevant [<sup>F347</sup>tribunal].
- (2) In this [<sup>F348</sup>paragraph “the relevant tribunal”] means—
- (a) where the land is in England <sup>F349</sup>... , the [<sup>F350</sup>Upper Tribunal];
  - <sup>F351</sup>(b) .....
  - (c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland.

#### Textual Amendments

- F346** Word in Sch. 10 para. 45(1) substituted (with effect in accordance with s. 28(2) of the amending Act) by virtue of Finance (No. 3) Act 2010 (c. 33), **Sch. 12 para. 4(3)**
- F347** Word in Sch. 10 para. 45(1) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), Sch. 1 para. 270(a) (with Sch. 5)
- F348** Words in Sch. 10 para. 45(2) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), **Sch. 1 para. 270(b)(i)** (with Sch. 5)
- F349** Words in Sch. 10 para. 45(2)(a) omitted (1.4.2018 with effect in accordance with s. 16(4)(5) of the amending Act) by virtue of Wales Act 2014 (c. 29), s. 29(2)(b)(3), **Sch. 2 para. 12**; S.I. 2018/214, art. 2(a)
- F350** Words in Sch. 10 para. 45(2)(a) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), **Sch. 1 para. 270(b)(ii)** (with Sch. 5)
- F351** Sch. 10 para. 45(2)(b) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of Scotland Act 2012 (c. 11), s. 44(2)(b)(3)(b), **Sch. 3 para. 25(3)** (with s. 29(5)(6)); S.I. 2015/637, art. 2

#### Meaning of HMRC

- 46 In this Schedule “HMRC” means Her Majesty’s Revenue and Customs.]

### SCHEDULE 11

Section 79

STAMP DUTY LAND TAX: [<sup>F352</sup>RECORD-KEEPING WHERE TRANSACTION IS NOT NOTIFIABLE]

#### Textual Amendments

- F352** Words in Sch. 11 heading substituted (with effect in accordance with s. 94(5) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 30 para. 11**

*Status: Point in time view as at 31/12/2020.*

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**F353 PART 1**

GENERAL

**Textual Amendments**

**F353** Sch. 11 Pt. 1 omitted (with effect in accordance with s. 94(5) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 8](#)

*Introductory*

.....

*Form and contents of self-certificate*

.....

*Declaration by agent*

**F353** 2A .....

*Declaration by the relevant Official Solicitor*

**F353** 2B .....

*Tax-related penalty for fraud or negligence*

.....

**PART 2**

DUTY TO KEEP AND PRESERVE RECORDS

*Duty to keep and preserve records*

**4**<sup>F354</sup>(A1) This paragraph applies where a transaction is not notifiable, unless the transaction is a transaction treated as taking place under a provision listed in section 79(2)(a) to (d).]

- (1) [<sup>F355</sup>The purchaser] must—
  - (a) keep such records as may be needed to enable him [<sup>F356</sup>to demonstrate that the transaction is not notifiable], and
  - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved [<sup>F357</sup>until the end of—
  - (a) the sixth anniversary of the effective date of the transaction, or
  - (b) such earlier day as may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs (and different days may be specified for different cases).]
- (3) The records required to be kept and preserved under this paragraph include—
  - (a) relevant instruments relating to the transaction, in particular, any contract or conveyance, and any supporting maps, plans or similar documents;

*Status: Point in time view as at 31/12/2020.*

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- (b) records of relevant payments, receipts and financial arrangements.
- [<sup>F358</sup>(4) The Commissioners for Her Majesty's Revenue and Customs may by regulations—
- (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
  - (b) provide that those records include supporting documents so specified.
- (5) Regulations under this paragraph may make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).
- (6) “Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.]

#### Textual Amendments

- F354** Sch. 11 para. 4(A1) inserted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 9\(2\)](#)
- F355** Words in Sch. 11 para. 4(1) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 9\(3\)\(a\)](#)
- F356** Words in Sch. 11 para. 4(1)(a) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 9\(3\)\(b\)](#)
- F357** Words in Sch. 11 para. 4(2) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 98(2), [Sch. 50 para. 9\(2\)](#); S.I. 2010/815, art. 2
- F358** Sch. 11 para. 4(4)-(6) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 98(2), [Sch. 50 para. 9\(3\)](#); S.I. 2010/815, art. 2

#### *Preservation of information [<sup>F359</sup> etc]*

#### Textual Amendments

- F359** Word in Sch. 11 para. 5 cross-heading substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 98(2), [Sch. 50 para. 11](#); S.I. 2010/815, art. 2

- [<sup>F360</sup>5 The duty under paragraph 4 to preserve records may be satisfied—
- (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means,
- subject to any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.]

#### Textual Amendments

- F360** Sch. 11 para. 5 substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 98(2), [Sch. 50 para. 10](#); S.I. 2010/815, art. 2

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*Penalty for failure to keep and preserve records*

- 6 (1) A person who fails to comply with paragraph 4 in relation to a transaction is liable to a penalty not exceeding £3,000, subject to the following exception.
- (2) No penalty is incurred if the Inland Revenue are satisfied that any facts that they reasonably require to be proved, and that would have been proved by the records, are proved by other documentary evidence provided to them.

<sup>F361</sup>**PART 3**

ENQUIRY INTO SELF-CERTIFICATE

.....

**Textual Amendments**

**F361** Sch. 11 Pt. 3 omitted (with effect in accordance with s. 94(5) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 10](#)

<sup>F362</sup>**SCHEDULE 11A**

Section 82A

STAMP DUTY LAND TAX: CLAIMS NOT INCLUDED IN RETURNS

**Textual Amendments**

**F362** Sch. 11A inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 40](#)

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

**C14** Sch. 11A applied (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 210\(6\)\(e\)](#)

**C15** Sch. 11A applied (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 33 para. 28\(2\)](#)

**C16** Sch. 11A applied (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 33 para. 31\(3\)](#)

*Introductory*

- 1 This Schedule applies to a claim under any provision of this Part other than a claim that is required to be made in, or by amendment to, a return under this Part. References in this Schedule to a claim shall be read accordingly.

*Making of claims*

- 2 (1) A claim must be made in such form as the Inland Revenue may determine.
- (2) The form of claim must provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the claimant's information and belief.
- (3) The form of claim may require—
- (a) a statement of the amount of tax that will be required to be discharged or repaid in order to give effect to the claim;

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- (b) such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct;
  - (c) the delivery with the claim of such statements and documents, relating to the information contained in the claim, as are reasonably required for the purpose mentioned in paragraph (b).
- (4) A claim for repayment of tax may not be made unless the claimant has documentary evidence that the tax has been paid.

*Duty to keep and preserve records*

- 3 (1) A person who may wish to make a claim must—
- (a) keep such records as may be needed to enable him to make a correct and complete claim, and
  - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved until the latest of the following times—
- (a) the end of the period of twelve months beginning with day on which the claim was made;
  - (b) where there is an enquiry into the claim, or into an amendment of the claim, the time when the enquiry is completed;
  - (c) where the claim is amended and there is there is no enquiry into the amendment, the time when the Inland Revenue no longer have power to enquire into the amendment.

F363 (3) .....

F363 (4) .....

- [ The Commissioners for Her Majesty's Revenue and Customs may by regulations—
- F364 (4A) (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
- (b) provide that those records include supporting documents so specified.
- (4B) Regulations under this paragraph may make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).
- (4C) Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.]
- (5) A person who fails to comply with this paragraph in relation to a claim that he makes is liable to a penalty not exceeding £3,000, subject to the following exception.
- (6) No penalty is incurred if the Inland Revenue are satisfied that any facts that they reasonably require to be proved, and that would have been proved by the records, are proved by other documentary evidence provided to them.

**Textual Amendments**

**F363** Sch. 11A para. 3(3)(4) omitted (1.4.2010) by virtue of [Finance Act 2009 \(c. 10\)](#), s. 98(2), [Sch. 50 para. 13\(2\)](#); [S.I. 2010/815](#), art. 2

*Status: Point in time view as at 31/12/2020.*

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**F364** Sch. 11A para. 3(4A)-(4C) inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 98(2), **Sch. 50 para. 13(3)**; S.I. 2010/815, art. 2

*f<sup>F365</sup> Preservation of information etc*

**Textual Amendments**

**F365** Sch. 11A para. 3A and cross-heading inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 98(2), **Sch. 50 para. 14**; S.I. 2010/815, art. 2

- 3A The duty under paragraph 3 to preserve records may be satisfied—
- (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means,
- subject to any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.]

*Amendment of claim by claimant*

- 4 (1) The claimant may amend his claim by notice to the Inland Revenue.
- (2) No such amendment may be made—
- (a) more than twelve months after the day on which the claim was made, or
  - (b) if the Inland Revenue give notice under paragraph 7 (notice of enquiry), during the period—
    - (i) beginning with the day on which notice is given, and
    - (ii) ending with the day on which the enquiry under that paragraph is completed.

*Correction of claim by Revenue*

- 5 (1) The Inland Revenue may by notice to the claimant amend a claim so as to correct obvious errors or omissions in the claim (whether errors of principle, arithmetical mistakes or otherwise).
- (2) No such correction may be made—
- (a) more than nine months after the day on which the claim was made, or
  - (b) if the Inland Revenue give notice under paragraph 7 (notice of enquiry), during the period—
    - (i) beginning with the day on which notice is given, and
    - (ii) ending with the day on which the enquiry under that paragraph is completed.
- (3) A correction under this paragraph is of no effect if, within three months from the date of issue of the notice of correction, the claimant gives notice rejecting the correction.
- (4) Notice under sub-paragraph (3) must be given to the officer of the Board by whom the notice of correction was given.



*Status: Point in time view as at 31/12/2020.*

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*Giving effect to claims and amendments*

- 6 (1) As soon as practicable after a claim is made, or is amended under paragraph 4 or 5, the Inland Revenue shall give effect to the claim or amendment by discharge or repayment of tax.
- (2) Where the Inland Revenue enquire into a claim or amendment—
- (a) sub-paragraph (1) does not apply until a closure notice is given under paragraph 11 (completion of enquiry), and then it applies subject to paragraph 13 (giving effect to amendments under paragraph 11), but
  - (b) the Inland Revenue may at any time before then give effect to the claim or amendment, on a provisional basis, to such extent as they think fit.

*Notice of enquiry*

- 7 (1) The Inland Revenue may enquire into a person’s claim or amendment of a claim if they give him notice of their intention to do so (“notice of enquiry”) before the end of the period of nine months after the day on which the claim or amendment was made.
- (2) A claim or amendment that has been the subject of one notice of enquiry may not be the subject of another.

*Notice to produce documents etc for purposes of enquiry*

F3668 .....

**Textual Amendments**

**F366** Sch. 11A paras. 8-10 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(5)** (with art. 7(3))

*Appeal against notice to produce documents etc*

F3669 .....

**Textual Amendments**

**F366** Sch. 11A paras. 8-10 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(5)** (with art. 7(3))

*Penalty for failure to produce documents etc*

F36610 .....

**Textual Amendments**

**F366** Sch. 11A paras. 8-10 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(5)** (with art. 7(3))

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### *Completion of enquiry*

- 11 (1) An enquiry under paragraph 7 is completed when the Inland Revenue by notice (a “closure notice”) inform the purchaser that they have completed their enquiries and state their conclusions.
- (2) A closure notice must either—
- (a) state that in the opinion of the Inland Revenue no amendment of the claim is required, or
  - (b) if in the Inland Revenue’s opinion the claim is insufficient or excessive, amend the claim so as to make good or eliminate the deficiency or excess.
- In the case of an enquiry into an amendment of a claim, paragraph (b) applies only so far as the deficiency or excess is attributable to the amendment.
- (3) A closure notice takes effect when it is issued.

### *Direction to complete enquiry*

- 12 (1) The claimant may apply to the [<sup>F367</sup>tribunal] for a direction that the Inland Revenue give a closure notice within a specified period.
- [<sup>F368</sup>(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).]
- (3) The [<sup>F369</sup>tribunal] shall give a direction unless <sup>F370</sup>... satisfied that the Inland Revenue have reasonable grounds for not giving a closure notice within a specified period.

#### **Textual Amendments**

- F367** Word in Sch. 11A para. 12(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), Sch. 1 para. 398(2)
- F368** Sch. 11A para. 12(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 398(3)**
- F369** Word in Sch. 11A para. 12(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), Sch. 1 para. 398(4)(a)
- F370** Words in Sch. 11A para. 12(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), Sch. 1 para. 398(4)(b)

### *Giving effect to amendments under paragraph 11*

- 13 (1) Within 30 days after the date of issue of a notice under paragraph 11(2)(b) (closure notice that amends claim), the Inland Revenue shall give effect to the amendment by making such adjustment as may be necessary, whether—
- (a) by way of assessment on the claimant, or
  - (b) by discharge or repayment of tax.
- (2) An assessment made under sub-paragraph (1) is not out of time if it is made within the time mentioned in that sub-paragraph.

### *Appeals against amendments under paragraph 11*

- 14 (1) An appeal may be brought against a conclusion stated or amendment made by a closure notice.

*Status: Point in time view as at 31/12/2020.*

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- (2) Notice of the appeal must be given—
- (a) in writing,
  - (b) within 30 days after the date on which the closure notice was issued,
  - (c) to the officer of the Board by whom the closure notice was given.
- (3) The notice of appeal must specify the grounds of appeal.
- <sup>F371</sup>(4) . . . . .
- (5) [<sup>F372</sup>Paragraphs 36A to 37 [<sup>F373</sup>, 44 and 45]] of Schedule 10 <sup>F374</sup>... applies in relation to an appeal under this paragraph as [<sup>F375</sup>they apply] in relation to an appeal under paragraph 35 of that Schedule.
- (6) On an appeal against an amendment made by a closure notice, the [<sup>F376</sup>tribunal] may vary the amendment appealed against whether or not the variation is to the advantage of the appellant.
- (7) Where any such amendment is varied, whether by the [<sup>F376</sup>tribunal] or by the order of a court, paragraph 13 (giving effect to amendments under paragraph 11) applies (with the necessary modifications) in relation to the variation as it applied in relation to the amendment.

**Textual Amendments**

- F371** Sch. 11A para. 14(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 399(2)**
- F372** Words in Sch. 11A para. 14(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), Sch. 1 para. 399(3)(a)
- F373** Words in Sch. 11A para. 14(5) substituted (with effect in accordance with s. 28(2) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 12 para. 5(a)**
- F374** Words in Sch. 11A para. 14(5) omitted (with effect in accordance with s. 28(2) of the amending Act) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 12 para. 5(b)**
- F375** Words in Sch. 11A para. 14(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), Sch. 1 para. 399(3)(b)
- F376** Word in Sch. 11A para. 14(6)(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), Sch. 1 para. 399(4)

*Jurisdiction of Commissioners*

<sup>F377</sup>15 . . . . .]

**Textual Amendments**

- F377** Sch. 11A para. 15 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 400**

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

## SCHEDULE 12

Section 91

### STAMP DUTY LAND TAX: COLLECTION AND RECOVERY OF TAX

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

**C17** Sch. 12 applied (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), s. 165

#### PART 1

#### GENERAL

##### *Issue of tax demands and receipts*

- 1 (1) Where tax is due and payable, a collector may make demand of the sum charged from the person liable to pay it.
- (2) On payment of the tax, the collector shall if so requested give a receipt.

##### *Recovery of tax by distraint*

- 2 (1) In <sup>F378</sup>... Northern Ireland, if a person neglects or refuses to pay the sum charged, upon demand made by the collector, the collector may distrain upon the goods and chattels of the person charged (“the person in default”).
- (2) For the purposes of levying such distress a justice of the peace, on being satisfied by information on oath that there is reasonable ground for believing that a person is neglecting or refusing to pay a sum charged, may issue a warrant in writing authorising a collector to break open, in the daytime, any house or premises, calling to his assistance any constable.
- Every such constable shall, when so required, assist the collector in the execution of the warrant and in levying such distress in the house or premises.
- (3) A levy or warrant to break open must be executed by, or under the direction of, and in the presence of, the collector.
- (4) A distress levied by the collector shall be kept for five days, at the costs and charges of the person in default.
- (5) If the person in default does not pay the sum due, together with the costs and charges, the distress shall be appraised by one or more independent persons appointed by the collector, and shall be sold by public auction by the collector for payment of the sum due and all costs and charges.

Any surplus resulting from the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

- (6) The Treasury may by regulations make provision with respect to—
- (a) the fees chargeable on or in connection with the levying of distress, and
  - (b) the costs and charges recoverable where distress has been levied.

*Status: Point in time view as at 31/12/2020.*

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**Textual Amendments**

**F378** Words in Sch. 12 para. 2(1) omitted (6.4.2014) by virtue of Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 13 para. 147(3) (with s. 89); S.I. 2014/768, art. 2(1)(b)

*Recovery of tax by diligence in Scotland*

F379<sup>3</sup> .....

**Textual Amendments**

**F379** Sch. 12 para. 3 omitted (23.11.2009) by virtue of Finance Act 2008 (c. 9), s. 129(4), Sch. 43 para. 16; S.I. 2009/3024, art. 3 (with art. 4)

**PART 2**

COURT PROCEEDINGS

*Civil proceedings in magistrates' court or court of summary jurisdiction*

- 4 (1) An amount not exceeding £2,000 due and payable by way of tax is in England and Wales or Northern Ireland recoverable summarily as a civil debt in proceedings brought in the name of the collector.
- (2) All or any of the sums recoverable under this paragraph that are—
- (a) due from any one person, and
  - (b) payable to any one collector,
- may be included in the same complaint, summons or other document required to be laid before or issued by justices.
- Each such document shall, as respects each such sum, be construed as a separate document and its invalidity as respects any one such sum does not affect its validity as respects any other such sum.
- (3) Proceedings under this paragraph in England and Wales may be brought at any time within one year from the time when the matter complained of arose.
- (4) In sub-paragraph (1) the expression “recoverable summarily as a civil debt” in relation to proceedings in Northern Ireland means recoverable by proceedings under Article 62 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (5) The Treasury may by order increase the sum specified in sub-paragraph (1).

*Proceedings in county court or sheriff court*

- 5 (1) Tax due and payable may be sued for and recovered from the person charged as a debt due to the Crown by proceedings<sup>F380</sup> ...—
- (a) in [F381the county court], or
  - (b) in a sheriff court.

*Status: Point in time view as at 31/12/2020.*

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F382 (2) .....

(3) In Northern Ireland—

- (a) the reference in sub-paragraph (1) to [F383 the county court] is to a county court held for a division under the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3));
- (b) proceedings may not be brought under this paragraph if the amount exceeds the limit specified in Article 10(1) of that Order;
- (c) Part III of that Order (general civil jurisdiction) applies for the purposes of this paragraph; and
- (d) sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) apply as if any reference in those provisions to an enactment included this paragraph.

**Textual Amendments**

**F380** Words in Sch. 12 para. 5(1) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), s. 137\(6\)\(a\)](#) (with s. 137(7))

**F381** Words in Sch. 12 para. 5(1)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52; S.I. 2014/954, art. 2\(c\)](#) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F382** Sch. 12 para. 5(2) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), s. 137\(6\)\(b\)](#) (with s. 137(7))

**F383** Words in Sch. 12 para. 5(3)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52; S.I. 2014/954, art. 2\(c\)](#) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

*Proceedings in High Court or Court of Session*

- 6 Tax may be sued for and recovered from the person charged—
- (a) as a debt due to the Crown, or
  - (b) by any other means by which a debt of record or otherwise due to the Crown may be sued for and recovered,
- by proceedings in the High Court or, in Scotland, in the Court of Session sitting as the Court of Exchequer.

F384 ...

**Textual Amendments**

**F384** Sch. 12 para. 7 and cross-heading omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), Sch. 44 para. 10](#)

F3847 .....

*Status: Point in time view as at 31/12/2020.*

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## SCHEDULE 13

Section 93

### STAMP DUTY LAND TAX: INFORMATION POWERS

#### PART 1

#### POWER OF AUTHORISED OFFICER TO CALL FOR DOCUMENTS OR INFORMATION FROM TAXPAYER

##### *Notice requiring taxpayer to deliver documents or provide information*

F385<sub>1</sub> .....

##### **Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(6)(a)** (with art. 7(4))

##### *Requirement of consent of the tribunal*

F385<sub>2</sub> .....

##### **Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(6)(a)** (with art. 7(4))

##### *Contents of notice under this Part*

F385<sub>3</sub> .....

##### **Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(6)(a)** (with art. 7(4))

##### *Summary of reasons to be given*

F385<sub>4</sub> .....

##### **Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(6)(a)** (with art. 7(4))

*Status: Point in time view as at 31/12/2020.*

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*Power to take copies of documents etc*

F385<sub>5</sub> .....

**Textual Amendments**  
F385 Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

**PART 2**

**POWER OF AUTHORISED OFFICER TO CALL FOR DOCUMENTS FROM THIRD PARTY**

*Notice requiring documents to be delivered or made available*

F385<sub>6</sub> .....

**Textual Amendments**  
F385 Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

*Requirement of consent of the tribunal*

F385<sub>7</sub> .....

**Textual Amendments**  
F385 Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

*Contents of notice under paragraph 6*

F385<sub>8</sub> .....

**Textual Amendments**  
F385 Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

*Copy of notice to be given to taxpayer*

F385<sub>9</sub> .....



*Status: Point in time view as at 31/12/2020.*

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**Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

*Summary of reasons to be given*

**F385** 10 .....

**Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

*Power to give notice relating to unnamed taxpayer or taxpayers*

**F385** 11 .....

**Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

*Contents of notice under paragraph 11*

**F385** 12 .....

**Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

*Power to take copies of documents etc*

**F385** 13 .....

**Textual Amendments**

**F385** Sch. 13 paras. 1-13 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#) (with art. 7(4))

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**F386** PART 3

POWER TO CALL FOR PAPERS OF TAX ACCOUNTANT

**Textual Amendments**

**F386** Sch. 13 Pt. 3 omitted (1.4.2013) by virtue of Finance Act 2012 (c. 14), s. 223, **Sch. 38 para. 58(4)(a)** (with Sch. 38 para. 43); S.I. 2013/279, art. 2

**F387** PART 4

RESTRICTIONS ON POWERS UNDER PARTS 1 TO 3

**Textual Amendments**

**F387** Sch. 13 Pt. 4 omitted (1.4.2013) by virtue of Finance Act 2012 (c. 14), s. 223, **Sch. 38 para. 58(4)(a)** (with Sch. 38 para. 43); S.I. 2013/279, art. 2

**PART 5**

POWERS OF BOARD TO CALL FOR DOCUMENTS OR INFORMATION

*Notice requiring delivery of documents or provision of information*

**F388**<sup>28</sup> .....

**Textual Amendments**

**F388** Sch. 13 paras. 26-31 omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 1, **Sch. para. 11(6)(a)**

*Contents of notice*

**F388**<sup>29</sup> .....

**Textual Amendments**

**F388** Sch. 13 paras. 26-31 omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 1, **Sch. para. 11(6)(a)**

*Power to take copies of documents etc*

**F388**<sup>30</sup> .....

*Status: Point in time view as at 31/12/2020.*

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**Textual Amendments**

**F388** Sch. 13 paras. 26-31 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#)

*Exclusion of personal records or journalistic material*

**F388** 31 .....

**Textual Amendments**

**F388** Sch. 13 paras. 26-31 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(6\)\(a\)](#)

**PART 6**

ORDER OF JUDICIAL AUTHORITY FOR THE DELIVERY OF DOCUMENTS

*Order for the delivery of documents*

- 32 (1) The appropriate judicial authority may make an order under this paragraph if satisfied on information on oath given by an authorised officer of the Board—
- (a) that there is reasonable ground for suspecting that an offence involving serious fraud in connection with, or in relation to, stamp duty land tax has been or is about to be committed, and
  - (b) that documents that may be required as evidence for the purposes of any proceedings in respect of such an offence are or may be in the power or possession of any person.
- (2) An order under this paragraph is an order requiring the person who appears to the authority to have in his possession or power the documents specified or described in the order to deliver them to an officer of the Board within—
- (a) ten working days after the day on which notice of the order is served on him, or
  - (b) such shorter or longer period as may be specified in the order.
- For this purpose a “working day” means any day other than a Saturday, Sunday or public holiday.
- (3) The appropriate judicial authority is—
- (a) in England and Wales, a circuit judge;
  - (b) in Scotland, a sheriff;
  - (c) in Northern Ireland, a county court judge.
- (4) Where in Scotland the information relates to persons residing or having places of business at addresses situated in different sheriffdoms—
- (a) an application for an order may be made to the sheriff for the sheriffdom in which any of the addresses is situated, and

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- (b) where the sheriff makes an order in respect of a person residing or having a place of business in his own sheriffdom, he may also make orders in respect of all or any of the other persons to whom the information relates (whether or not they have an address within the sheriffdom).
- (5) In sub-paragraph (1) an “authorised officer of the Board” means an officer of the Board authorised by the Board for the purposes of this Part of this Schedule.
- (6) The Inland Revenue may make provision by regulations as to—
  - (a) the procedures for approving in any particular case the decision to apply for an order under this Part of this Schedule, and
  - (b) the descriptions of officer by whom such approval may be given.

*Notice of application for order*

- 33 (1) A person is entitled—
  - (a) to notice of the intention to apply for an order against him under paragraph 32, and
  - (b) to appear and be heard at the hearing of the application,
 unless the appropriate judicial authority is satisfied that this would seriously prejudice the investigation of the offence.
- (2) The Inland Revenue may make provision by regulations as to the notice to be given, the contents of the notice and the manner of giving it.

*Obligations of person given notice of application*

- 34 (1) A person who has been given notice of intention to apply for an order under paragraph 32 must not—
  - (a) conceal, destroy, alter or dispose of any document to which the application relates, or
  - (b) disclose to any other person information or any other matter likely to prejudice the investigation of the offence to which the application relates.

This is subject to the following qualifications.

- (2) Sub-paragraph (1)(a) does not prevent anything being done—
  - (a) with the leave of the appropriate judicial authority,
  - (b) with the written permission of an officer of the Board,
  - (c) after the application has been dismissed or abandoned, or
  - (d) after any order made on the application has been complied with.
- (3) Sub-paragraph (1)(b) does not prevent a professional legal adviser from disclosing any information or other matter—
  - (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client, or
  - (b) to any person—
    - (i) in contemplation of, or in connection with, legal proceedings, and
    - (ii) for the purposes of those proceedings.

This sub-paragraph does not apply in relation to any information or other matter that is disclosed with a view to furthering a criminal purpose.

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- (4) A person who fails to comply with the obligation in sub-paragraph (1)(a) or (b) may be dealt with as if he had failed to comply with an order under paragraph 32.

*Exception of items subject to legal privilege*

- 35 (1) This Part of this Schedule does not apply to items subject to legal privilege.
- (2) Items “subject to legal privilege” means—
- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
  - (b) communications between a professional legal adviser and his client or any person representing his client, or between such an adviser or his client or any such representative and any other person, made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings;
  - (c) items enclosed with or referred to in such communications and made—
    - (i) in connection with the giving of legal advice, or
    - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,when they are in possession of a person entitled to possession of them.
- (3) Items held with the intention of furthering a criminal purpose are not subject to legal privilege.

*Resolution of disputes as to legal privilege*

- 36 (1) The Inland Revenue may make provision by regulations for the purposes of this Part of this Schedule for the resolution of disputes as to whether a document, or part of a document, is an item subject to legal privilege.
- (2) The regulations may, in particular, make provision as to—
- (a) the custody of the document whilst its status is being decided,
  - (b) the appointment of an independent, legally qualified person to decide the matter,
  - (c) the procedures to be followed, and
  - (d) who is to meet the costs of the proceedings.

*Complying with an order*

- 37 (1) The Inland Revenue may make provision by regulations as to how a person is to comply with an order under paragraph 32.
- (2) The regulations may, in particular, make provision as to—
- (a) the officer of the Board to whom the documents are to be produced,
  - (b) the address to which the documents are to be taken or sent, and
  - (c) the circumstances in which sending documents by post complies with the order.
- (3) Where an order relates to a document in electronic or magnetic form, the order shall be taken to require the person to deliver the information recorded in the document in a form in which it is visible and legible.

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*Document not to be retained if photograph or copy sufficient*

- 38 Where a document delivered to an officer of the Board under this Part of this Schedule is of such a nature that a photograph or copy of it would be sufficient—
- (a) for use as evidence at a trial for an offence, or
  - (b) for forensic examination or for investigation in connection with an offence,
- it shall not be retained longer than is necessary to establish that fact and to obtain the photograph or copy.

*Access to or supply of photograph or copy of documents delivered*

- 39 (1) If a request for permission to be granted access to a document that—
- (a) has been delivered to an officer of the Board under this Part of this Schedule, and
  - (b) is retained by the Board for the purposes of investigating an offence,
- is made to the officer in overall charge of the investigation by a person who had custody or control of the document immediately before it was so delivered, or by someone acting on behalf of any such person, the officer shall allow the person who made the request access to it under the supervision of an officer of the Board.
- (2) If a request for a photograph or copy of any such document is made to the officer in overall charge of the investigation by a person who had custody or control of the document immediately before it was so delivered, or by someone acting on behalf of any such person, the officer shall—
- (a) allow the person who made the request access to it under the supervision of an officer of the Board for the purpose of photographing or copying it, or
  - (b) photograph or copy it, or cause it to be photographed or copied.
- (3) Where a document is photographed or copied under sub-paragraph (2)(b) the photograph or copy shall be supplied to the person who made the request.
- (4) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (5) There is no duty under this paragraph to grant access to, or to supply a photograph or copy of, a document if the officer in overall charge of the investigation for the purposes of which it was delivered has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation,
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the document was delivered, or
  - (c) any criminal proceedings that may be brought as a result of—
    - (i) the investigation of which he is in charge, or
    - (ii) any such investigation as is mentioned in paragraph (b).
- (6) The references in this paragraph to the officer in overall charge of the investigation is to the person whose name and address are endorsed on the order concerned as being the officer so in charge.

*Sanction for failure to comply with order*

- 40 (1) A person who fails to comply with an order under this Part of this Schedule may be dealt with as if he had committed a contempt of the court.

*Status: Point in time view as at 31/12/2020.*

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- (2) For this purpose “the court” means—
- (a) in relation to an order made by a circuit judge, the Crown Court;
  - (b) in relation to an order made by a sheriff, a sheriff court;
  - (c) in relation to an order made by a county court judge in Northern Ireland, a county court in Northern Ireland.

*Notice of order, etc*

- 41 The Inland Revenue may make provision by regulations as to the circumstances in which notice of an order under paragraph 32, or of an application for such an order, is to be treated as having been given.

*General provisions about regulations*

- 42 Regulations under this Part of this Schedule may contain such incidental, supplementary and transitional provision as appears to the Inland Revenue to be appropriate.

**F389 PART 7**

ENTRY WITH WARRANT TO OBTAIN EVIDENCE OF OFFENCE

**Textual Amendments**

**F389** Sch. 13 Pt. 7 repealed (8.11.2007) by [Finance Act 2007 \(c. 11\)](#), s. 84(4)(5), Sch. 22 para. 16, [Sch. 27 Pt. 5\(1\)](#); S.I. 2007/3166, art. 2(c)

**PART 8**

FALSIFICATION ETC OF DOCUMENTS

*Falsification etc of documents*

- [<sup>F390</sup>53(1) A person commits an offence if the person intentionally—
- (a) falsifies, conceals, destroys or otherwise disposes of a relevant document, or
  - (b) causes or permits the falsification, concealment, destruction or disposal of a relevant document.
- (2) A relevant document is a document that the person has been required by an order under Part 6 of this Schedule to deliver.
- (3) A person does not commit an offence under this paragraph if the person acts—
- (a) with the written permission of the tribunal or an officer of Revenue and Customs, or
  - (b) after the document has been delivered.
- (4) A person does not commit an offence under this paragraph if the person acts after the end of the period of 2 years beginning with the date on which the order is

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made, unless before the end of that period an officer of Revenue and Customs has notified the person in writing that the order has not been complied with to the officer's satisfaction.

- (5) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or to both.]

#### Textual Amendments

**F390** Sch. 13 para. 53 substituted (1.4.2013) by Finance Act 2012 (c. 14), s. 223, Sch. 38 para. 58(4)(b) (with Sch. 38 para. 43); S.I. 2013/279, art. 2

## SCHEDULE 14

Section 99

### STAMP DUTY LAND TAX: DETERMINATION OF PENALTIES AND RELATED APPEALS

#### *Determination of penalties and appeals*

- 1 The provisions of this Schedule apply in relation to penalties under this Part.

#### *Determination of penalty by officer of the Board*

- 2 (1) An officer of the Board authorised for the purposes of this paragraph may make a determination—
- (a) imposing the penalty, and
  - (b) setting it at such amount as in the officer's opinion is correct or appropriate.
- (2) Notice of the determination must be served on the person liable to the penalty.
- (3) The notice must also state—
- (a) the date on which the notice is issued, and
  - (b) the time within which an appeal against the determination may be made.
- (4) A penalty determined under this paragraph is due and payable at the end of the period of 30 days beginning with the date of issue of the notice of determination.
- (5) Where an officer of the Board has decided to impose a penalty, and has taken all other decisions needed for arriving at the amount of the penalty, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination.

#### *Alteration of penalty determination*

- 3 (1) After notice has been served of the determination of a penalty, the determination cannot be altered except in accordance with this paragraph or on appeal.



*Status: Point in time view as at 31/12/2020.*

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- (2) If it is discovered by an authorised officer that the amount of the penalty is or has become insufficient, the officer may make a determination in a further amount so that the penalty is set at the amount which in the officer’s opinion is correct or appropriate.
- (3) If in the case of a tax-related penalty it is discovered by an authorised officer that the amount taken into account as the amount of tax is or has become excessive, he may revise the determination so that the penalty is set at the amount that is correct.

Where more than the correct amount has already been paid the appropriate amount shall be repaid.

- (4) In this paragraph an “authorised officer” means an officer of the Board authorised by the Board for the purposes of this paragraph.

#### *Liability of personal representatives*

- 4 If a person liable to a penalty has died—
  - (a) any determination that could have been made in relation to that person may be made in relation to his personal representatives, and
  - (b) any penalty imposed on them is a debt due from and payable out of the person’s estate.

#### *Appeal against penalty determination*

- 5 (1) An appeal [<sup>F391</sup>may be made] against the determination of a penalty.
- (2) Notice of appeal must be given in writing to the officer of the Board by whom the determination was made within 30 days of the date of issue of the notice of determination.
- [<sup>F392</sup>(3) The notice of appeal must specify the grounds of appeal.]
- (4) On an appeal under this paragraph [<sup>F393</sup>that is notified to the First-tier Tribunal, the tribunal] may—
  - (a) if it appears <sup>F394</sup>... that no penalty has been incurred, set the determination aside;
  - (b) if the amount determined appears <sup>F394</sup>... to be appropriate, confirm the determination;
  - (c) if the amount determined appears <sup>F394</sup>... to be excessive, reduce it to such other amount (including nil) as appears to them to be appropriate;
  - (d) if the amount determined appears <sup>F394</sup>... to be insufficient, increase it to such amount, not exceeding the permitted maximum, [<sup>F395</sup>as the First-tier Tribunal considers appropriate].
- [<sup>F396</sup>(5) The provisions of paragraphs 36A to 36I of Schedule 10 apply to appeals under this paragraph.]

#### **Textual Amendments**

**F391** Words in Sch. 14 para. 5(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 411(2)**

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

- F392** Sch. 14 para. 5(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 411(3)**
- F393** Words in Sch. 14 para. 5(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 411(4)(a)**
- F394** Words in Sch. 14 para. 5(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 411(4)(b)**
- F395** Words in Sch. 14 para. 5(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 411(4)(c)**
- F396** Sch. 14 para. 5(5) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 411(5)**

#### *Further appeal*

- 6 <sup>F397</sup>(1) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which has been determined under paragraph (5), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.
- (1A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (1) as it applies to the right of appeal under section 11(2) of that Act.]
- (2) On an appeal under this paragraph the [<sup>F398</sup>Upper Tribunal] has the same powers as are conferred on the [<sup>F399</sup>First-tier Tribunal] by paragraph 5(4) above.
- <sup>F400</sup>(3) . . . . .

#### **Textual Amendments**

- F397** Sch. 14 para. 6(1) (1A) substituted for Sch. 14 para. 6(1) (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 412(2)**
- F398** Words in Sch. 14 para. 6(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 412(3)(a)**
- F399** Words in Sch. 14 para. 6(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 412(3)(b)**
- F400** Sch. 14 para. 6(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 412(4)**

#### *Penalty proceedings before the court*

- 7 (1) Where in the opinion of the Board the liability of a person for a penalty arises by reason of his fraud, or the fraud of another person, proceedings for the penalty may be brought—
- (a) in the High Court, or
- (b) in Scotland, in the Court of Session sitting as the Court of Exchequer.
- (2) Proceedings under this paragraph in England and Wales shall be brought—
- (a) by and in the name of the Board as an authorised department for the purposes of the Crown Proceedings Act 1947 (c. 44), or
- (b) in the name of the Attorney General.

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Any such proceedings shall be deemed to be civil proceedings by the Crown within the meaning of Part 2 of the Crown Proceedings Act 1947.

- (3) Proceedings under this paragraph in Scotland shall be brought in the name of the Advocate General for Scotland.
- (4) Proceedings under this paragraph in Northern Ireland shall be brought—
  - (a) by and in the name of the Board as an authorised department for the purposes of the Crown Proceedings Act 1947 as for the time being in force in Northern Ireland, or
  - (b) in the name of the Advocate General for Northern Ireland.

Any such proceedings shall be deemed to be civil proceedings within the meaning of Part 2 of the Crown Proceedings Act 1947 as for the time being in force in Northern Ireland.

- (5) If in proceedings under this paragraph the court does not find that fraud is proved but considers that the person concerned is nevertheless liable to a penalty, the court may determine a penalty notwithstanding that, but for the opinion of the Board as to fraud, the penalty would not have been a matter for the court.
- (6) Paragraph 2 (determination of penalty by officer of the Board) does not apply where proceedings are brought under this paragraph.
- (7) In relation to any time before the coming into force of section 2(1) of the Justice (Northern Ireland) Act 2002 (c. 26), the reference in sub-paragraph (4)(b) to the Advocate General for Northern Ireland shall be read as a reference to the Attorney General for Northern Ireland.

#### *Time limit for determination of penalties*

- 8 (1) The following time limits apply in relation to the determination of penalties under this Schedule.
- (2) The general rule is that—
  - (a) no penalty may be determined under paragraph 2 (determination by officer of Board), and
  - (b) no proceedings for a penalty may be brought under paragraph 7 (penalty proceedings before the court),  
more than [<sup>F401</sup>4 years] after the date on which the penalty was incurred or, in the case of a daily penalty, began to be incurred [<sup>F402</sup>(“the relevant date”)] . This rule is subject to the following provisions of this paragraph.
- (3) Where the amount of a penalty is to be ascertained by reference to the tax chargeable in respect of a transaction, a penalty may be determined under paragraph 2, or proceedings for a penalty may be begun under paragraph 7, at any time within three years after the final determination of the amount of tax by reference to which the amount of the penalty is to be determined [<sup>F403</sup>(subject to any of the following provisions of this paragraph allowing a longer period)] .
- (4) Sub-paragraph (3) does not apply where a person has died and the determination would be made in relation to his personal representatives if the tax was charged in an assessment made more than six years after the effective date of the transaction to which it relates.

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- [<sup>F404</sup>(4A) Where a person is liable to a penalty in a case involving a loss of tax brought about carelessly by the person (or by another person acting on that person's behalf), the penalty may be determined, or the proceedings may be brought, at any time not more than 6 years after the relevant date (subject to sub-paragraphs (4B) and (5)).
- (4B) Where a person is liable to a penalty in a case involving a loss of tax—
- (a) brought about deliberately by the person (or by another person acting on that person's behalf),
  - (b) attributable to a failure by the person to comply with an obligation under section 76(1) or paragraph 3(3)(a), 4(3)(a) or 8(3)(a) of Schedule 17A, or
  - (c) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of the Finance Act 2004 (obligation of parties to tax avoidance schemes to provide information to Her Majesty's Revenue and Customs),
- the penalty may be determined, or the proceedings may be brought, at any time not more than 20 years after the relevant date.
- (4C) Paragraph 31A of Schedule 10 (losses brought about carelessly or deliberately) applies for the purpose of this paragraph.]
- (5) A penalty under section 96 (penalty for assisting in preparation of incorrect return) may be determined by an officer of the Board, or proceedings for such a penalty may be commenced before a court, at any time within 20 years after the date on which the penalty was incurred.

#### Textual Amendments

- F401** Words in Sch. 14 para. 8(2) substituted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 16\(2\)\(a\)](#); S.I. 2010/867, art. 2(2) (with art. 7)
- F402** Words in Sch. 14 para. 8(2) inserted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 16\(2\)\(b\)](#); S.I. 2010/867, art. 2(2) (with art. 7)
- F403** Words in Sch. 14 para. 8(3) inserted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 16\(3\)](#); S.I. 2010/867, art. 2(2)
- F404** Sch. 14 para. 8(4A)-(4C) inserted (1.4.2011) by [Finance Act 2009 \(c. 10\), s. 99\(2\), Sch. 51 para. 16\(4\)](#); S.I. 2010/867, art. 2(2) (with art. 7)

## SCHEDULE 15

Section 104

### STAMP DUTY LAND TAX: PARTNERSHIPS

#### PART 1

#### GENERAL PROVISIONS

#### *Partnerships*

- 1 In this Part of this Act a “partnership” means—
- (a) a partnership within the Partnership Act 1890 (c. 39),

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- (b) a limited partnership registered under the Limited Partnerships Act 1907 (c. 24), or
  - (c) a limited liability partnership formed under the Limited Liability Partnerships Act 2000 (c. 12) or the Limited Liability Partnerships Act (Northern Ireland) 2002 (c. 12 (N. I.)),
- or a firm or entity of a similar character to any of those mentioned above formed under the law of a country or territory outside the United Kingdom.

*Legal personality of partnership disregarded*

- 2 (1) For the purposes of this Part of this Act—
- (a) a chargeable interest held by or on behalf of a partnership is treated as held by or on behalf of the partners, and
  - (b) a land transaction entered into for the purposes of a partnership is treated as entered into by or on behalf of the partners,
- and not by or on behalf of the partnership as such.
- (2) Sub-paragraph (1) applies notwithstanding that the partnership is regarded as a legal person, or as a body corporate, under the law of the country or territory under which it is formed.

*Continuity of partnership*

- 3 For the purposes of this Part of this Act a partnership is treated as the same partnership notwithstanding a change in membership if any person who was a member before the change remains a member after the change.

*Partnership not to be regarded as unit trust scheme etc*

- 4 A partnership is not to be regarded for the purposes of this Part of this Act as a unit trust scheme or an open ended investment company.

**PART 2**

ORDINARY PARTNERSHIP TRANSACTIONS

*Introduction*

- 5 (1) This Part of this Schedule applies to transactions entered into as purchaser by or on behalf of the members of a partnership, other than transactions within Part 3 of this Schedule [<sup>F405</sup>(transactions to which special provisions apply)].

**Textual Amendments**

**F405** Words in Sch. 15 para. 5 substituted (with effect in accordance with Sch. 41 para. 3 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 41 para. 2(c)**

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### *Responsibility of partners*

- 6 (1) Anything required or authorised to be done under this Part of this Act by or in relation to the purchaser under the transaction is required or authorised to be done by or in relation to all the responsible partners.
- (2) The responsible partners in relation to a transaction are—
- (a) the persons who are partners at the effective date of the transaction, and
  - (b) any person who becomes a member of the partnership after the effective date of the transaction.
- (3) This paragraph has effect subject to paragraph 8 (representative partners).

### *Joint and several liability of responsible partners*

- 7 (1) Where the responsible partners are liable—
- (a) to make a payment of tax or to interest on unpaid tax,
  - (b) to make a payment in accordance with an assessment under paragraph 29 of Schedule 10 (recovery of excessive repayment), or
  - (c) to a penalty under this Part of this Act or to interest on such a penalty,
- the liability is a joint and several liability of those partners.
- [<sup>F406</sup>(1A) No amount may be recovered by virtue of sub-paragraph (1)(a) or (b) from a person who did not become a responsible partner until after the effective date of the transaction in respect of which the tax is payable.]
- (2) No amount may be recovered by virtue of sub-paragraph (1)(c) from a person who did not become a responsible partner until after the relevant time.
- (3) The relevant time for this purpose is—
- (a) in relation to so much of a penalty as is payable in respect of any day, or to interest on so much of a penalty as is so payable, the beginning of that day;
  - (b) in relation to any other penalty, or interest on such a penalty, the time when the act or omission occurred that caused the penalty to become payable.

#### **Textual Amendments**

**F406** Sch. 15 para. 7(1A) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 305](#)

### *Representative partners*

- 8 (1) Anything required or authorised to be done by or in relation to the responsible partners may instead be done by or in relation to any representative partner or partners.
- (2) This includes making the declaration required by paragraph 1(1)(c) of Schedule 10 <sup>F407</sup> ... (declaration that return <sup>F407</sup> ... is complete and correct).
- (3) A representative partner means a partner nominated by a majority of the partners to act as the representative of the partnership for the purposes of this Part of this Act.
- (4) Any such nomination, or the revocation of such a nomination, has effect only after notice of the nomination, or revocation, has been given to the Inland Revenue.

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#### Textual Amendments

**F407** Words in Sch. 15 para. 8(2) omitted (with effect in accordance with s. 94(5) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 12](#)

### <sup>F408</sup>PART 3

#### TRANSACTIONS TO WHICH SPECIAL PROVISIONS APPLY

#### Textual Amendments

**F408** Sch. 15 Pt. 3 substituted (with effect in accordance with Sch. 41 para. 3 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 41 para. 1](#)

#### Introduction

- 9 (1) This Part of this Schedule applies to certain transactions involving—
- (a) the transfer of a chargeable interest to a partnership (paragraph 10),
  - (b) the transfer of an interest in a partnership (paragraphs 14, 17, 31 and 32), or
  - (c) the transfer of a chargeable interest from a partnership (paragraph 18).
- (2) References in this Part of this Schedule to the transfer of a chargeable interest include—
- (a) the grant or creation of a chargeable interest,
  - (b) the variation of a chargeable interest, and
  - (c) the surrender, release or renunciation of a chargeable interest.

#### *Transfer of chargeable interest to a partnership: general*

- 10 (1) This paragraph applies where—
- (a) a partner transfers a chargeable interest to the partnership, or
  - (b) a person transfers a chargeable interest to a partnership in return for an interest in the partnership, or
  - (c) a person connected with—
    - (i) a partner, or
    - (ii) a person who becomes a partner as a result of or in connection with the transfer,transfers a chargeable interest to the partnership.

It applies whether the transfer is in connection with the formation of the partnership or is a transfer to an existing partnership.

- <sup>F409</sup>(2) The chargeable consideration for the transaction shall (subject to paragraph 13) be taken to be equal to—

$$MV \times (100SLP)\%$$

where—



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MV is the market value of the interest transferred, and  
SLP is the sum of the lower proportions.]

- (5) Paragraph 12 provides for determining the sum of the lower proportions.
- (6) Paragraph 11 applies <sup>F410</sup>... if the whole or part of the chargeable consideration for the transaction is rent.
- (7) Paragraphs 6 to 8 (responsibility of partners) have effect in relation to a transaction to which this paragraph applies, but the responsible partners are—
- (a) those who were partners immediately before the transfer and who remain partners after the transfer, and
  - (b) any person becoming a partner as a result of, or in connection with, the transfer.

[<sup>F411</sup>(8) This paragraph has effect subject to any election under paragraph 12A.]

#### Textual Amendments

**F409** Sch. 15 para. 10(2) substituted for Sch. 15 para. 10(2)-(4) (with effect in accordance with Sch. 24 para. 11(1)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 2\(1\)](#)

**F410** Words in Sch. 15 para. 10(6) repealed (with effect in accordance with [Sch. 24 para. 11\(1\)\(4\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 2\(2\)](#), [Sch. 26 Pt. 7\(2\)](#)

**F411** Sch. 15 para. 10(8) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 31 para. 5](#)

#### *Transfer of chargeable interest to a partnership: chargeable consideration including rent*

- 11 (1) This paragraph applies in relation to a transaction to which paragraph 10 applies where the whole or part of the chargeable consideration for the transaction is rent.

[<sup>F412</sup>(2) Schedule 5 (amount of tax chargeable: rent) has effect with the modifications set out in sub-paragraphs (2A) to (2C).

(2A) In paragraph 2—

- (a) for “the net present value of the rent payable over the term of the lease” substitute “ the relevant chargeable proportion of the net present value of the rent payable over the term of the lease ”, and
- (b) for “the net present values of the rent payable over the terms of all the leases” substitute “ the relevant chargeable proportions of the net present values of the rent payable over the terms of all the leases ”.

(2B) In paragraph [<sup>F413</sup>9A(6)] —

- (a) for “the annual rent” substitute “ the relevant chargeable proportion of the annual rent ”, and
- (b) for “the total of the annual rents” substitute “ the relevant chargeable proportion of the total of the annual rents ”.

(2C) For paragraph 9(4) substitute—

“(4) Tax chargeable under this Schedule is in addition to any tax chargeable under section 55 [<sup>F414</sup>or 74(1A)] [<sup>F415</sup>or Schedule [<sup>F416</sup>4A or] 6B as they have] effect by virtue of paragraph 10 of Schedule 15.”.



*Status: Point in time view as at 31/12/2020.*

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(2D) For the purposes of sub-paragraphs (2A) and (2B) the relevant chargeable proportion is—

(100SLP)%

where SLP is the sum of the lower proportions.]

(8) Paragraph 12 provides for determining the sum of the lower proportions.

(9) This paragraph is subject to paragraph 13.

#### Textual Amendments

**F412** Sch. 15 para. 11(2)-(2D) substituted for Sch. 15 para. 11(2)-(7) (with effect in accordance with Sch. 24 para. 11(1)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 3](#)

**F413** Word in Sch. 15 para. 11(2B)(a) substituted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 95\(11\)\(a\)](#)

**F414** Words in [Sch. 15 para. 11\(2C\)](#) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 9\(2\)\(a\)](#)

**F415** Words in Sch. 15 para. 11(2C) substituted (with effect in accordance with Sch. 22 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 22 para. 8](#)

**F416** Words in [Sch. 15 para. 11\(2C\)](#) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 9\(2\)\(b\)](#)

#### *Transfer of chargeable interest to a partnership: sum of the lower proportions*

12 (1) The sum of the lower proportions in relation to a transaction to which paragraph 10 applies is determined as follows:—

##### *Step One*

Identify the relevant owner or owners.

A person is a relevant owner if—

- (a) immediately before the transaction, he was entitled to a proportion of the chargeable interest, and
- (b) immediately after the transaction, he is a partner or connected with a partner.

##### *Step Two*

For each relevant owner, identify the corresponding partner or partners.

A person is a corresponding partner in relation to a relevant owner if, immediately after the transaction—

- (a) he is a partner, and
- (b) he is the relevant owner <sup>[F417]</sup>or is an individual connected with the relevant owner].

<sup>[F418]</sup>(If there is no relevant owner with a corresponding partner, the sum of the lower proportions is nil.)]

##### *Step Three*

For each relevant owner, find the proportion of the chargeable interest to which he was entitled immediately before the transaction.

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Apportion that proportion between any one or more of the relevant owner's corresponding partners.

*Step Four*

Find the lower proportion for each person who is a corresponding partner in relation to one or more relevant owners.

The lower proportion is—

- (a) the proportion of the chargeable interest attributable to the partner, or
- (b) if lower, the partner's partnership share immediately after the transaction.

The proportion of the chargeable interest attributable to the partner is—

- (i) if he is a corresponding partner in relation to only one relevant owner, the proportion (if any) of the chargeable interest apportioned to him (at Step Three) in respect of that owner;
- (ii) if he is a corresponding partner in relation to more than one relevant owner, the sum of the proportions (if any) of the chargeable interest apportioned to him (at Step Three) in respect of each of those owners.

*Step Five*

Add together the lower proportions of each person who is a corresponding partner in relation to one or more relevant owners.

The result is the sum of the lower proportions.

- (2) For the purposes of this paragraph persons who are entitled to a chargeable interest as beneficial joint tenants<sup>F419</sup> ... shall be taken to be entitled to the chargeable interest as beneficial tenants in common<sup>F419</sup> ... in equal shares.
- [<sup>F420</sup>(3) For the purpose of paragraph (b) of Step 2 a company is to be treated as an individual connected with the relevant owner in so far as it—
  - (a) holds property as trustee, and
  - (b) is connected with the relevant owner only because of [<sup>F421</sup>section 1122(6) of the Corporation Tax Act 2010].]

#### Textual Amendments

**F417** Words in Sch. 15 para. 12(1) substituted (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 72\(3\)\(a\)](#) (with s. 72(2)(16)(17))

**F418** Words in Sch. 15 para. 12(1) inserted (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 72\(3\)\(b\)](#) (with s. 72(2)(16)(17))

**F419** Words in Sch. 15 para. 12(2) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), [s. 44\(2\)\(b\)\(3\)\(b\)](#), [Sch. 3 para. 26\(2\)](#) (with s. 29(5)(6)); S.I. 2015/637, [art. 2](#)

**F420** Sch. 15 para. 12(3) inserted (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 72\(4\)](#) (with s. 72(2)(16)(17))

**F421** Words in Sch. 15 para. 12(3)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [s. 1184\(1\)](#), [Sch. 1 para. 418\(2\)](#) (with Sch. 2)

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*Election by property-investment partnership to disapply paragraph 10*

[<sup>F422</sup>12(A)] Paragraph 10 does not apply to a transfer of a chargeable interest to a property-investment partnership if the purchaser in relation to the transaction elects for that paragraph not to apply.

- (2) Where an election under this paragraph is made in respect of a transaction—
  - (a) paragraph 18 (if relevant) is also disapplied,
  - (b) the chargeable consideration for the transaction shall be taken to be the market value of the chargeable interest transferred, and
  - (c) the transaction falls within Part 2 of this Schedule.
- (3) An election under this paragraph must be included in the land transaction return made in respect of the transaction or in an amendment of that return.
- (4) Such an election is irrevocable and a land transaction return may not be amended so as to withdraw the election.
- (5) Where an election under this paragraph in respect of a transaction (the “main transaction”) is made in an amendment of a land transaction return—
  - (a) the election has effect as if it had been made on the date on which the land transaction return was made, and
  - (b) any land transaction return in respect of an affected transaction may be amended (within the period allowed for amendment of that return) to take account of that election.
- (6) In sub-paragraph (5) “affected transaction”, in relation to the main transaction, means a transaction—
  - (a) to which paragraph 14 applied, and
  - (b) with an effective date on or after the effective date of the main transaction.
- (7) In this paragraph “property-investment partnership” has the meaning given in paragraph 14(8).]

**Textual Amendments**

**F422** Sch. 15 para. 12A and cross-heading inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 31 para. 6](#) (with [Sch. 31 para. 11](#))

*Transfer of chargeable interest to a partnership consisting wholly of bodies corporate*

<sup>F423</sup>13 .....

**Textual Amendments**

**F423** Sch. 15 para. 13 repealed (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 72(5), [Sch. 27 Pt. 4\(1\)](#) (with s. 72(2)(16)(17))

[<sup>F424</sup>Transfer <sup>F425</sup>... of interest in property-investment partnership]

- 14 (1) This paragraph applies where—
  - (a) there is a transfer of an interest in a [<sup>F426</sup>property-investment] partnership,

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- <sup>F427</sup>(b) . . . . .
- (c) the relevant partnership property includes a chargeable interest.
- (2) The transfer—
- (a) shall be taken for the purposes of this Part to be a land transaction;
- (b) is a chargeable transaction.
- (3) The purchaser under the transaction is the person who acquires an increased partnership share or, as the case may be, becomes a partner in consequence of the transfer.
- <sup>F428</sup>(3A) A transfer to which this paragraph applies is a Type A transfer if it takes the form of arrangements entered into under which—
- (a) the whole or part of a partner's interest as partner is acquired by another person (who may be an existing partner), and
- (b) consideration in money or money's worth is given by or on behalf of the person acquiring the interest.
- (3B) A transfer to which this paragraph applies is also a Type A transfer if it takes the form of arrangements entered into under which—
- (a) a person becomes a partner,
- (b) the interest of an existing partner in the partnership is reduced or an existing partner ceases to be a partner, and
- (c) there is a withdrawal of money or money's worth from the partnership by the existing partner mentioned in paragraph (b) (other than money or money's worth paid from the resources available to the partnership prior to the transfer).
- (3C) Any other transfer to which this paragraph applies is a Type B transfer.]
- <sup>F427</sup>(4) . . . . .
- (5) The “relevant partnership property”, in relation to <sup>F429</sup>a Type A transfer] of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than—
- (a) any <sup>F430</sup>chargeable] interest that was transferred to the partnership in connection with the transfer;
- (b) a lease to which paragraph 15 (exclusion of market rent leases) applies <sup>F431</sup>, and
- (c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred.]
- <sup>F432</sup>(5A) The “relevant partnership property”, in relation to a Type B transfer of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than—
- (a) any chargeable interest that was transferred to the partnership in connection with the transfer,
- (b) a lease to which paragraph 15 (exclusion of market rent leases) applies,
- (c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred,
- (d) any chargeable interest that was transferred to the partnership on or before 22 July 2004,

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- (e) any chargeable interest in respect of whose transfer to the partnership an election has been made under paragraph 12A, and
  - (f) any other chargeable interest whose transfer to the partnership did not fall within paragraph 10(1)(a), (b) or (c).]
- (6) The chargeable consideration for the transaction shall be taken to be equal to a proportion of the market value of the relevant partnership property.
- (7) That proportion is—
- (a) if the person acquiring the interest in the partnership was not a partner before the transfer, his partnership share immediately after the transfer;
  - (b) if he was a partner before the transfer, the difference between his partnership share before and after the transfer.
- [<sup>F433</sup>(8) In this paragraph—
- “property-investment partnership” means a partnership whose sole or main activity is investing or dealing in chargeable interests (whether or not that activity involves the carrying out of construction operations on the land in question);
  - “construction operations” has the same meaning as in Chapter 3 of Part 3 of the Finance Act 2004 (see section 74 of that Act).]
- [<sup>F434</sup>(9) An interest in respect of the transfer of which this paragraph applies shall be treated as a chargeable interest for the purposes of paragraph 3(1) of Schedule 7 to the extent that the relevant partnership property consists of a chargeable interest.]

#### Textual Amendments

- F424** Sch. 15 para. 14 heading substituted (with effect in accordance with Sch. 24 para. 11(2)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 24 para. 9(1)**
- F425** Words in Sch. 15 para. 14 cross-heading repealed (with effect in accordance with s. 72(13)(14) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 72(6)(b), **Sch. 27 Pt. 4(1)** (with s. 72(2)(16)(17))
- F426** Word in Sch. 15 para. 14(1)(a) inserted (with effect in accordance with Sch. 24 para. 11(2)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 24 para. 9(2)**
- F427** Sch. 15 para. 14(4) repealed (with effect in accordance with s. 72(13)(14) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 72(6)(a), **Sch. 27 Pt. 4(1)** (with s. 72(2)(16)(17))
- F428** Sch. 15 para. 14(3A)-(3C) inserted (with effect in accordance with s. 97(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 31 para. 1(2)**
- F429** Words in Sch. 15 para. 14(5) substituted (with effect in accordance with s. 97(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 31 para. 1(3)(a)**
- F430** Word in Sch. 15 para. 14(5)(a) inserted (with effect in accordance with s. 97(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 31 para. 1(3)(b)**
- F431** Sch. 15 para. 14(5)(c) and word inserted (with effect in accordance with s. 97(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 31 para. 1(3)(c)**
- F432** Sch. 15 para. 14(5A) inserted (with effect in accordance with s. 97(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 31 para. 1(4)**
- F433** Sch. 15 para. 14(8) inserted (with effect in accordance with Sch. 24 para. 11(2)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 24 para. 9(3)**
- F434** Sch. 15 para. 14(9) inserted (with effect in accordance with s. 72(13)(14) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 72(6)(b) (with s. 72(2)(16)(17))

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### *Exclusion of market rent leases*

- 15 (1) A lease held as partnership property immediately after a transfer of an interest in the partnership is not relevant partnership property for the purposes of paragraph 14(5) [F435 or (5A)] if the following four conditions are met.
- (2) The first condition is that—
- (a) no chargeable consideration other than rent has been given in respect of the grant of the lease, and
  - (b) no arrangements are in place at the time of the transfer for any chargeable consideration other than rent to be given in respect of the grant of the lease.
- (3) The second condition is that the rent payable under the lease as granted was a market rent at the time of the grant.
- (4) The third condition is that—
- (a) the term of the lease is 5 years or less, or
  - (b) if the term of the lease is more than 5 years—
    - (i) the lease provides for the rent payable under it to be reviewed at least once in every 5 years of the term, and
    - (ii) the rent payable under the lease as a result of a review is required to be a market rent at the review date.
- (5) The fourth condition is that there has been no change to the lease since it was granted which is such that, immediately after the change has effect, the rent payable under the lease is less than a market rent.
- (6) The market rent of a lease at any time is the rent which the lease might reasonably be expected to fetch at that time in the open market.
- (7) A review date is a date from which the rent determined as a result of a rent review is payable.

#### **Textual Amendments**

**F435** Words in Sch. 15 para. 15(1) inserted (with effect in accordance with s. 97(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 31 para. 2**

### *Partnership interests: application of provisions about exchanges etc.*

- 16 (1) Where paragraph 5 of Schedule 4 (exchanges) applies to the acquisition of an interest in a partnership in consideration of entering into a land transaction with an existing partner, the interest in the partnership shall be treated as a major interest in land for the purposes of that paragraph if the relevant partnership property includes a major interest in land.
- (2) In sub-paragraph (1) “relevant partnership property” has the meaning given by paragraph 14(5) [F436 or (5A) (as appropriate)].
- (3) The provisions of paragraph 6 of Schedule 4 (partition etc: disregard of existing interest) do not apply where this paragraph applies.

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### Textual Amendments

**F436** Words in Sch. 15 para. 16(2) inserted (with effect in accordance with s. 97(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 31 para. 3**

### *Transfer of partnership interest pursuant to earlier arrangements*

- 17 (1) This paragraph applies where—
- (a) there is a transfer of a chargeable interest to a partnership (“the land transfer”);
  - (b) the land transfer falls within paragraph (a), (b) or (c) of paragraph 10(1);
  - (c) there is subsequently a transfer of an interest in the partnership (“the partnership transfer”);
  - (d) the partnership transfer is made—
    - (i) if the land transfer falls within paragraph 10(1)(a) or (b), by the person who makes the land transfer;
    - (ii) if the land transfer falls within paragraph 10(1)(c), by the partner concerned;
  - (e) the partnership transfer is made pursuant to arrangements that were in place at the time of the land transfer;
  - (f) the partnership transfer is not (apart from this paragraph) a chargeable transaction.
- (2) The partnership transfer—
- (a) shall be taken for the purposes of this Part to be a land transaction;
  - (b) is a chargeable transaction.
- (3) The partners shall be taken to be the purchasers under the transaction.
- (4) The chargeable consideration for the transaction shall be taken to be equal to a proportion of the market value, as at the date of the transaction, of the interest transferred by the land transfer.
- (5) That proportion is—
- (a) if the person making the partnership transfer is not a partner immediately after the transfer, his partnership share immediately before the transfer;
  - (b) if he is a partner immediately after the transfer, the difference between his partnership share before and after the transfer.
- (6) The partnership transfer and the land transfer shall be taken to be linked transactions.
- (7) Paragraphs 6 to 8 (responsibility of partners) have effect in relation to the partnership transfer, but the responsible partners are—
- (a) those who were partners immediately before the transfer and who remain partners after the transfer, and
  - (b) any person becoming a partner as a result of, or in connection with, the transfer.

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*[<sup>F437</sup>Withdrawal of money etc from partnership after transfer of chargeable interest*

**Textual Amendments**

**F437** Sch. 15 para. 17A and cross-heading inserted (with effect in accordance with Sch. 10 para. 16(3)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 10 para. 10**

- 17A (1) This paragraph applies where—
- (a) there is a transfer of a chargeable interest to a partnership (“the land transfer”);
  - (b) the land transfer falls within paragraph (a), (b) or (c) of paragraph 10(1);
  - (c) during the period of three years beginning with the date of the land transfer, a qualifying event occurs.
 

[ at the time of the qualifying event, an election has not been made in respect of the land transfer under paragraph 12A.]
- <sup>F438</sup>(d)
- (2) A qualifying event is—
- (a) a withdrawal from the partnership of money or money's worth which does not represent income profit by the relevant person—
    - (i) withdrawing capital from his capital account,
    - (ii) reducing his interest, or
    - (iii) ceasing to be a partner, or
  - (b) in a case where the relevant person has made a loan to the partnership—
    - (i) the repayment (to any extent) by the partnership of the loan, or
    - (ii) a withdrawal by the relevant person from the partnership of money or money's worth which does not represent income profit.
- (3) For this purpose the relevant person is—
- (a) where the land transfer falls within paragraph 10(1)(a) or (b), the person who makes the land transfer, and
  - (b) where the land transfer falls within paragraph 10(1)(c), the partner concerned or a person connected with him.
- (4) The qualifying event—
- (a) shall be taken to be a land transaction, and
  - (b) is a chargeable transaction.
- (5) The partners shall be taken to be the purchasers under the transaction.
- (6) Paragraphs 6 to 8 (responsibility of partners) have effect in relation to the transaction.
- (7) The chargeable consideration for the transaction shall be taken to be—
- (a) in a case falling within sub-paragraph (2)(a), equal to the value of the money or money's worth withdrawn from the partnership,
  - (b) in a case falling within sub-paragraph (2)(b)(i), equal to the amount repaid, and
  - (c) in a case falling within sub-paragraph (2)(b)(ii), equal to so much of the value of the money or money's worth withdrawn from the partnership as does not exceed the amount of the loan,



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but (in any case) shall not exceed the market value, as at the effective date of the land transfer, of the chargeable interest transferred by the land transfer, reduced by any amount previously chargeable to tax.]

[<sup>F439</sup>(8) Where—

- (a) a qualifying event gives rise to a charge under this paragraph, and
- (b) the same event gives rise to a charge under paragraph 14 (transfer for consideration of interest in property-investment partnership),

the amount of the charge under this paragraph is reduced (but not below nil) by the amount of the charge under that paragraph.]

#### Textual Amendments

**F438** Sch. 15 para. 17A(1)(d) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 31 para. 8](#)

**F439** Sch. 15 para. 17A(8) inserted (with effect in accordance with Sch. 24 para. 11(3)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 10](#)

#### *Transfer of chargeable interest from a partnership: general*

18 (1) This paragraph applies where a chargeable interest is transferred—

- (a) from a partnership to a person who is or has been one of the partners, or
- (b) from a partnership to a person connected with a person who is or has been one of the partners.

[<sup>F440</sup>(2) The chargeable consideration for the transaction shall (subject to paragraph 24) be taken to be equal to—

$$MV \times (100SLP)\%$$

where—

MV is the market value of the interest transferred, and

SLP is the sum of the lower proportions.]

(5) Paragraph 20 provides for determining the sum of the lower proportions.

(6) Paragraph 19 applies <sup>F441</sup>... if the whole or part of the chargeable consideration for the transaction is rent.

(7) For the purposes of this paragraph property that was partnership property before the partnership was dissolved or otherwise ceased to exist shall be treated as remaining partnership property until it is distributed.

[<sup>F442</sup>(8) This paragraph has effect subject to any election under paragraph 12A.]

#### Textual Amendments

**F440** Sch. 15 para. 18(2) substituted for Sch. 15 para. 18(2)-(4) (with effect in accordance with Sch. 24 para. 11(1)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 5\(1\)](#)

**F441** Words in Sch. 15 para. 18(6) repealed (with effect in accordance with Sch. 24 para. 11(1)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 5\(2\)](#), [Sch. 26 Pt. 7\(2\)](#)

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**F442** Sch. 15 para. 18(8) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 31 para. 7](#)

*Transfer of chargeable interest from a partnership: chargeable consideration including rent*

19 (1) This paragraph applies in relation to a transaction to which paragraph 18 applies where the whole or part of the chargeable consideration for the transaction is rent.

[<sup>F443</sup>(2) Schedule 5 (amount of tax chargeable: rent) has effect with the modifications set out in sub-paragraphs (2A) to (2C).

(2A) In paragraph 2—

- (a) for “the net present value of the rent payable over the term of the lease” substitute “ the relevant chargeable proportion of the net present value of the rent payable over the term of the lease ”, and
- (b) for “the net present values of the rent payable over the terms of all the leases” substitute “ the relevant chargeable proportions of the net present values of the rent payable over the terms of all the leases ”.

(2B) In paragraph [<sup>F444</sup>9A(6)] —

- (a) for “the annual rent” substitute “ the relevant chargeable proportion of the annual rent ”, and
- (b) for “the total of the annual rents” substitute “ the relevant chargeable proportion of the total of the annual rents ”.

(2C) For paragraph 9(4) substitute—

“(4) Tax chargeable under this Schedule is in addition to any tax chargeable under section 55 [<sup>F445</sup>or 74(1A)] [<sup>F446</sup>or Schedule [<sup>F447</sup>4A or] 6B as they have] effect by virtue of paragraph 18 of Schedule 15.”.

(2D) For the purposes of sub-paragraphs (2A) and (2B) the relevant chargeable proportion is—

(100SLP)%  
where SLP is the sum of the lower proportions.]

(8) Paragraph 20 provides for determining the sum of the lower proportions.

(9) This paragraph is subject to paragraph 24.

**Textual Amendments**

**F443** Sch. 15 para. 19(2)-(2D) substituted for Sch. 15 para. 19(2)-(7) (with effect in accordance with Sch. 24 para. 11(1)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 6](#)

**F444** Word in Sch. 15 para. 19(2B) substituted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 95\(11\)\(b\)](#)

**F445** Words in Sch. 15 para. 19(2C) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 9\(2\)\(a\)](#)

**F446** Words in Sch. 15 para. 19(2C) substituted (with effect in accordance with Sch. 22 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 22 para. 8](#)

**F447** Words in Sch. 15 para. 19(2C) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 9\(2\)\(b\)](#)

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*Transfer of chargeable interest from a partnership: sum of the lower proportions*

- 20 (1) The sum of the lower proportions in relation to a transaction to which paragraph 18 applies is determined as follows:—

*Step One*

Identify the relevant owner or owners.

A person is a relevant owner if—

- (a) immediately after the transaction, he is entitled to a proportion of the chargeable interest, and
- (b) immediately before the transaction, he was a partner or connected with a partner.

*Step Two*

For each relevant owner, identify the corresponding partner or partners.

A person is a corresponding partner in relation to a relevant owner if, immediately before the transaction—

- (a) he was a partner, and
- (b) he was the relevant owner [<sup>F448</sup>or was an individual connected with the relevant owner].

[<sup>F449</sup>(If there is no relevant owner with a corresponding partner, the sum of the lower proportions is nil.)]

*Step Three*

For each relevant owner, find the proportion of the chargeable interest to which he is entitled immediately after the transaction.

Apportion that proportion between any one or more of the relevant owner's corresponding partners.

*Step Four*

Find the lower proportion for each person who is a corresponding partner in relation to one or more relevant owners.

The lower proportion is—

- (a) the proportion of the chargeable interest attributable to the partner, or
- (b) if lower, the partnership share attributable to the partner.

The proportion of the chargeable interest attributable to the partner is—

- (i) if he is a corresponding partner in relation to only one relevant owner, the proportion (if any) of the chargeable interest apportioned to him (at Step Three) in respect of that owner;
- (ii) if he is a corresponding partner in relation to more than one relevant owner, the sum of the proportions (if any) of the chargeable interest apportioned to him (at Step Three) in respect of each of those owners.

Paragraph 21 provides for determining the partnership share attributable to the partner.

*Step Five*

Add together the lower proportions of each person who is a corresponding partner in relation to one or more relevant owners.

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The result is the sum of the lower proportions.

- (2) For the purposes of this paragraph persons who are entitled to a chargeable interest as beneficial joint tenants<sup>F450</sup> ... shall be taken to be entitled to the chargeable interest as beneficial tenants in common<sup>F450</sup> ... in equal shares.
- [<sup>F451</sup>(3) For the purpose of paragraph (b) of Step 2 a company is to be treated as an individual connected with the relevant owner in so far as it—
- (a) holds property as trustee, and
  - (b) is connected with the relevant owner only because of [<sup>F452</sup>section 1122(6) of the Corporation Tax Act 2010].]

#### Textual Amendments

- F448** Words in Sch. 15 para. 20(1) substituted (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 72\(7\)\(a\)](#) (with s. 72(2)(16)(17))
- F449** Words in Sch. 15 para. 20(1) inserted (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 72\(7\)\(b\)](#) (with s. 72(2)(16)(17))
- F450** Words in Sch. 15 para. 20(2) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\), s. 44\(2\)\(b\)\(3\)\(b\)](#), [Sch. 3 para. 26\(3\)](#) (with s. 29(5)(6)); S.I. 2015/637, [art. 2](#)
- F451** Sch. 15 para. 20(3) inserted (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 72\(8\)](#) (with s. 72(2)(16)(17))
- F452** Words in Sch. 15 para. 20(3)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\)](#), [Sch. 1 para. 418\(3\)](#) (with [Sch. 2](#))

*Transfer of chargeable interest from a partnership: partnership share attributable to partner*

- 21 (1) This paragraph provides for determining the partnership share attributable to a partner for the purposes of paragraph 20 (1) (see Step Four).
- (2) Paragraph 22 applies for determining the partnership share attributable to a partner where—
- (a) the effective date of the transfer of the relevant chargeable interest to the partnership was before 20th October 2003, or
  - (b) the effective date of the transfer of the relevant chargeable interest to the partnership was on or after that date and—
    - (i) the instrument by which the transfer was effected has been duly stamped with *ad valorem* stamp duty, or
    - (ii) any tax payable in respect of the transfer has been duly paid under this Part.
- (3) Where the effective date of the transfer of the relevant chargeable interest to the partnership was on or after 20th October 2003 but neither of the conditions in sub-paragraphs (i) and (ii) of sub-paragraph (2)(b) is met, the partnership share attributable to the partner is zero.
- (4) The relevant chargeable interest is—
- (a) the chargeable interest which ceases to be partnership property as a result of the transaction to which paragraph 18 applies, or

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- (b) where the transaction to which paragraph 18 applies is the grant or creation of a chargeable interest, the chargeable interest out of which that interest is granted or created.

- 22 (1) Where this paragraph applies, the partnership share attributable to the partner is determined as follows:—

*Step One*

Find the partner's actual partnership share on the relevant date.

In a case falling within paragraph 21(2)(a), the relevant date—

- (a) if the partner was a partner on 19th October 2003, is that date;
- (b) if the partner became a partner after that date, is the date on which he became a partner.

In a case falling within paragraph 21(2)(b), the relevant date—

- (a) if the partner was a partner on the effective date of the transfer of the relevant chargeable interest to the partnership, is that date;
- (b) if the partner became a partner after that date, is the date on which he became a partner.

*Step Two*

Add to that partnership share any increases in the partner's partnership share which—

- (a) occur in the period starting on the day after the relevant date and ending immediately before the transaction to which paragraph 18 applies, and
- (b) count for this purpose.

The result is the increased partnership share.

An increase counts for the purpose of paragraph (b) only if—

- (i) where the transfer which resulted in the increase took place on or before the date on which the Finance Act 2004 was passed, the instrument by which the transfer was effected has been duly stamped with *ad valorem* stamp duty under the enactments relating to stamp duty;
- (ii) where the transfer which resulted in the increase took place after that date, any tax payable in respect of the transfer has been duly paid under this Part.

*Step Three*

Deduct from the increased partnership share any decreases in the partner's partnership share which occur in the period starting on the day after the relevant date and ending immediately before the transaction to which paragraph 18 applies.

The result is the partnership share attributable to the partner.

- (2) If the effect of applying Step Three would be to reduce the partnership share attributable to the partner below zero, the partnership share attributable to the partner is zero.
- (3) In a case falling within paragraph 21(2)(a), if the partner ceased to be a partner before 19th October 2003, the partnership share attributable to the partner is zero.

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- (4) In a case falling within paragraph 21(2)(b), if the partner ceased to be a partner before the effective date of the transfer of the relevant chargeable interest to the partnership, the partnership share attributable to the partner is zero.
- (5) Paragraph 21(4) (relevant chargeable interest) applies for the purposes of this paragraph.

*Transfer of chargeable interest from a partnership to a partnership*

- 23 (1) This paragraph applies where—
- (a) there is a transfer of a chargeable interest from a partnership to a partnership, and
  - (b) the transfer is both—
    - (i) a transaction to which paragraph 10 applies, and
    - (ii) a transaction to which paragraph 18 applies.
- [<sup>F453</sup>(2) Paragraphs 10(2) and 18(2) do not apply.
- (2A) The chargeable consideration for the transaction shall be taken to be what it would have been if paragraph 10(2) had applied or, if greater, what it would have been if paragraph 18(2) had applied.
- (3) Where the whole or part of the chargeable consideration for the transaction is rent—
- (a) paragraphs 11 and 19 do not apply;
  - (b) the tax chargeable in respect of so much of the chargeable consideration as consists of rent shall be taken to be what it would have been if paragraph 11 had applied or, if greater, what it would have been if paragraph 19 had applied;
  - (c) the disapplication of the 0% band provided for by paragraph [<sup>F454</sup>9A] of Schedule 5 has effect if—
    - (i) it would have had effect if paragraph 11(2B) of this Schedule had applied, or
    - (ii) it would have had effect if paragraph 19(2B) of this Schedule had applied.]

**Textual Amendments**

**F453** Sch. 15 para. 23(2)-(3) substituted for Sch. 15 para. 23(2)(3) (with effect in accordance with Sch. 24 para. 11(1)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 8](#)

**F454** Word in Sch. 15 para. 23(3)(c) substituted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [s. 95\(11\)\(c\)](#)

*Transfer of chargeable interest from a partnership consisting wholly of bodies corporate*

- 24 (1) This paragraph applies where—
- (a) there is a transaction to which paragraph 18 applies;
  - (b) immediately before the transaction all the partners are bodies corporate;
  - (c) the sum of the lower proportions is 75 or more.
- (2) Paragraphs 18, 19 and 23 have effect with these modifications.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

(3) In paragraph 18, for [F455sub-paragraphs (2) and (5)] substitute—

“(2) The chargeable consideration for the transaction shall be taken to be equal to the market value of the interest transferred.”.

[F456(4A) In paragraph 19(2), for “sub-paragraphs (2A) to (2C)” substitute “ sub-paragraph (2C) ”.

(5) In paragraph 19, omit sub-paragraphs (2A), (2B), (2D) and (8).]

(9) Paragraph 20 provides for determining the sum of the lower proportions.

#### Textual Amendments

**F455** Words in Sch. 15 para. 24(3) substituted (with effect in accordance with Sch. 24 para. 11(1)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 7\(1\)](#)

**F456** Sch. 15 para. 24(4A)(5) substituted for Sch. 15 para. 24(4)-(8) (with effect in accordance with Sch. 24 para. 11(1)(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 24 para. 7\(2\)](#)

#### *Application of exemptions and reliefs*

25 (1) Where paragraph 10, 14, 17 or 18 applies, paragraph 1 of Schedule 3 (exemption of transactions for which there is no chargeable consideration) does not apply.

(2) But (subject to [F457paragraphs 27 and 28]) this Part of this Schedule has effect subject to any other provision affording exemption or relief from stamp duty land tax.

#### Textual Amendments

**F457** Words in Sch. 15 para. 25(2) substituted (with effect in accordance with Sch. 39 para. 10(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 8\(3\)](#) (with [Sch. 39 paras. 11-13](#))

#### *Application of disadvantaged areas relief*

<sup>F458</sup>26 .....

#### Textual Amendments

**F458** Sch. 15 para. 26 omitted (with effect in accordance with Sch. 39 para. 10(4) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 8\(2\)\(b\)\(ii\)](#) (with [Sch. 39 paras. 11-13](#))

#### *Application of group relief*

27 (1) Part 1 of Schedule 7 (group relief) applies to—

- (a) a transaction to which paragraph 10 applies, and
- (b) a transaction that is a chargeable transaction by virtue of paragraph 17, with these modifications.

(2) In paragraph 3(1)(a), for “the purchaser” substitute “ a partner who was a partner at the effective date of the relevant transaction (“the relevant partner”) ”.

*Status: Point in time view as at 31/12/2020.*

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- (3) In paragraph 3(1), for paragraph (b) substitute—
- “(b) at the time the relevant partner ceases to be a member of the same group as the vendor (“the relevant time”), a chargeable interest is held by or on behalf of the members of the partnership and that chargeable interest—
- (i) was acquired by or on behalf of the partnership under the relevant transaction, or
- (ii) is derived from a chargeable interest so acquired,
- and has not subsequently been acquired at market value under a chargeable transaction for which group relief was available but was not claimed.”.
- (4) In paragraph 3(3), for the words from “the transferee company” to the end substitute “ or on behalf of the partnership and to the proportion in which the relevant partner is entitled at the relevant time to share in the income profits of the partnership. ”.
- (5) In paragraph 3(4), omit the definition of “relevant associated company”.
- (6) In paragraphs 4 to 6, for “the purchaser” (wherever appearing) substitute “ the relevant partner ”.
- [<sup>F459</sup>27(A)] This paragraph applies where in calculating the sum of the lower proportions in relation to a transaction (in accordance with paragraph 12)—
- (a) a company (“the connected company”) would have been a corresponding partner of a relevant owner (“the original owner”) but for the fact that paragraph (b) of Step Two includes connected persons only if they are individuals, and
- (b) the connected company and the original owner are members of the same group.
- (2) The charge in respect of the transaction shall be reduced to the amount that would have been payable had the connected company been a corresponding partner of the original owner for the purposes of calculating the sum of the lower proportions.
- (3) The provisions of Part 1 of Schedule 7 apply to group relief under sub-paragraph (2) above as to group relief under paragraph 1(1) of Schedule 7, but—
- (a) with the omission of paragraph 2(2)(a),
- (b) with the substitution for “the purchaser” in paragraph 3(1)(a) of “a partner who was, at the effective date of the transaction, a partner and a member of the same group as the transferor (“the relevant partner”)”, and
- (c) with the other modifications specified in paragraph 27(3) to (6) above.]

#### Textual Amendments

**F459** Sch. 15 para. 27A inserted (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 72\(9\)](#) (with [s. 72\(2\)\(16\)\(17\)](#))



*Status: Point in time view as at 31/12/2020.*

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### *Application of charities relief*

- 28 (1) Schedule 8 (charities relief) applies to the transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 14 or 17 with these modifications.
- (2) In paragraph 1(1), for “A land transaction is exempt from charge if the purchaser is a charity” substitute “ A transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 14 or 17 of Schedule 15 is exempt from charge if the transferee is a charity ”.
- (3) In paragraph 1(2)—
- (a) for “the purchaser must intend to hold the subject-matter of the transaction” substitute “ every chargeable interest held as partnership property immediately after the transfer must be held ”;
- (b) in paragraphs (a) and (b) for “the purchaser” substitute “ the transferee ”.
- (4) In paragraph 1(3) for “the purchaser” substitute “ the transferee ”.
- (5) In paragraph 2(1), for paragraph (b) substitute—
- “(b) at the time of the disqualifying event the partnership property includes a chargeable interest—
- (i) that was held as partnership property immediately after the relevant transaction, or
- (ii) that is derived from an interest held as partnership property at that time.”.
- (6) In paragraph 2(3)(a), for “the purchaser” substitute “ the transferee ”.
- (7) In paragraph 2(3), for paragraph (b) substitute—
- “(b) any chargeable interest held as partnership property immediately after the relevant transaction, or any interest or right derived from it, being used or held otherwise than for qualifying charitable purposes.”.
- (8) For paragraph 2(4) substitute—
- “(4) In sub-paragraphs (1) and (2) an “appropriate proportion” means an appropriate proportion having regard to—
- (a) the chargeable interests held as partnership property immediately after the relevant transaction and the chargeable interests held as partnership property at the time of the disqualifying event, and
- (b) the extent to which any chargeable interest held as partnership property at that time becomes used or held for purposes other than qualifying charitable purposes.”.
- (9) After paragraph 2 insert—

### *“Interpretation*

- 3 (1) There is a transfer of an interest in a partnership for the purposes of this Schedule if there is such a transfer for the purposes of Part 3 of Schedule 15 (see paragraph 36 of that Schedule).

*Status: Point in time view as at 31/12/2020.*

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- (2) Paragraph 34 (1) of Schedule 15 (meaning of references to partnership property) applies for the purposes of this Schedule as it applies for the purposes of Part 3 of that Schedule.”.

*Acquisition of interest in partnership not chargeable except as specially provided*

- 29 Except as provided by—
- (a) paragraph 10 (transfer of chargeable interest to a partnership), or
  - (b) paragraph 14 (transfer of partnership interest: consideration given and chargeable interest held), or
  - (c) paragraph 17 (transfer of partnership interest pursuant to earlier arrangements),
- the acquisition of an interest in a partnership is not a chargeable transaction, notwithstanding that the partnership property includes land.

*Transactions that are not notifiable*

- 30 (1) A transaction which is a chargeable transaction by virtue of paragraph 14 or 17 (transfer of partnership interest) is a notifiable transaction if (but only if) the consideration for the transaction exceeds the zero rate threshold.
- (2) The consideration for a transaction exceeds the zero rate threshold if [<sup>F460</sup>one or more] of the following conditions are met—
- (a) the relevant consideration for the purposes of section 55 (amount of tax chargeable: general) is such that the [<sup>F461</sup>amount of tax chargeable under that section is not zero];
  - [<sup>F462</sup>(aa) paragraph 3 of Schedule 4A applies to the transaction;]
  - (b) the relevant rental value for the purposes of Schedule 5 (amount of tax chargeable: rent) is such that the rate of tax chargeable under that Schedule is 1% or higher.

**Textual Amendments**

**F460** Words in Sch. 15 para. 30(2) substituted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 9\(3\)\(a\)](#)

**F461** Words in Sch. 15 para. 30(2)(a) substituted (with effect in accordance with s. 2(2) of the amending Act) by [Stamp Duty Land Tax Act 2015 \(c. 1\)](#), [Sch. para. 16](#) (with s. 2(3)-(6))

**F462** Sch. 15 para. 30(2)(aa) inserted (with effect in accordance with Sch. 35 para. 10 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 35 para. 9\(3\)\(b\)](#)

*Stamp duty on transfers of partnership interests: continued application*

- 31 (1) Nothing in section 125 (abolition of stamp duty except in relation to stock or marketable securities), or in Part 2 of Schedule 20 (amendments and repeals consequential on that section) [<sup>F463</sup>or in Schedule 24 to the Finance Act 2014 (abolition of stamp duty in relation to certain securities)], affects the application of the enactments relating to stamp duty in relation to an instrument by which a transfer of an interest in a partnership is effected.

*Status: Point in time view as at 31/12/2020.*

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- (2) In Part 1 of Schedule 20 (provisions supplementing section 125) references to stock or marketable securities shall be read as including any property that is the subject-matter of a transaction by which an interest in a partnership is transferred.
- (3) In their application in relation to an instrument by which a transfer of an interest in a partnership is effected, the enactments relating to stamp duty have effect subject to paragraphs 32 and 33.

#### Textual Amendments

**F463** Words in Sch. 15 para. 31(1) inserted (with effect in accordance with Sch. 24 para. 12(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 24 para. 11\(2\)](#)

#### *Stamp duty on transfers of partnership interests: modification*

- 32 (1) This paragraph applies where—
- (a) stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 (transfer on sale) is chargeable on an instrument effecting a transfer of an interest in a partnership, and
  - (b) the relevant partnership property includes a chargeable interest.
- (2) The “relevant partnership property”, in relation to a transfer of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than any interest that was transferred to the partnership in connection with the transfer.
- (3) The consideration for the transaction shall (subject to sub-paragraph (8)) be taken to be equal to the actual consideration for the transaction less the excluded amount.
- (4) The excluded amount is a proportion of the net market value of the relevant partnership property immediately after the transfer.
- (5) That proportion is—
- (a) if the person acquiring the interest in the partnership was not a partner before the transfer, his partnership share immediately after the transfer;
  - (b) if he was a partner before the transfer, the difference between his partnership share before and after the transfer.
- (6) The net market value of a chargeable interest at a particular date is—
- MVSL
- where—
- MV is the market value of the chargeable interest at that date, and
- SL is the amount outstanding at that date on any loan secured solely on the chargeable interest.
- (7) If, in relation to a chargeable interest, SL is greater than MV, the net market value of the chargeable interest shall be taken to be nil.
  - (8) If the excluded amount is greater than the actual consideration for the transaction, the consideration for the transaction shall be taken to be nil.

*Status: Point in time view as at 31/12/2020.*

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- (9) Where this paragraph applies in relation to an instrument, the instrument shall not be regarded as duly stamped unless it has been stamped in accordance with section 12 of the Stamp Act 1891.
- 33<sup>F464</sup>(1) This paragraph applies where stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 (transfer on sale) is, apart from this paragraph, chargeable on an instrument effecting a transfer of an interest in a partnership.
- (1A) If the relevant partnership property does not include any <sup>F465</sup>[relevant] securities, no stamp duty shall (subject to sub-paragraph (8)) be chargeable on the instrument.]
- (3) <sup>F466</sup>[If the relevant partnership property includes <sup>F467</sup>[relevant] securities,] the stamp duty chargeable on the instrument shall not exceed the stamp duty that would be chargeable if—
- (a) the instrument were an instrument effecting a transfer of <sup>F468</sup>... <sup>F469</sup>[those securities], and
- <sup>F470</sup>(b) the consideration for the transfer were equal to the appropriate proportion of the net market value of <sup>F468</sup>... those securities immediately after the transfer.]
- <sup>F471</sup>(3A) The “relevant partnership property”, in relation to a transfer of an interest in a partnership, is the partnership property immediately after the transfer, other than any partnership property that was transferred to the partnership in connection with the transfer.]
- <sup>F472</sup>(4) .....
- (5) <sup>F473</sup>[The appropriate] proportion is—
- (a) if the person acquiring the interest in the partnership was not a partner before the transfer, his partnership share immediately after the transfer;
- (b) if he was a partner before the transfer, the difference between his partnership share before and after the transfer.
- (6) The net market value of <sup>F474</sup>[relevant] securities at a particular date is—
- MVSL
- where—
- MV is the market value of the <sup>F474</sup>[relevant] securities at that date, and
- SL is the amount outstanding at that date on any loan secured solely on the <sup>F474</sup>[relevant] securities.
- (7) If, in relation to any <sup>F475</sup>[relevant] securities, SL is greater than MV, the net market value of the <sup>F475</sup>[relevant] securities shall be taken to be nil.
- (8) Where this paragraph applies in relation to an instrument, the instrument shall not be regarded as duly stamped unless it has been stamped in accordance with section 12 of the Stamp Act 1891.
- <sup>F476</sup>(8A) In this paragraph “relevant securities” means stock or marketable securities other than any stock or marketable securities admitted to trading on a recognised growth market but not listed on any market.]
- (9) This paragraph shall be construed as one with the Stamp Act 1891.

*Status: Point in time view as at 31/12/2020.*

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### Textual Amendments

- F464** Sch. 15 para. 33(1)(1A) substituted for Sch. 15 para. 33(1)(2) (with effect in accordance with Sch. 10 para. 22(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 21\(2\)](#)
- F465** Word in Sch. 15 para. 33(1A) substituted (with effect in accordance with Sch. 24 para. 12(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 24 para. 11\(3\)\(a\)](#)
- F466** Words in Sch. 15 para. 33(3) inserted (with effect in accordance with Sch. 10 para. 22(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 21\(3\)\(a\)](#)
- F467** Word in Sch. 15 para. 33(3) substituted (with effect in accordance with Sch. 24 para. 12(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 24 para. 11\(3\)\(b\)](#)
- F468** Words in Sch. 15 para. 33(3) omitted (with effect in accordance with Sch. 24 para. 12(4) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 24 para. 11\(3\)\(c\)](#)
- F469** Words in Sch. 15 para. 33(3)(a) substituted (with effect in accordance with Sch. 10 para. 22(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 21\(3\)\(b\)](#)
- F470** Sch. 15 para. 33(3)(b) substituted (with effect in accordance with Sch. 10 para. 22(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 21\(3\)\(c\)](#)
- F471** Sch. 15 para. 33(3A) inserted (with effect in accordance with Sch. 10 para. 22(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 21\(4\)](#)
- F472** Sch. 15 para. 33(4) repealed (with effect in accordance with Sch. 10 para. 22(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 21\(5\)](#), [Sch. 11 Pt. 3\(1\)](#)
- F473** Words in Sch. 15 para. 33(5) substituted (with effect in accordance with Sch. 10 para. 22(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 21\(6\)](#)
- F474** Word in Sch. 15 para. 33(6) substituted (with effect in accordance with Sch. 24 para. 12(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 24 para. 11\(3\)\(d\)](#)
- F475** Word in Sch. 15 para. 33(7) substituted (with effect in accordance with Sch. 24 para. 12(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 24 para. 11\(3\)\(e\)](#)
- F476** Sch. 15 para. 33(8A) inserted (with effect in accordance with Sch. 24 para. 12(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 24 para. 11\(3\)\(f\)](#)

### *Interpretation: partnership property and partnership share*

- 34 (1) Any reference in this Part of this Schedule to partnership property is to an interest or right held by or on behalf of a partnership, or the members of a partnership, for the purposes of the partnership business.
- (2) Any reference in this Part of this Schedule to a person's partnership share at any time is to the proportion in which he is entitled at that time to share in the income profits of the partnership.

### *Interpretation: transfer of chargeable interest to a partnership*

- 35 For the purposes of this Part of this Schedule, there is a transfer of a chargeable interest to a partnership in any case where a chargeable interest becomes partnership property.

### *Interpretation: transfer of interest in a partnership*

- [<sup>F477</sup>36 For the purposes of this Part of this Schedule, where a person acquires or increases a partnership share there is a transfer of an interest in the partnership (to that partner and from the other partners).]

*Status: Point in time view as at 31/12/2020.*

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### Textual Amendments

**F477** Sch. 15 para. 36 substituted (with effect in accordance with s. 72(13)(14) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **s. 72(10)** (with s. 72(2)(16)(17))

*Interpretation: transfer of chargeable interest from a partnership*

- 37 For the purposes of this Part of this Schedule, there is a transfer of a chargeable interest from a partnership in any case where—
- (a) a chargeable interest that was partnership property ceases to be partnership property, or
  - (b) a chargeable interest is granted or created out of partnership property and the interest is not partnership property.

*Interpretation: market value of leases*

- 38 (1) This paragraph applies in relation to a lease for the purposes of this Part of this Schedule if—
- (a) the grant of the lease is or was a transaction to which paragraph 10 applies or applied (or a transaction to which paragraph 10 would have applied if that paragraph had been in force at the time of the grant), or
  - (b) the grant of the lease is a transaction to which paragraph 18 applies.
- (2) In determining the market value of the lease, an obligation of the tenant under the lease is to be taken into account if (but only if)—
- (a) it is an obligation such as is mentioned in paragraph 10 (1) of Schedule 17A, or
  - (b) it is an obligation to make a payment to a person.

*Interpretation: connected persons*

- 39 (1) [<sup>F478</sup>Section 1122 of the Corporation Tax Act 2010] (connected persons) has effect for the purposes of this Part of this Schedule.
- (2) As applied by sub-paragraph (1), that section has effect with the omission of [<sup>F479</sup>subsection (7)] (partners connected with each other).
- [<sup>F480</sup>(3) As applied by sub-paragraph (1) for the purposes of paragraph 12 or 20, that section has effect with the omission of [<sup>F481</sup>subsection (6)(c) to (e)] (trustee connected with settlement).]

### Textual Amendments

**F478** Words in Sch. 15 para. 39(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 418(4)(a)** (with [Sch. 2](#))

**F479** Words in Sch. 15 para. 39(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 418(4)(b)** (with [Sch. 2](#))

**F480** Sch. 15 para. 39(3) inserted (with effect in accordance with s. 72(13) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **s. 72(11)** (with s. 72(2)(16)(17))

*Status: Point in time view as at 31/12/2020.*

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**F481** Words in Sch. 15 para. 39(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 418(4)(c) (with Sch. 2)

*Interpretation: arrangements*

- 40 In this Part of this Schedule “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.]

SCHEDULE 16

Section 105

STAMP DUTY LAND TAX: TRUSTS AND POWERS

*Meaning of “settlement” and “bare trust”*

- 1 (1) In this Part “settlement” means a trust that is not a bare trust.
- (2) In this Part a “bare trust” means a trust under which property is held by a person as trustee—
- (a) for a person who is absolutely entitled as against the trustee, or who would be so entitled but for being a minor or other person under a disability, or
  - (b) for two or more persons who are or would be jointly so entitled,
- and includes a case in which a person holds property as nominee for another.
- (3) In sub-paragraph (2)(a) and (b) the references to a person being absolutely entitled to property as against the trustee are references to a case where the person has the exclusive right, subject only to satisfying any outstanding charge, lien or other right of the trustee, to resort to the property for payment of duty, taxes, costs or other outgoings or to direct how the property is to be dealt with.
- (4) In sub-paragraph (2) “minor”, in relation to Scotland, means a person under legal disability by reason of nonage.

*Interests of beneficiaries under certain trusts*

- 2 Where property is held in trust under the law of Scotland, or of a country or territory outside the United Kingdom, on terms such that, if the trust had effect under the law of England and Wales, a beneficiary would be regarded as having an equitable interest in the trust property—
- (a) that beneficiary shall be treated for the purposes of this Part as having such an interest notwithstanding that no such interest is recognised by the law of Scotland or, as the case may be, the country or territory outside the United Kingdom, and
  - (b) an acquisition of the interest of a beneficiary under the trust shall accordingly be treated as involving the acquisition of an interest in the trust property.

*Status: Point in time view as at 31/12/2020.*

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### *f<sup>F482</sup> Bare trustee*

#### **Textual Amendments**

**F482** Sch. 16 para. 3 and cross-heading substituted (with effect in accordance with Sch. 10 para. 16(4)(6)-(9) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 10 para. 11**

- 3 (1) Subject to sub-paragraph (2), where a person acquires a chargeable interest [<sup>F483</sup> or an interest in a partnership] as bare trustee, this Part applies as if the interest were vested in, and the acts of the trustee in relation to it were the acts of, the person or persons for whom he is trustee.
- (2) Sub-paragraph (1) does not apply in relation to the grant of a lease.
- (3) Where a lease is granted to a person as bare trustee, he is treated for the purposes of this Part, as it applies in relation to the grant of the lease, as purchaser of the whole of the interest acquired.
- (4) Where a lease is granted by a person as bare trustee, he is to be treated for the purposes of this Part, as it applies in relation to the grant of the lease, as vendor of the whole of the interest disposed of.]

#### **Textual Amendments**

**F483** Words in Sch. 16 para. 3(1) inserted (with effect in accordance with s. 72(13) of the amending Act) by Finance Act 2007 (c. 11), **s. 72(12)(a)** (with s. 72(2)(16)(17))

### *Acquisition by trustees of settlement*

- 4 Where persons acquire a chargeable interest as trustees of a settlement, they are treated for the purposes of this Part, as it applies in relation to that acquisition, as purchasers of the whole of the interest acquired (including the beneficial interest).

### *Responsibility of trustees of settlement*

- 5 (1) Where the trustees of a settlement are liable—
- (a) to make a payment of tax or interest on unpaid tax,
  - (b) to make a payment in accordance with an assessment under paragraph 29 of Schedule 10 (recovery of excessive repayment), or
  - (c) to a penalty under this Part or to interest on such a penalty,
- the payment, penalty or interest may be recovered (but only once) from any one or more of the responsible trustees.
- (2) No amount may be recovered by virtue of sub-paragraph (1)(c) from a person who did not become a responsible trustee until after the relevant time.
- (3) The responsible trustees, in relation to a land transaction, are the persons who are trustees at the effective date of the transaction and any person who subsequently becomes a trustee.
- (4) The relevant time for this purpose is—



*Status: Point in time view as at 31/12/2020.*

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- (a) in relation to so much of a penalty as is payable in respect of any day, or to interest on so much of a penalty as is so payable, the beginning of that day;
- (b) in relation to any other penalty, or interest on such a penalty, the time when the act or omission occurred that caused the penalty to become payable.

*Relevant trustees for purposes of return etc*

- 6 (1) A return <sup>F484</sup>... in relation to a land transaction may be made or given by any one or more of the trustees who are the responsible trustees in relation to the transaction.

The trustees by whom such a return <sup>F484</sup>... is made are referred to below as “the relevant trustees”.

- (2) The declaration required by paragraph 1(1)(c) of Schedule 10 <sup>F485</sup>... (declaration that return <sup>F485</sup>... is complete and correct) must be made by all the relevant trustees.

- (3) If the Inland Revenue give notice of an enquiry into the return <sup>F486</sup>...—

- (a) the notice must be given to each of the relevant trustees,
- (b) the powers of the Inland Revenue as to the production of documents and provision of information for the purposes of the enquiry are exercisable separately (and differently) in relation to each of the relevant trustees,
- (c) any of the relevant trustees may apply for a direction that a closure notice be given (and all of them are entitled to appear and be heard on the application), and
- (d) the closure notice must be given to each of the relevant trustees.

Provided that a notice is not invalidated by virtue of paragraph (a) or (d) if it is given to each of the relevant trustees whose identity is known to the Inland Revenue.

- (4) A Revenue determination or discovery assessment relating to the transaction must be made against all of the relevant trustees and is not effective against any of them unless notice of it is given to each of them whose identity is known to the Inland Revenue.

- (5) In the case of an appeal arising from proceedings under this Part relating to the transaction—

- (a) the appeal may be brought by any of the relevant trustees,
- (b) notice of the appeal must be given to any of them by whom it is not brought,
- (c) the agreement of all the relevant trustees is required if the appeal is to be settled by agreement,
- (d) if it is not settled, any of them are entitled to appear and be heard, and
- (e) the decision on the appeal binds all of them.

**Textual Amendments**

**F484** Words in Sch. 16 para. 6(1) omitted (with effect in accordance with s. 94(5) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 13\(2\)](#)

**F485** Words in Sch. 16 para. 6(2) omitted (with effect in accordance with s. 94(5) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 13\(3\)](#)

**F486** Words in Sch. 16 para. 6(3) omitted (with effect in accordance with s. 94(5) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 13\(2\)](#)

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*Consideration for exercise of power of appointment or discretion*

- 7 Where a chargeable interest is acquired by virtue of—
- (a) the exercise of a power of appointment, or
  - (b) the exercise of a discretion vested in trustees of a settlement,
- there shall be treated as consideration for the acquisition of the interest or right by virtue of the exercise of the power or discretion any consideration given for the person in whose favour the appointment was made or the discretion was exercised becoming an object of the power or discretion.

*Reallocation of trust property as between beneficiaries*

- [<sup>F487</sup>8 Where—
- (a) the trustees of a settlement reallocate trust property in such a way that a beneficiary acquires an interest in certain trust property and ceases to have an interest in other trust property, and
  - (b) the beneficiary consents to ceasing to have an interest in that other property,
- the fact that he gives consent does not mean that there is chargeable consideration for the acquisition.]

**Textual Amendments**

**F487** Sch. 16 para. 8 and cross-heading inserted (with effect in accordance with s. 165(2) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 165\(1\)](#)

<sup>F488</sup>SCHEDULE 17

Section 115

**Textual Amendments**

**F488** Sch. 17 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 413](#)

<sup>F489</sup>SCHEDULE 17A

Section 120

FURTHER PROVISIONS RELATING TO LEASES

**Textual Amendments**

**F489** Sch. 17A inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 39 para. 22\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14) (with Sch. 39 paras. 11, 13(5))

*Status: Point in time view as at 31/12/2020.*

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### *Meaning of “lease”*

- 1 [F490]In this Part] “lease” means—
- (a) an interest or right in or over land for a term of years (whether fixed or periodic), or
  - (b) a tenancy at will or other interest or right in or over land terminable by notice at any time.

#### **Textual Amendments**

**F490** Words in Sch. 17A para. 1 substituted (with effect in accordance with s. 29(4) of the amending Act) by Scotland Act 2012 (c. 11), s. 44(2)(b)(3)(b), **Sch. 3 para. 27(2)** (with s. 29(5)(6)); S.I. 2015/637, **art. 2**

### *Leases for a fixed term*

- 2 In the application of the provisions of this Part to a lease for a fixed term, no account shall be taken of—
- (a) any contingency as a result of which the lease may determine before the end of the fixed term, or
  - (b) any right of either party to determine the lease or renew it.

### *Leases that continue after a fixed term*

- 3 (1) This paragraph applies to—
- (a) a lease for a fixed term and thereafter until determined, or
  - (b) a lease for a fixed term that may continue beyond the fixed term by operation of law.
- (2) For the purposes of this Part (except [F491]sections 77 and 77A] (notifiable transactions)), a lease to which this paragraph applies is treated—
- (a) in the first instance as if it were a lease for the original fixed term and no longer,
  - (b) if the lease continues after the end of that term, as if it were a lease for a fixed term one year longer than the original fixed term,
  - (c) if the lease continues after the end of the term resulting from the application of paragraph (b), as if it were a lease for a fixed term two years longer than the original fixed term,
- and so on.

[F492](3) Where the effect of sub-paragraph (2) in relation to the continuation of the lease for a period (or further period) of one year after the end of a fixed term is that a transaction becomes notifiable, the purchaser must deliver a return in respect of that transaction before the end of the period of 14 days after the end of that one year period.

(3ZA) Where the effect of sub-paragraph (2) in relation to the continuation of the lease for a period (or further period) of one year after the end of a fixed term is that—

- (a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or
- (b) additional tax is payable in respect of a transaction,

the purchaser must deliver a further return in respect of that transaction before the end of the period of 30 days after the end of that one year period.

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(3ZB) For the purposes of sub-paragraphs (3) and (3ZA), any tax or additional tax payable is calculated according to the effective date of the transaction.

(3ZC) Where a purchaser is required to deliver a return under sub-paragraph (3) or a further return under sub-paragraph (3ZA)—

- (a) that return must include a self-assessment of the amount of tax chargeable in respect of the transaction on the basis of the information contained in the return, and
- (b) the tax or additional tax payable must be paid not later than the filing date for that return.]

[ But no tax or additional tax is payable in respect of a transaction as a result of  
F493(3A) the continuation of a lease for a period (or further period) of one year under sub-paragraph (2) if, during that one year period, the tenant under the lease is granted a new lease of the same or substantially the same premises in circumstances where paragraph 9A applies.]

[ Sub-paragraph (2) is subject to paragraph 3A.]  
F494(3B)

(4) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this paragraph as they apply to a return under section 76 (general requirement to deliver land transaction return), with the adaptation that references to the effective date of the transaction shall be read as references to [F495 the last day of the one year period for which the lease is continued or (as the case may be) further continued.]

(5) For the purposes of [F496 sections 77 and 77A] (notifiable transactions) a lease to which this paragraph applies is a lease for whatever is its fixed term.

[ Where—

- F497(6) (a) a lease would be treated as continuing for a period (or further period) of one year under sub-paragraph (2), but
- (b) (ignoring that sub-paragraph) the lease actually terminates at a time during that period,

the lease is to be treated as continuing under sub-paragraph (2) only until that time; and the references in sub-paragraphs (3) and (4) to that one year period are accordingly to be read as references to so much of that year as ends with that time.]

#### Textual Amendments

**F491** Words in Sch. 17A para. 3(2) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 14](#)

**F492** [Sch. 17A para. 3\(3\)-\(3ZC\)](#) substituted for [Sch. 17A para. 3\(3\)](#) (with effect in accordance with s. 46(10) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [s. 46\(8\)\(a\)](#)

**F493** [Sch. 17A para. 3\(3A\)](#) inserted (with effect in accordance with [Sch. 41 para. 8\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 41 para. 2\(3\)](#)

**F494** [Sch. 17A para. 3\(3B\)](#) inserted (with effect in accordance with [Sch. 41 para. 8\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 41 para. 2\(4\)](#)

**F495** Words in [Sch. 17A para. 3\(4\)](#) substituted (with effect in accordance with [Sch. 41 para. 8\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 41 para. 2\(5\)](#)

**F496** Words in [Sch. 17A para. 3\(5\)](#) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 14](#)

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**F497** Sch. 17A para. 3(6) inserted (with effect in accordance with Sch. 41 para. 8(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 41 para. 2\(6\)](#)

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

**C18** Sch. 17A para. 3(1)(2) applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Taxable Property Provisions\) Regulations 2006 \(S.I. 2006/1958\)](#), regs. 1(1), 7

- [
- <sup>F498</sup>3A (1) This paragraph applies where—
- (a) (ignoring this paragraph) paragraph 3 would apply to treat a lease (“the original lease”) as if it were a lease for a fixed term one year longer than the original term,
  - (b) during that one year period the tenant under that lease is granted a new lease of the same or substantially the same premises,
  - (c) the term of the new lease begins during that one year period, and
  - (d) paragraph 9A (backdated lease granted to tenant holding over) does not apply.
- (2) Paragraph 3 does not apply to treat the lease as continuing after the original term.
- (3) The term of the new lease is treated for the purposes of this Part as beginning immediately after the original term.
- (4) Any rent which, in the absence of this paragraph, would be payable under the original lease in respect of that one year period is to be treated as payable under the new lease (and paragraph 1A of Schedule 5 does not apply to it).
- (5) Where the fixed term of a lease has previously been extended (on one or more occasions) under paragraph 3, this paragraph applies as if references to the original term were references to the fixed term as previously so extended.]

**Textual Amendments**

**F498** Sch. 17A para. 3A inserted (with effect in accordance with Sch. 41 para. 8(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 41 para. 3](#)

*Treatment of leases for indefinite term*

- 4 (1) For the purposes of this Part (except [<sup>F499</sup>sections 77 and 77A] (notifiable transactions))—
- (a) a lease for an indefinite term is treated in the first instance as if it were a lease for a fixed term of a year,
  - (b) if the lease continues after the end of the term resulting from the application of paragraph (a), it is treated as if it were a lease for a fixed term of two years,
  - (c) if the lease continues after the end of the term resulting from the application of paragraph (b), it is treated as if it were a lease for a fixed term of three years,
- and so on.
- (2) No account shall be taken for the purposes of this Part of any other statutory provision in England and Wales or Northern Ireland deeming a lease for an indefinite period to be a lease for a different term.

*Status: Point in time view as at 31/12/2020.*

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- [<sup>F500</sup>(3) Where the effect of sub-paragraph (1) in relation to the continuation of the lease after the end of a deemed fixed term is that a transaction becomes notifiable, the purchaser must deliver a return in respect of that transaction before the end of the period of 14 days after the end of that term.
- (3A) Where the effect of sub-paragraph (1) in relation to the continuation of the lease after the end of a deemed fixed term is that—
- (a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or
  - (b) additional tax is payable in respect of a transaction,
- the purchaser must deliver a further return in respect of that transaction before the end of the period of 30 days after the end of that term.
- (3B) For the purposes of sub-paragraphs (3) and (3A), any tax or additional tax payable is calculated according to the effective date of the transaction.
- (3C) Where a purchaser is required to deliver a return under sub-paragraph (3) or a further return under sub-paragraph (3A)—
- (a) that return must include a self-assessment of the amount of tax chargeable in respect of the transaction on the basis of the information contained in the return, and
  - (b) the tax or additional tax payable must be paid not later than the filing date for that return.]

(4) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this paragraph as they apply to a return under section 76 (general requirement to deliver land transaction return), with the adaptation that references to the effective date of the transaction shall be read as references to the day on which the lease becomes treated as being for a longer fixed term.

(4A) For the purposes of [<sup>F501</sup>sections 77 and 77A] (notifiable transactions) a lease for an indefinite term is a lease for a term of less than seven years.

(5) References in this paragraph to a lease for an indefinite period include—

    - (a) a periodic tenancy or other interest or right terminable by a period of notice,
    - (b) a tenancy at will <sup>F502</sup>..., or
    - (c) any other interest or right terminable by notice at any time.

#### Textual Amendments

- F499** Words in Sch. 17A para. 4(1) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 14](#)
- F500** [Sch. 17A para. 4\(3\)-\(3C\)](#) substituted for [Sch. 17A para. 4\(3\)](#) (with effect in accordance with s. 46(10) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [s. 46\(8\)\(b\)](#)
- F501** Words in Sch. 17A para. 4(4A) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 30 para. 14](#)
- F502** Words in Sch. 17A para. 4(5)(b) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), [s. 44\(2\)\(b\)\(3\)\(b\)](#), [Sch. 3 para. 27\(3\)](#) (with [s. 29\(5\)\(6\)](#)); [S.I. 2015/637](#), art. 2

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

- C19** Sch. 17A para. 4(1)(2) applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Taxable Property Provisions\) Regulations 2006 \(S.I. 2006/1958\)](#), regs. 1(1), 7
- C20** Sch. 17A para. 4(5) applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Taxable Property Provisions\) Regulations 2006 \(S.I. 2006/1958\)](#), regs. 1(1), 7

*Treatment of successive linked leases*

- 5 (1) This paragraph applies where—
- (a) successive leases are granted or treated as granted (whether at the same time or at different times) of the same or substantially the same premises, and
  - (b) those grants are linked transactions.
- (2) This Part applies as if the series of leases were a single lease—
- (a) granted at the time of the grant of the first lease in the series,
  - (b) for a term equal to the aggregate of the terms of all the leases, and
  - (c) in consideration of the rent payable under all of the leases.
- (3) The grant of later leases in the series is accordingly disregarded for the purposes of this Part except section 81A (return or further return in consequence of later linked transaction).

*Rent*

- 6 (1) For the purposes of this Part a single sum expressed to be payable in respect of rent, or expressed to be payable in respect of rent and other matters but not apportioned, shall be treated as entirely rent.
- (2) Sub-paragraph (1) is without prejudice to the application of paragraph 4 of Schedule 4 (chargeable consideration: just and reasonable apportionment) where separate sums are expressed to be payable in respect of rent and other matters.

*Variable or uncertain rent*

- 7 (1) This paragraph applies to determine the amount of rent payable under a lease where that amount—
- (a) varies in accordance with provision in the lease, or
  - (b) is contingent, uncertain or unascertained.
- (2) As regards rent payable in respect of any period before the end of the fifth year of the term of the lease—
- (a) the provisions of this Part apply as in relation to other chargeable consideration, and
  - (b) the provisions of section 51 (1) and (2) accordingly apply if the amount is contingent, uncertain or unascertained.
- (3) As regards rent payable in respect of any period after the end of the fifth year of the term of the lease, the annual amount is assumed for the purposes of this Part to be, in every case, equal to the highest amount of rent payable in respect of any consecutive twelve month period in the first five years of the term.



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In determining that amount take into account (if necessary) any amounts determined as mentioned in sub-paragraph (2)(b), but disregard [<sup>F503</sup> paragraphs 9(2) and 9A(3) (deemed reduction of rent, where further lease granted, for period during which rents overlap)].

(4) This paragraph has effect subject to paragraph 8 (adjustment where rent payable ceases to be uncertain).

[ For the purposes of this paragraph and paragraph 8, the cases where the amount of <sup>F504</sup>(4A) rent payable under a lease is uncertain or unascertained include cases where there is a possibility of that amount being varied under—

- (a) section 12, 13 or 33 of the Agricultural Holdings Act 1986,
- (b) Part 2 of the Agricultural Tenancies Act 1995,
- <sup>F505</sup>(c) .....
- <sup>F506</sup>(d) .....

(5) No account shall be taken for the purposes] of this Part of any provision for rent to be adjusted in line with the retail prices index.

**Textual Amendments**

- F503** Words in Sch. 17A para. 7(3) substituted (with effect in accordance with Sch. 25 para. 9(2)(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 25 para. 3(2)**
- F504** Sch. 17A para. 7(4A) inserted (with effect in accordance with Sch. 25 para. 9(1)(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 25 para. 2(1)**
- F505** Sch. 17A para. 7(4A)(c) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), s. 44(2)(b)(3)(b), **Sch. 3 para. 27(4)** (with s. 29(5)(6)); S.I. 2015/637, **art. 2**
- F506** Sch. 17A para. 7(4A)(d) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), s. 44(2)(b)(3)(b), **Sch. 3 para. 27(4)** (with s. 29(5)(6)); S.I. 2015/637, **art. 2**

*First rent review in final quarter of fifth year*

- 7A Where—
- (a) a lease contains provision under which the rent may be adjusted,
  - (b) under that provision the first (or only) such adjustment—
    - (i) is to an amount that (before the adjustment) is uncertain, and
    - (ii) has effect from a date (the “review date”) that is expressed as falling five years after a specified date,
  - and
  - (c) the specified date falls within the three months before the beginning of the term of the lease,

this Schedule has effect as if references to the first five years of the term of the lease were to the period beginning with the start of the term of the lease and ending with the review date. References to the fifth year of the term of the lease shall be read accordingly.



*Status: Point in time view as at 31/12/2020.*

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*Adjustment where rent ceases to be uncertain*

- 8 (1) Where the provisions of section 51 (1) and (2) (contingent, uncertain or unascertained consideration) apply in relation to a transaction by virtue of paragraph 7 (uncertain rent) and—
- (a) the end of the fifth year of the term of the lease is reached, or
  - (b) the amount of rent payable in respect of the first five years of the term of the lease ceases to be uncertain at an earlier date,
- the following provisions have effect to require or permit reconsideration of how this Part applies to the transaction (and to any transaction in relation to which it is a linked transaction).
- (2) For the purposes of this paragraph the amount of rent payable ceases to be uncertain when—
- (a) in the case of contingent rent, the contingency occurs or it becomes clear that it will not occur, and
  - (b) in the case of uncertain or unascertained rent, the amount becomes ascertained.
- [<sup>F507</sup>(3) If the result as regards the rent paid or payable in respect of the first five years of the term of the lease is that a transaction becomes notifiable, the purchaser must make a return to HMRC within 14 days of the date referred to in sub-paragraph (1)(a) or (b).
- (3A) If the result as regards the rent paid or payable in respect of the first five years of the term of the lease is that—
- (a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or
  - (b) additional tax is payable in respect of a transaction,
- the purchaser must make a further return to HMRC within 30 days of the date referred to in sub-paragraph (1)(a) or (b).
- (3B) If a purchaser is required to make a return under sub-paragraph (3) or a further return under sub-paragraph (3A)—
- (a) that return must contain a self-assessment of the tax chargeable in respect of the transaction on the basis of the information contained in the return,
  - (b) the tax so chargeable is to be calculated by reference to the rates in force at the effective date of the transaction, and
  - (c) the tax or additional tax payable must be paid not later than the filing date for that return.]

(4) The provisions of Schedule 10 (returns, enquiries, assessment and other matters) apply to a return under this paragraph as they apply to a return under section 76 (general requirement to make land transaction return), subject to the adaptation that references to the effective date of the transaction shall be read as references to the date referred to in sub-paragraph (1)(a) or (b).

(5) If the result as regards the rent paid or payable in respect of the first five years of the term of the lease is that less tax is payable in respect of the transaction than has already been paid—

    - (a) the purchaser may, within the period allowed for amendment of the land transaction return, amend the return accordingly;

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- (b) after the end of that period he may (if the land transaction return is not so amended) make a claim to the Inland Revenue for repayment of the amount overpaid.

#### Textual Amendments

**F507** Sch. 17A para. 8(3)-(3B) substituted for Sch. 17A para. 8(3) (with effect in accordance with s. 46(10) of the amending Act) by Finance Act 2019 (c. 1), s. 46(8)(c)

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

**C21** Sch. 17A para. 8(1)(2) applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by The Pensions Schemes (Taxable Property Provisions) Regulations 2006 (S.I. 2006/1958), regs. 1(1), 8

#### *Rent for overlap period in case of grant of further lease*

- 9 (1) This paragraph applies where—
- (a) A surrenders an existing lease to B (“the old lease”) and in consideration of that surrender B grants a lease to A of the same or substantially the same premises (“the new lease”),
  - (b) the tenant under a lease (“the old lease”) of premises to which Part 2 of the Landlord and Tenant Act 1954 or the Business Tenancies (Northern Ireland) Order 1996 applies makes a request for a new tenancy (“the new lease”) which is duly executed,
  - (c) on termination of a lease (“the head lease”) a sub-tenant is granted a lease (“the new lease”) of the same or substantially the same premises as those comprised in his original lease (“the old lease”)—
    - (i) in pursuance of an order of a court on a claim for relief against re-entry or forfeiture, or
    - (ii) in pursuance of a contractual entitlement arising in the event of the head lease being terminated,
- or
- (d) a person who has guaranteed the obligations of a lessee under a lease that has been terminated (“the old lease”) is granted a lease of the same or substantially the same premises (“the new lease”) in pursuance of the guarantee.
- (2) For the purposes of this Part the rent payable under the new lease in respect of any period falling within the overlap period is treated as reduced by the amount of the rent that would have been payable in respect of that period under the old lease.
- (3) The overlap period is the period between the date of grant of the new lease and what would have been the end of the term of the old lease had it not been terminated.
- (4) The rent that would have been payable under the old lease shall be taken to be the amount taken into account in determining the stamp duty land tax chargeable in respect of the acquisition of the old lease.
- (5) This paragraph does not have effect so as to require the rent payable under the new lease to be treated as a negative amount.

*Status: Point in time view as at 31/12/2020.*

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*f<sup>F508</sup> Backdated lease granted to tenant holding over*

**Textual Amendments**

**F508** Sch. 17A para. 9A and cross-heading inserted (with effect in accordance with Sch. 25 para. 9(2)(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 25 para. 3\(1\)](#)

- 9A (1) This paragraph applies where—
- (a) the tenant under a lease continues in occupation after the date on which, under its terms, the lease terminates (“the contractual termination date”),
  - (b) he is granted a new lease of the same or substantially the same premises, and
  - (c) the term of the new lease is expressed to begin on or immediately after the contractual termination date.
- (2) The term of the new lease is treated for the purposes of this Part as beginning on the date on which it is expressed to begin.
- (3) The rent payable under the new lease in respect of any period falling—
- (a) after the contractual termination date, and
  - (b) before the date on which the new lease is granted,
- is treated for the purposes of this Part as reduced by the amount of taxable rent that is payable in respect of that period otherwise than under the new lease.
- (4) For the purposes of sub-paragraph (3) rent is “taxable” if or to the extent that it is taken into account in determining liability to stamp duty land tax.
- (5) Sub-paragraph (3) does not have effect so as to require the rent payable under the new lease to be treated as a negative amount.]

*Tenants' obligations etc that do not count as chargeable consideration*

- 10 (1) In the case of the grant of a lease none of the following counts as chargeable consideration—
- (a) any undertaking by the tenant to repair, maintain or insure the demised premises <sup>F509</sup> ...;
  - (b) any undertaking by the tenant to pay any amount in respect of services, repairs, maintenance or insurance or the landlord’s costs of management;
  - (c) any other obligation undertaken by the tenant that is not such as to affect the rent that a tenant would be prepared to pay in the open market;
  - (d) any guarantee of the payment of rent or the performance of any other obligation of the tenant under the lease;
  - (e) any penal rent, or increased rent in the nature of a penal rent, payable in respect of the breach of any obligation of the tenant under the lease.
- [
- <sup>F510</sup>(f) any liability of the tenant for costs under section 14(2) of the Leasehold Reform Act 1967 or section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 (costs to be borne by person exercising statutory right to be granted lease);
  - (g) any other obligation of the tenant to bear the landlord’s reasonable costs or expenses of or incidental to the grant of a lease;
  - (h) any obligation under the lease to transfer to the landlord, on the termination of the lease, payment entitlements granted to the tenant under the single

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payment scheme (that is, the scheme of income support for farmers in pursuance of Title III of <sup>F511</sup>Council Regulation (EC) No 73/2009) in respect of land subject to the lease.]

- (2) Where sub-paragraph (1) applies in relation to an obligation, a payment made in discharge of the obligation does not count as chargeable consideration.
- (3) The release of any such obligation as is mentioned in sub-paragraph (1) does not count as chargeable consideration in relation to the surrender of the lease.

#### Textual Amendments

- F509** Words in Sch. 17A para. 10(1)(a) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), s. 44(2)(b)(3)(b), [Sch. 3 para. 27\(5\)](#) (with s. 29(5)(6)); [S.I. 2015/637](#), [art. 2](#)
- F510** Sch. 17A para. 10(1)(f)-(h) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Stamp Duty Land Tax \(Amendment to the Finance Act 2003\) Regulations 2006 \(S.I. 2006/875\)](#), regs. 1(1), 4
- F511** Words in Sch. 17A para. 10(1)(h) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Stamp Duty Land Tax \(Amendment to the Finance Act 2003\) Regulations 2012 \(S.I. 2012/1667\)](#), regs. 1(1), 3

#### *Cases where assignment of lease treated as grant of lease*

- 11 <sup>F512</sup>(1) This paragraph applies where the grant of a lease is exempt from charge by virtue of any of the provisions specified in sub-paragraph (3).]
- (2) The first assignment of the lease that is not exempt from charge by virtue of any of the provisions specified in sub-paragraph (3), and in relation to which the assignee does not acquire the lease as a bare trustee of the assignor, is treated for the purposes of this Part as if it were the grant of a lease by the assignor—
    - (a) for a term equal to the unexpired term of the lease referred to in sub-paragraph (1), and
    - (b) on the same terms as those on which the assignee holds that lease after the assignment.
  - (3) The provisions are—
    - (a) section 57A (sale and leaseback arrangements);
    - (b) Part 1 or 2 of Schedule 7 (group relief or reconstruction or acquisition relief);
    - [ Part 1 or 2 of Schedule 7A (PAIF seeding relief and COACS seeding relief);]
    - <sup>F513</sup>(ba)
    - (c) section 66 (transfers involving public bodies);
    - (d) Schedule 8 (charities relief);
    - (e) any such regulations as are mentioned in section 123(3) (regulations reproducing in relation to stamp duty land tax the effect of enactments providing for exemption from stamp duty).
  - (4) This paragraph does not apply where the relief in question is group relief, reconstruction or acquisition relief<sup>F514</sup>, PAIF seeding relief, COACS seeding relief] or charities relief and is withdrawn as a result of a disqualifying event occurring before the effective date of the assignment.

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- (5) For the purposes of sub-paragraph (4) “disqualifying event” means—
- (a) in relation to the withdrawal of group relief, [<sup>F515</sup>the event falling within paragraph 3(1)(a) of Schedule 7 (purchaser ceasing to be a member of the same group as the vendor), as read with paragraph 4A of that Schedule];
  - (b) in relation to the withdrawal of reconstruction or acquisition relief, the change of control of the acquiring company mentioned in paragraph 9(1)(a) of that Schedule or, as the case may be, the event mentioned in paragraph 11(1)(a) or (2)(a) of that Schedule;
  - [ in relation to the withdrawal of PAIF seeding relief—
  - <sup>F516</sup>(ba)
    - (i) the purchaser ceasing to be a property AIF as mentioned in paragraph 5 of Schedule 7A,
    - (ii) a person making a relevant disposal of units as mentioned in paragraph 7 of that Schedule, or
    - (iii) the grant of permission to a non-qualifying individual to occupy a dwelling as mentioned in paragraph 8 of that Schedule;
  - (bb) in relation to the withdrawal of COACS seeding relief—
  - (i) the purchaser ceasing to be a co-ownership authorised contractual scheme as mentioned in paragraph 13 of Schedule 7A,
    - (ii) a person making a relevant disposal of units as mentioned in paragraph 17 of that Schedule, or
    - (iii) the grant of permission to a non-qualifying individual to occupy a dwelling as mentioned in paragraph 18 of that Schedule;]
  - (c) in relation to the withdrawal of charities relief, a disqualifying event as defined in paragraphs 2(3) or 3(2) of Schedule 8.

[ This paragraph also does not apply where the relief in question is PAIF seeding relief <sup>F517</sup>(6) or COACS seeding relief and is withdrawn as a result of a requirement not being met at a time which is before the effective date of the assignment of the lease.

- (7) For the purposes of sub-paragraph (6), the reference to a requirement not being met is a reference to—
- (a) in relation to the withdrawal of PAIF seeding relief under paragraph 6 of Schedule 7A, the portfolio test not being met (see paragraph 6(7));
  - (b) in relation to the withdrawal of COACS seeding relief under paragraph 14 of Schedule 7A, the genuine diversity of ownership condition not being met (see paragraph 15);
  - (c) in relation to the withdrawal of COACS seeding relief under paragraph 16 of Schedule 7A, the portfolio test not being met (see paragraph 16(7)).]

#### Textual Amendments

**F512** Sch. 17A para. 11(1) substituted (with effect in accordance with Sch. 10 para. 16(4)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 12](#)

**F513** Sch. 17A para. 11(3)(ba) inserted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 16 para. 14\(2\)](#)

**F514** Words in Sch. 17A para. 11(4) inserted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 16 para. 14\(3\)](#)

**F515** Words in Sch. 17A para. 11(5)(a) substituted (with effect in accordance with Sch. 10 para. 16(1)(6)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 7](#)

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**F516** Sch. 17A para. 11(5)(ba)(bb) inserted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 16 para. 14\(4\)](#)

**F517** Sch. 17A para. 11(6)(7) inserted (with effect in accordance with Sch. 16 para. 15 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 16 para. 14\(5\)](#)

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

**C22** Sch. 17A para. 11 modified (7.4.2010) by [The Stamp Duty Land Tax \(Alternative Finance Investment Bonds\) Regulations 2010 \(S.I. 2010/814\)](#), regs. 1, 2

*Assignment of lease: responsibility of assignee for returns etc*

- 12 (1) Where a lease is assigned, anything that but for the assignment would be required or authorised to be done by or in relation to the assignor under or by virtue of—
- (a) section 80 (adjustment where contingency ceases or consideration is ascertained),
  - (b) section 81A (return or further return in consequence of later linked transaction),
  - (c) paragraph 3 or 4 of this Schedule (return or further return required where lease for indefinite period continues), or
  - (d) paragraph 8 of this Schedule (adjustment where rent ceases to be uncertain),
- shall, if the event giving rise to the adjustment or return occurs after the effective date of the assignment, be done instead by or in relation to the assignee.
- (2) So far as necessary for giving effect to sub-paragraph (1) anything previously done by or in relation to the assignor shall be treated as if it had been done by or in relation to the assignee.
- (3) This paragraph does not apply if the assignment falls to be treated as the grant of a lease by the assignor (see paragraph 11).

*Agreement for lease*

- 12A (1) This paragraph applies where <sup>F518</sup>...—
- (a) an agreement for a lease is entered into, and
  - (b) the agreement is substantially performed without having been completed.
- (2) The agreement is treated as if it were the grant of a lease in accordance with the agreement (“the notional lease”), beginning with the date of substantial performance.
- The effective date of the transaction is that date.
- <sup>F519</sup>(3) Where a lease (“the actual lease”) is subsequently granted in pursuance of the agreement, the notional lease is to be treated for the purposes of this Part as if it were a lease granted—
- (a) on the date the agreement was substantially performed,
  - (b) for a term which begins with that date and ends at the end of the term of the actual lease, and
  - (c) in consideration of the total rent payable over that term and any other consideration given for the notional lease or the actual lease.

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- (3A) Where sub-paragraph (3) applies the grant of the actual lease is disregarded for the purposes of this Part except section 81A (return or further return in consequence of later linked transaction).
- (3B) For the purposes of section 81A—
- (a) the grant of the notional lease and the grant of the actual lease are linked (whether or not they would be linked by virtue of section 108),
  - (b) the lessee under the actual lease (rather than the lessee under the notional lease) is liable for any tax or additional tax payable in respect of the notional lease as a result of sub-paragraph (3), and
  - (c) the reference in section 81A(1)(a) to “the purchaser under the earlier transaction” is to be read, in relation to the notional lease, as a reference to the lessee under the actual lease.]
- (4) Where sub-paragraph (1) applies and the agreement is (to any extent) afterwards rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of that sub-paragraph shall (to that extent) be repaid by the Inland Revenue.
- Repayment must be claimed by amendment of the land transaction return made in respect of the agreement.
- (5) In this paragraph “substantially performed” and “completed” have the same meanings as in section 44 (contract and conveyance).

#### Textual Amendments

**F518** Words in Sch. 17A para. 12A(1) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), s. 44(2)(b)(3)(b), [Sch. 3 para. 27\(6\)](#) (with s. 29(5)(6)); S.I. 2015/637, [art. 2](#)

**F519** Sch. 17A para. 12A(3)-(3B) substituted for Sch. 17A para. 12A(3) (with effect in accordance with Sch. 41 para. 8(4) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 41 para. 6\(2\)](#)

#### *Assignment of agreement for lease*

- 12B (1) This paragraph applies, in place of [<sup>F520</sup>Schedule 2A (transactions entered into before completion of contract)], where <sup>F521</sup>... a person assigns his interest as lessee under an agreement for a lease.
- (2) If the assignment occurs without the agreement having been substantially performed, section 44 (contract and conveyance) has effect as if—
- (a) the contract were with the assignee and not the assignor, and
  - (b) the consideration given by the assignee for entering into the contract included any consideration given by him for the assignment.
- (3) If the assignment occurs after the agreement has been substantially performed—
- (a) the assignment is a separate land transaction, and
  - (b) the effective date of that transaction is the date of the assignment.
- (4) Where there are successive assignments, this paragraph has effect in relation to each of them.



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**Textual Amendments**

- F520** Words in Sch. 17A para. 12B(1) substituted (with effect in accordance with Sch. 39 para. 11 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 39 para. 10**
- F521** Words in Sch. 17A para. 12B(1) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), s. 44(2)(b)(3)(b), **Sch. 3 para. 27(7)** (with s. 29(5)(6)); S.I. 2015/637, **art. 2**

*Increase of rent treated as grant of new lease: variation of lease [F522 in first five years]*

**Textual Amendments**

- F522** Words in Sch. 17A para. 13 heading inserted (with effect in accordance with Sch. 25 para. 9(4)(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 25 para. 6(1)**

- 13 (1) Where a lease is varied so as to increase the amount of the rent [F523 as from a date before the end of the fifth year of the term of the lease], the variation is treated for the purposes of this Part as if it were the grant of a lease in consideration of the additional rent made payable by it.
- (2) Sub-paragraph (1) does not apply to an increase of rent [F524 in pursuance of—
- (a) a provision contained in the lease, or
  - (b) a provision mentioned in [F525 paragraph (a) or (b)] of paragraph 7(4A).]

**Textual Amendments**

- F523** Words in Sch. 17A para. 13(1) inserted (with effect in accordance with Sch. 25 para. 9(4)(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 25 para. 6(2)**
- F524** Words in Sch. 17A para. 13(2) substituted (with effect in accordance with Sch. 25 para. 9(1)(6) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 25 para. 2(2)**
- F525** Words in Sch. 17A para. 13(2)(b) substituted (with effect in accordance with s. 29(4) of the amending Act) by [Scotland Act 2012 \(c. 11\)](#), s. 44(2)(b)(3)(b), **Sch. 3 para. 27(8)** (with s. 29(5)(6)); S.I. 2015/637, **art. 2**

*Increase of rent treated as grant of new lease: abnormal increase after fifth year*

F526<sup>14</sup> .....

**Textual Amendments**

- F526** Sch. 17A para. 14 omitted (with effect in accordance with Sch. 41 para. 8(5) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 41 para. 7(1)**

*Increase of rent after fifth year: whether regarded as abnormal*

F527<sup>15</sup> .....



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#### Textual Amendments

**F527** Sch. 17A para. 15 omitted (with effect in accordance with Sch. 41 para. 8(5) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 41 para. 7\(1\)](#)

#### *[<sup>F528</sup>Reduction of rent or term or other variation of lease]*

#### Textual Amendments

**F528** Sch. 17A para. 15A heading substituted (with effect in accordance with Sch. 10 para. 16(5)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 13\(b\)](#)

15A (1) Where a lease is varied so as to reduce the amount of the rent, the variation is treated for the purposes of this Part as an acquisition of a chargeable interest by the lessee.

[ Where any consideration in money or money's worth (other than an increase in rent) <sup>F529</sup>(1A) is given by the lessee for any variation of a lease, other than a variation of the amount of the rent or of the term of the lease, the variation is treated for the purposes of this Part as an acquisition of a chargeable interest by the lessee.]

(2) Where a lease is varied so as to reduce the term, the variation is treated for the purposes of this Part as an acquisition of a chargeable interest by the lessor.

#### Textual Amendments

**F529** Sch. 17A para. 15A(1A) inserted (with effect in accordance with Sch. 10 para. 16(5)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 13\(a\)](#)

#### *Surrender of existing lease in return for new lease*

16 Where a lease is granted in consideration of the surrender of an existing lease between the same parties—

- (a) the grant of the new lease does not count as chargeable consideration for the surrender, and
- (b) the surrender does not count as chargeable consideration for the grant of the new lease.

Paragraph 5 (exchanges) of Schedule 4 (chargeable consideration) does not apply in such a case.

#### *Assignment of lease: assumption of obligations by assignee*

17 In the case of an assignment of a lease the assumption by the assignee of the obligation—

- (a) to pay rent, or
- (b) to perform or observe any other undertaking of the tenant under the lease, does not count as chargeable consideration for the assignment.

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### *Reverse premium*

- 18 (1) In the case of the grant, assignment or surrender of a lease a reverse premium does not count as chargeable consideration.
- (2) A “reverse premium” means—
- (a) in relation to the grant of a lease, a premium moving from the landlord to the tenant;
  - (b) in relation to the assignment of a lease, a premium moving from the assignor to the assignee;
  - (c) in relation to the surrender of a lease, a premium moving from the tenant to the landlord.

### *<sup>F530</sup>Loan or deposit in connection with grant or assignment of lease*

#### **Textual Amendments**

**F530** Sch. 17A para. 18A and cross-heading inserted (with effect in accordance with Sch. 10 para. 16(5)-(9) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 14](#)

- 18A (1) Where, under arrangements made in connection with the grant of a lease—
- (a) the lessee, or any person connected with him or acting on his behalf, pays a deposit, or makes a loan, to any person, and
  - (b) the repayment of all or part of the deposit or loan is contingent on anything done or omitted to be done by the lessee or on the death of the lessee,
- the amount of the deposit or loan (disregarding any repayment) is to be taken for the purposes of this Part to be consideration other than rent given for the grant of the lease.
- (2) Where, under arrangements made in connection with the assignment of a lease—
- (a) the assignee, or any person connected with him or acting on his behalf, pays a deposit, or makes a loan, to any person, and
  - (b) the repayment of all or part of the deposit or loan is contingent on anything done or omitted to be done by the assignee or on the death of the assignee,
- the amount of the deposit or loan (disregarding any repayment) is to be taken for the purposes of this Part to be consideration other than rent given for the assignment of the lease.
- (3) Sub-paragraph (1) or (2) does not apply in relation to a deposit if the amount that would otherwise fall within the sub-paragraph in question in relation to the grant or (as the case requires) assignment of the lease is not more than twice the relevant maximum rent.
- (4) The relevant maximum rent is—
- (a) in relation to the grant of a lease, the highest amount of rent payable in respect of any consecutive twelve month period in the first five years of the term;
  - (b) in relation to the assignment of a lease, the highest amount of rent payable in respect of any consecutive twelve month period in the first five years of the term remaining outstanding as at the date of the assignment,
- the highest amount of rent being determined (in either case) in the same way as the highest amount of rent mentioned in paragraph 7(3).

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- (5) Tax is not chargeable by virtue of this paragraph—
- (a) merely because of paragraph [F5319A] of Schedule 5 (which excludes the 0% band in [F532Table B] in section 55(2) in cases where [F533the relevant rent attributable to non-residential property is not less than £1,000] a year), or
  - F534(b) .....
- (6) [F535Section 1122 of the Corporation Tax Act 2010] (connected persons) has effect for the purposes of this paragraph.]

#### Textual Amendments

- F531** Word in Sch. 17A para. 18A(5)(a) substituted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(12\)\(a\)](#)
- F532** Words in Sch. 17A para. 18A(5)(a) substituted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(12\)\(b\)](#)
- F533** Words in Sch. 17A para. 18A(5)(a) substituted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(12\)\(c\)](#)
- F534** Sch. 17A para. 18A(5)(b) omitted (with effect in accordance with Sch. 39 para. 10(4) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\), Sch. 39 para. 8\(2\)\(b\)\(iii\)](#) (with [Sch. 39 paras. 11-13](#))
- F535** Words in Sch. 17A para. 18A(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 419](#) (with [Sch. 2](#))

#### *Provisions relating to leases in Scotland*

- 19[F536(1) In the application of this Part to Scotland—
- (a) any reference to the term of a lease is to the period of the lease, and
  - (b) any reference to the reversion on a lease is to the interest of the landlord in the property subject to the lease.
- [F537(2) Where in Scotland there is a lease constituted by concluded missives of let (“the first lease”) and at some later time a lease is executed (“the second lease”), the first lease is to be treated for the purposes of this Part as if it were a lease granted—
- (a) on the date the missives of let were concluded,
  - (b) for a period which begins with that date and ends at the end of the period of the second lease, and
  - (c) in consideration of the total rent payable over that period and any other consideration given for the first lease or the second lease.
- (2A) Where sub-paragraph (2) applies the grant of the second lease is disregarded for the purposes of this Part except section 81A (return or further return in consequence of later linked transaction).
- (2B) For the purposes of section 81A—
- (a) the grant of the first lease and the grant of the second lease are linked (whether or not they would be linked by virtue of section 108),
  - (b) the lessee under the second lease (rather than the lessee under the first lease) is liable for any tax or additional tax payable in respect of the first lease lease as a result of sub-paragraph (2), and

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- (c) the reference in section 81A(1)(a) to “the purchaser under the earlier transaction” is to be read, in relation to the first lease, as a reference to the lessee under the second lease.]
- (3) Where in Scotland—
- (a) there is an agreement (including missives of let not constituting a lease) under which a lease is to be executed, and
  - (b) the agreement is substantially performed without a lease having been executed,
- the agreement is treated as if it were the grant of a lease in accordance with the agreement (“the notional lease”), beginning with the date of substantial performance. The effective date of the transaction is when the agreement is substantially performed.
- [<sup>F538</sup>(4) Where sub-paragraph (3) applies and at some later time a lease (“the actual lease”) is executed, this Part applies as if the notional lease were a lease granted—
- (a) on the date the agreement was substantially performed,
  - (b) for a period which begins with that date and ends at the end of the period of the actual lease, and
  - (c) in consideration of the total rent payable over that period and any other consideration given for the agreement or the actual lease.
- (4A) Where sub-paragraph (4) applies the grant of the second lease is disregarded for the purposes of this Part except section 81A (return or further return in consequence of later linked transaction).”
- (4B) For the purposes of section 81A—
- (a) the grant of the notional lease and the grant of the actual lease are linked (whether or not they would be linked by virtue of section 108),
  - (b) the lessee under the actual lease (rather than the lessee under the notional lease) is liable for any tax or additional tax payable in respect of the notional lease as a result of sub-paragraph (4), and
  - (c) the reference in section 81A(1)(a) to “the purchaser under the earlier transaction” is to be read, in relation to the notional lease, as a reference to the lessee under the actual lease.]
- (5) References in sub-paragraphs (2) to (4) to the execution of a lease are to the execution of a lease that either is in conformity with, or relates to substantially the same property and period as, the missives of let or other agreement.
- (6) Where sub-paragraph (3) applies and the agreement is (to any extent) afterwards rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of that sub-paragraph shall (to that extent) be repaid by the Inland Revenue.
- Repayment must be claimed by amendment of the land transaction return made in respect of the agreement.]]

#### Textual Amendments

**F536** Sch. 17A para. 19 omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of Scotland Act 2012 (c. 11), s. 44(2)(b)(3)(b), Sch. 3 para. 27(10) (with s. 29(5)(6))

**F537** Sch. 17A para. 19(2)-(2B) substituted for Sch. 17A para. 19(2) (with effect in accordance with Sch. 41 para. 8(4) of the amending Act) by Finance Act 2013 (c. 29), Sch. 41 para. 6(3)(a)

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

**F538** Sch. 17A para. 19(4)-(4B) substituted for Sch. 17A para. 19(4) (with effect in accordance with Sch. 41 para. 8(4) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 41 para. 6\(3\)\(b\)](#)

## SCHEDULE 18

Section 123

### STAMP DUTY LAND TAX: CONSEQUENTIAL AMENDMENTS

#### *Provisional Collection of Taxes Act 1968*

- 1 In section 1(1) of the Provisional Collection of Taxes Act 1968 (c. 2), after “stamp duty reserve tax,” insert “ stamp duty land tax, ”.

#### *Inheritance Tax Act 1984*

- 2 In section 190(4) of the Inheritance Tax Act 1984 (c. 51) (sale of land from deceased’s estate: determination of price), after “stamp duty” insert “ or stamp duty land tax ”.

#### *Income and Corporation Taxes Act 1988*

- 3 (1) The Income and Corporation Taxes Act 1988 (c. 1) is amended as follows.

<sup>F539</sup>(2) .....

<sup>F539</sup>(3) .....

<sup>F539</sup>(4) .....

<sup>F539</sup>(5) .....

- (6) In section 827 (penalties and interest not allowed as deductions for tax purposes), after subsection (1F) insert—

“(1G) Where a person is liable to make a payment by way of—

(a) any penalty under Part 4 of the Finance Act 2003 (stamp duty land tax), or

(b) interest under any provision of that Part,

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.”.

#### **Textual Amendments**

**F539** Sch. 18 para. 3(2)-(5) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

#### *Finance Act 1989*

- 4 In section 178(2) of the Finance Act 1989 (c. 26) (power of Treasury to set rates of interest: enactments to which the section applies), after paragraph (s) add—  
“(t) sections 87, 88 and 89 of the Finance Act 2003.”.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

### *Taxation of Chargeable Gains Act 1992*

- 5 In section 38(2) of the Taxation of Chargeable Gains Act 1992 (c. 12) (incidental costs of acquisition or disposal), after “stamp duty” insert “ or stamp duty land tax ”.

### *Income Tax (Earnings and Pensions) Act 2003*

- 6 In section 277 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (removal benefits and expenses: acquisition of property), in subsection (3)(e) after “stamp duty” insert “ or stamp duty land tax ”.

## SCHEDULE 19

Section 124

### STAMP DUTY LAND TAX: COMMENCEMENT AND TRANSITIONAL PROVISIONS

#### *Introduction*

- 1 (1) Subject to the provisions of this Schedule, the provisions of this Part come into force on the passing of this Act.
- (2) The following provisions have effect as regards what transactions are SDLT transactions, that is, are chargeable or notifiable or are transactions in relation to which section 79 (registration etc) applies.
- (3) Nothing in this Schedule shall be read as meaning that other transactions, whether effected before or after the passing of this Act, are to be disregarded in applying the provisions of this Part.

#### **Commencement Information**

**11** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

#### *The implementation date*

- 2 (1) A transaction is not an SDLT transaction unless the effective date of the transaction is on or after the implementation date.
- (2) In this Part “the implementation date” means the date appointed by Treasury order as the implementation date for the purposes of stamp duty land tax.

#### **Commencement Information**

**12** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

#### *Contract entered into before first relevant date*

- 3 (1) Subject to the following provisions of this paragraph, a transaction is not an SDLT transaction if it is effected in pursuance of a contract entered into before the first relevant date.
- (2) The “first relevant date” is the day after the passing of this Act.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

- (3) The exclusion of transactions effected in pursuance of contracts entered into before the first relevant date does not apply—
- (a) if there is any variation of the contract or assignment of rights under the contract on or after that date;
  - (b) if the transaction is effected in consequence of the exercise after that date of any option, right of pre-emption or similar right;
  - <sup>[F540]</sup>(c) if on or after that date there is an assignment, subsale or other transaction (relating to the whole or part of the subject-matter of the contract) as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance to him.]

#### Textual Amendments

**F540** Sch. 19 para. 3(3)(c) substituted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 12](#)

#### Commencement Information

**I3** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

#### *Contract substantially performed before implementation date*

- 4 (1) This paragraph applies where a transaction—
- (a) is completed on or after the implementation date,
  - (b) is effected in pursuance of a contract entered into and substantially performed before that date, and
  - (c) is not excluded from being an SDLT transaction by paragraph 3.
- (2) The transaction is not an SDLT transaction if the contract was substantially performed before the first relevant date.
- (3) In any other case, the fact that the contract was substantially performed before the implementation date does not affect the matter.

Accordingly, the effective date of the transaction is the date of completion.

#### Commencement Information

**I4** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

#### <sup>[F541]</sup>*Contracts substantially performed after implementation date*

#### Textual Amendments

**F541** Sch. 19 paras. 4A, 4B and cross-heading inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 24](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

- 4A Where—
- (a) a transaction is effected in pursuance of a contract entered into before the first relevant date,
  - (b) the contract is substantially performed, without having been completed, after the implementation date, and
  - (c) there is subsequently an event within paragraph 3(3) by virtue of which the transaction is an SDLT transaction,
- the effective date of the transaction shall be taken to be the date of the event referred to in paragraph (c) (and not the date of substantial performance).

*Application of provisions in case of transfer of rights*

- 4B (1) This paragraph applies where section 44 (contract and conveyance) has effect in accordance with section 45 (effect of transfer of rights).
- (2) Any reference in paragraph 3, 4 or 4A to the date when a contract was entered into (or made) shall be read, in relation to a contract deemed to exist by virtue of section 45(3) (deemed secondary contract with transferee), as a reference to the date of the assignment, subsale or other transaction in question.]

*Credit for ad valorem stamp duty paid*

- 5 (1) Where a transaction chargeable to stamp duty land tax is effected in pursuance of a contract entered into before the implementation date, any *ad valorem* stamp duty paid on the contract shall go to reduce the amount of tax payable (but not so as to give rise to any repayment).
- (2) Where the application or operation of any exemption or relief from stamp duty land tax turns on whether tax was paid or payable in respect of an earlier transaction, that requirement is treated as met if *ad valorem* stamp duty was paid or (as the case may be) payable in respect of the instrument by which that transaction was effected.

**Commencement Information**

**I5** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Effect for stamp duty purposes of stamp duty land tax being paid or chargeable*

- 6 <sup>F542</sup>(1) . . . . .
- (2) The references in section 111(1)(c) of, and paragraph 4(3) of Schedule 34 to, the Finance Act 2002 (c. 23) (which relate to the circumstances in which stamp duty group relief is withdrawn) to a transfer at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed shall be read, on or after the implementation date, as including a reference to a transfer at market value by a chargeable transaction in respect of which relief under Part 1 of Schedule 7 to this Act was available but was not claimed.
- <sup>F543</sup>(3) . . . . .



*Status: Point in time view as at 31/12/2020.*

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### Textual Amendments

**F542** Sch. 19 para. 6(1) repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 4(2)** (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked **Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816)**, see Sch. 39 para. 14)

**F543** Sch. 19 para. 6(3) omitted (with effect in accordance with Sch. 39 para. 10(1) of the amending Act) by virtue of Finance Act 2012 (c. 14), **Sch. 39 para. 5(2)(e)(ii)** (with Sch. 39 paras. 11-13)

### Commencement Information

**I6** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### *Earlier related transactions under stamp duty*

- 7 (1) In relation to a transaction that is not an SDLT transaction but which is linked to an SDLT transaction and accordingly falls to be taken into account in determining the [<sup>F544</sup>amount] of stamp duty land tax chargeable on the latter transaction, any reference in this Part to the chargeable consideration for the first-mentioned transaction shall be read as a reference to the consideration by reference to which *ad valorem* stamp duty was payable in respect of the instrument by which that transaction was effected.
- [<sup>F545</sup>(2) In paragraph 3 of Schedule 9 (relief for transfer of reversion under shared ownership lease where election made for market value treatment) and paragraph 4A of that Schedule (shared ownership lease: treatment of staircasing transaction) as they apply in a case where the original lease was granted before the implementation date—
- (a) a reference to a lease to which paragraph 2 of that Schedule applies shall be read as a reference to a lease to which section 97 of the Finance Act 1980 applied (which made provision for stamp duty corresponding to that paragraph), and
  - (b) a reference to an election having been made for tax to be charged in accordance with paragraph 2 or 4 of that Schedule shall be read as a reference to the lease having contained a statement of the parties' intention such as is mentioned in section 97(2)(d) of the Finance Act 1980 or, as the case may be, paragraph (d) of section 108(5) of the Finance Act 1981 (which made provision for stamp duty corresponding to paragraph 4).]
- (3) In section 54 (exceptions from deemed market value rule for transactions with connected company) the reference in subsection (4)(b) to group relief having been claimed in respect of a transaction shall be read in relation to a transaction carried out before the implementation date as a reference to relief having been claimed under section 42 of the Finance Act 1930 (c. 28), section 11 of the Finance Act (Northern Ireland) 1954 (c. 23 (N. I.)) or section 151 of the Finance Act 1995 (c. 4) in respect of stamp duty on the instrument by which the transaction was effected.
- [<sup>F546</sup>(4) For the purposes of paragraph 5 of Schedule 17A (treatment of successive linked leases) no account shall be taken of any transaction that is not an SDLT transaction.]

### Textual Amendments

**F544** Word in Sch. 19 para. 7(1) substituted (with effect in accordance with s. 2(2) of the amending Act) by Stamp Duty Land Tax Act 2015 (c. 1), **Sch. para. 19** (with s. 2(3)-(6))

**F545** Sch. 19 para. 7(2) substituted (retrospective to 1.12.2003) by Finance Act 2004 (c. 12), **s. 303(3)**

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

**F546** Sch. 19 para. 7(4) added (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 22\(8\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

**Commencement Information**

**I7** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*[<sup>F547</sup>Stamping of contract where transaction on completion subject to stamp duty land tax]*

**Textual Amendments**

**F547** Sch. 19 para. 7A and cross-heading inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 25\(1\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

- 7A (1) This paragraph applies where—
- (a) a contract that apart from paragraph 7 of Schedule 13 to the Finance Act 1999 (contracts chargeable as conveyances on sale) would not be chargeable with stamp duty is entered into before the implementation date,
  - (b) a conveyance made in conformity with the contract is effected on or after the implementation date, and
  - (c) the transaction effected on completion is an SDLT transaction or would be but for an exemption or relief from stamp duty land tax.
- (2) If in those circumstances the contract is presented for stamping together with a Revenue certificate as to compliance with the provisions of this Part of this Act in relation to the transaction effected on completion—
- (a) the payment of stamp duty land tax on that transaction or, as the case may be, the fact that no such tax was payable shall be denoted on the contract by a particular stamp, and
  - (b) the contract shall be deemed thereupon to be duly stamped.
- (3) In this paragraph “conveyance” includes any instrument.]

*[<sup>F548</sup>Stamping of agreement for lease where grant of lease subject to stamp duty land tax]*

**Textual Amendments**

**F548** Sch. 19 para. 8 heading substituted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 25\(2\)\(a\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

- 8 (1) [<sup>F549</sup>This paragraph applies where—
- (a) an agreement for a lease is entered into before the implementation date,
  - (b) a lease giving effect to the agreement is executed on or after that date, and

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- (c) the transaction effected on completion is an SDLT transaction or would be but for an exemption or relief from stamp duty land tax.
- [<sup>F550</sup>(2) If in those circumstances the agreement is presented for stamping together with a Revenue certificate as to compliance with the provisions of this Part of this Act in relation to the grant of the lease—
- (a) the payment of stamp duty land tax in respect of the grant of the lease or, as the case may be, the fact that no such tax was payable shall be denoted on the agreement by a particular stamp, and
- (b) the agreement shall be deemed thereupon to be duly stamped.]
- (3) For the purposes of this paragraph a lease gives effect to an agreement if the lease either is in conformity with the agreement or relates to substantially the same property and term as the agreement.
- (4) References in this paragraph to an agreement for a lease include missives of let in Scotland.

#### Textual Amendments

**F549** Words in Sch. 19 para. 8(1) substituted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 25\(2\)\(b\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

**F550** Sch. 19 para. 8(2) substituted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 25\(3\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

#### Commencement Information

**I8** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

#### *Exercise of option or right of pre-emption acquired before implementation date*

- 9 (1) This paragraph applies where—
- (a) an option binding the grantor to enter into a land transaction, or
- (b) a right of pre-emption preventing the grantor from entering into, or restricting the right of the grantor to enter into, a land transaction,
- is acquired before the implementation date and exercised on or after that date.
- (2) Where the option or right was acquired on or after 17th April 2003, any consideration for the acquisition is treated as part of the chargeable consideration for the transaction resulting from the exercise of the option or right.
- (3) Where the option or right was varied on or after 17th April 2003 and before the implementation date, any consideration for the variation is treated as part of the chargeable consideration for the transaction resulting from the exercise of the option or right.
- (4) Whether or not sub-paragraph (2) or (3) applies, the acquisition of the option or right and any variation of the option or right is treated as linked with the land transaction resulting from the exercise of the option or right.

*Status: Point in time view as at 31/12/2020.*

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But not so as to require the consideration for the acquisition or variation to be counted twice in determining the [<sup>F551</sup>amount] of tax chargeable on the land transaction resulting from the exercise of the option or right.

- (5) Where this paragraph applies any *ad valorem* stamp duty paid on the acquisition or variation of the option or right shall go to reduce the amount of tax payable on the transaction resulting from the exercise of the option or right (but not so as to give rise to any repayment).

**Textual Amendments**

**F551** Word in Sch. 19 para. 9(4) substituted (with effect in accordance with s. 2(2) of the amending Act) by Stamp Duty Land Tax Act 2015 (c. 1), Sch. para. 20 (with s. 2(3)-(6))

**Commencement Information**

**I9** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Supplementary*

- 10 In this Schedule “contract” includes any agreement.

**Commencement Information**

**I10** Sch. 19 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

SCHEDULE 20

Section 125

STAMP DUTY: RESTRICTION TO INSTRUMENTS  
 RELATING TO STOCK OR MARKETABLE SECURITIES

**PART 1**

SUPPLEMENTARY PROVISIONS

*Reduction of stamp duty where instrument partly relating to stock or marketable securities*

- 1 (1) This paragraph applies where stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 (c. 16) (transfer on sale) is chargeable on an instrument that relates partly to stock or marketable securities and partly to property other than stock or marketable securities.
- (2) In such a case—
- (a) the consideration in respect of which duty would otherwise be charged shall be apportioned, on a just and reasonable basis, as between the stock or marketable securities and the other property, and
  - (b) the instrument shall be charged only in respect of the consideration attributed to the stock or marketable securities.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

*Apportionment of consideration for stamp duty purposes*

- 2 (1) Where part of the property referred to in section 58(1) of the Stamp Act 1891 (c. 39) consists of stock or marketable securities, that provision shall have effect as if “the parties think fit” read “is just and reasonable”.
- (2) Where—
- (a) part of the property referred to in section 58(2) of the Stamp Act 1891 (property contracted to be purchased by two or more persons etc) consists of stock or marketable securities, and
  - (b) both or (as the case may be) all the relevant persons are connected with one another,
- that provision shall have effect as if the words from “for distinct parts of the consideration” to the end of the subsection read “, the consideration shall be apportioned in such manner as is just and reasonable, so that a distinct consideration for each part of the property transferred is set forth in the transfer relating to that part, and the transfer shall be charged with *ad valorem* duty in respect of that consideration.”.
- (3) If in a case where sub-paragraph (1) or (2) applies the consideration is apportioned in a manner that is not just and reasonable, the enactments relating to stamp duty shall have effect as if—
- (a) the consideration had been apportioned in a manner that is just and reasonable, and
  - (b) the amount of any distinct consideration set forth in any transfer relating to a part of the property transferred were such amount as is found by a just and reasonable apportionment (and not the amount actually set forth).
- (4) For the purposes of sub-paragraph (2)—
- (a) a person is a relevant person if he is a person by or for whom the property is contracted to be purchased;
  - (b) the question whether persons are connected with one another shall be determined in accordance with [<sup>F552</sup>section 1122 of the Corporation Tax Act 2010].

**Textual Amendments**

**F552** Words in Sch. 20 para. 2(4)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 420](#) (with [Sch. 2](#))

**PART 2**

CONSEQUENTIAL AMENDMENTS AND REPEALS

*Removal of unnecessary references to “conveyance”*

- 3 In the enactments relating to stamp duty for “conveyance or transfer”, wherever occurring, substitute “transfer”.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

*Finance Act 1895*

- 4 In section 12 of the Finance Act 1895 (c. 16) (collection of stamp duty in cases of property vested by Act or purchased under statutory powers)—
- (a) in paragraph (a) for “property is” substitute “ stock or marketable securities are ”;
  - (b) in paragraph (b) for “property” substitute “ stock or marketable securities ”;
  - (c) in the closing words for “conveyance”, in both places where that word occurs, substitute “ transfer ”.

*Finance Act 1990*

- 5 In section 108 of the Finance Act 1990 (c. 29) (transfer of securities: abolition of stamp duty), for subsections (1) to (6) substitute—
- “(1) Stamp duty shall not be chargeable under Schedule 13 to the Finance Act 1999 (transfer of securities).”.

*Finance Act 1999*

- 6 In paragraph 1(2) of Schedule 13 to the Finance Act 1999 (c. 16) for “conveyance on sale” substitute “ transfer on sale ”.

*Power to make further consequential amendments or repeals*

- 7 (1) The Treasury may by regulations make such other amendments or repeals of enactments relating to stamp duty or stamp duty reserve tax as appear to them appropriate in consequence of the abolition of stamp duty except on instruments relating to stock or marketable securities.
- (2) The regulations may include such transitional provisions and savings as appear to the Treasury to be appropriate.
- (3) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

SCHEDULE 21

Section 139

APPROVED SHARE PLANS AND SCHEMES

**PART 1**

SHARE INCENTIVE PLANS

*Introductory*

- 1 Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (approved share incentive plans) is amended as follows.

*Status: Point in time view as at 31/12/2020.*

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*Participation in more than one connected plan in a tax year*

2 After paragraph 18 insert—

*“Participation in more than one connected SIP in a tax year*

18A(1) The plan must provide that, if an individual participates in an award of shares under the plan in a tax year in which he has already participated in an award of shares under one or more other approved SIPs established by the company or a connected company—

- (a) paragraph 35 (maximum annual award of free shares),
- (b) paragraph 46 (maximum amount of partnership share money deductions), and
- (c) paragraph 64 (limit on amount reinvested),

apply as if the plan and the other plan or plans were a single plan.

(2) In this paragraph “connected company” has the same meaning as in paragraph 18.”.

3 In paragraph 13 (eligibility of individuals: introduction), for the entry relating to paragraph 18 substitute—

“paragraph 18 (requirement not to participate simultaneously in connected SIPs), paragraph 18A (successive participation in connected SIPs), and”.

4 In paragraph 14(7) (eligibility to participate dependent on certain requirements of plan being met), for paragraph (b) substitute—

- “(b) not participating simultaneously in connected SIPs (see paragraph 18),
- (ba) successive participation in connected SIPs (see paragraph 18A), and”.

5 In paragraph 18 (requirement not to participate in connected SIPs), omit sub-paragraph (1)(a) (successive participation in connected SIPs).

6 After paragraph 71 insert—

*“Duty to monitor participants in connected schemes*

71A The trust instrument must require the trustees to maintain records of participants who have participated in one or more other approved SIPs established by the company or a connected company.”.

*Partnership shares*

7 (1) Paragraph 46 (maximum amount of partnership share money deductions) is amended as follows.

(2) In sub-paragraph (1), for the words after “must not exceed” substitute “ £1,500 in any tax year. ”.

(3) In sub-paragraph (2), for the words after “an employee’s salary” substitute “ for any tax year must not exceed 10% of the employee’s salary for the tax year. ”.

(4) After that sub-paragraph insert—

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“(4A) A limit lower than that specified in sub-paragraph (2) may be framed—

- (a) as a proposition substituting a percentage lower than that so specified, or
- (b) as a proposition that a particular description of earnings is not to be regarded as forming part of an employee’s salary for the purposes of that sub-paragraph.”.

(5) Sub-paragraphs (2) and (3) have effect for the year 2003-04 and subsequent years of assessment.

8 In paragraph 47 (minimum amount of deductions)—

- (a) for “in any month” substitute “ on any occasion ”, and
- (b) omit sub-paragraph (3).

## PART 2

### SAYE OPTION SCHEMES

#### *Introductory*

9 Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (approved SAYE option schemes) is amended as follows.

#### *Minor correction*

10 In paragraph 25(3)(a) (limit on contributions under CCS schemes linked to approved SAYE schemes), after “SAYE” insert “ option ”.

#### *Exercise of options: scheme-related employment ends because of change of control or transfer*

11 (1) Paragraph 34 (exercise of options: scheme-related employment ends) is amended as follows.

(2) In sub-paragraph (2)(a), after “1996” insert “ or ER(NI)O 1996 ”.

(3) In sub-paragraph (5)—

- (a) for “provide that,” substitute “ make provision about the time when the options may be exercised ”, and
- (b) omit the words following paragraph (b).

(4) After that sub-paragraph insert—

“(5A) If the scheme makes provision by virtue of sub-paragraph (5), the provision must be either—

- (a) that the options may be exercised within 6 months after the termination date, or
- (b) that the options may be exercised within 6 months after the date (if any) when P ceases to hold the employment which (before the termination date) was the scheme-related employment for a reason within sub-paragraph (2)(a) or (b).”.



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### *Alteration of schemes*

- 12 (1) Paragraph 42 (withdrawal of approval) is amended as follows.
- (2) In sub-paragraph (2), after “to be met;” insert—
- “(aa) an alteration is made in a key feature of the scheme without the approval of the Inland Revenue;”.
- (3) After that sub-paragraph insert—
- “(2A) For the purposes of sub-paragraph (2)(aa) the Inland Revenue may not withhold their approval unless it appears to them at the time in question that the scheme as proposed to be altered would not then be approved on an application under paragraph 40.
- (2B) For the purposes of that sub-paragraph a “key feature” of a scheme is a provision of the scheme which is necessary in order to meet the requirements of this Schedule.”.
- (4) For paragraph 43 (approval ineffective after unapproved alteration and notice of decisions) and the heading before it substitute—

### *“Notice of decision about alteration*

- 43 Where the Inland Revenue—
- (a) have been requested to approve any alteration in a SAYE option scheme that has been approved, and
- (b) have decided whether or not to approve the alteration,
- they must give notice of their decision to the scheme organiser.”.
- (5) For paragraph 44(1)(b) (appeal against decision not to approve alteration) substitute—
- “(b) decide to refuse approval under paragraph 42(2)(aa).”.

## **PART 3**

### **CSOP SCHEMES**

#### *Introductory*

- 13 The Income Tax (Earnings and Pensions) Act 2003 (c. 1) is amended as follows.

#### *Exercise of options: exclusion of income tax liability*

- 14 (1) Section 524 (no charge in respect of exercise of option under CSOP scheme) is amended as follows.
- (2) For subsection (1)(b) substitute—
- “(b) Condition A or B is met.”.
- (3) For subsections (2) and (3) substitute—
- “(2) Condition A is that the option is exercised—

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- (a) on or after the third anniversary of the date on which it was granted, but
  - (b) not later than the tenth anniversary of that date.
- (2A) Condition B is that the option—
- (a) is exercised before the third anniversary of the date on which it was granted, and
  - (b) is so exercised by virtue of a provision included in the scheme under paragraph 24 of Schedule 4 (exercise of options after ceasing to be director or employee) in circumstances in which subsection (2B) applies.
- (2B) This subsection applies if the individual exercising the option—
- (a) has ceased to be a full-time director or qualifying employee of the scheme organiser (or, in the case of a group scheme, a constituent company) because of injury, disability, redundancy or retirement, and
  - (b) exercises the option within 6 months of the day on which he ceases to be such a director or employee.
- (2C) In subsection (2B)—
- “redundancy” means redundancy within the meaning of ERA 1996 or ER(NI)O 1996, and
- “retirement” means retirement on or after reaching a retirement age specified in the scheme.”.
- (4) For section 525(1)(b) (no charge in respect of post-acquisition benefits) substitute—
- “(b) Condition A or B (as set out in section 524(2) or (2A)) is met.”.
- (5) This paragraph has effect in relation to any exercise of an option on or after 9th April 2003.
- 15 (1) Schedule 4 (approved CSOP schemes) is amended as follows.
- (2) After paragraph 35 insert—

*“Retirement age*

- 35A A retirement age specified in a CSOP scheme—
- (a) must be the same for men and women, and
  - (b) must not be less than 55.”.

*Meaning of “material interest”*

- 16 (1) In paragraphs 10(2) and (3), 11(3) and (4) and 13(2) (material interest), for “10%” substitute “25%”.
- (2) This paragraph has effect for the purpose of determining whether a person is eligible to participate in a scheme on the date on which this Act is passed or any later date (by altering what constitutes a material interest on that date and within the 12 months preceding that date).

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*Alteration of schemes*

- 17 (1) Paragraph 30 (withdrawal of approval) is amended as follows.
- (2) In sub-paragraph (2), after “to be met;” insert—
- “(aa) an alteration is made in a key feature of the scheme without the approval of the Inland Revenue;”.
- (3) After that sub-paragraph insert—
- “(3) For the purposes of sub-paragraph (2)(aa) the Inland Revenue may not withhold their approval unless it appears to them at the time in question that the scheme as proposed to be altered would not then be approved on an application under paragraph 28.
- (4) For the purposes of that sub-paragraph a “key feature” of a scheme is a provision of the scheme which is necessary in order to meet the requirements of this Schedule.”.
- (4) For paragraph 31 (approval ineffective after unapproved alteration and notice of decisions) and the heading before it substitute—

*“Notice of decision about alteration*

- 31 Where the Inland Revenue—
- (a) have been requested to approve any alteration in a CSOP scheme that has been approved, and
- (b) have decided whether or not to approve the alteration,
- they must give notice of their decision to the scheme organiser.”.
- (5) For paragraph 32(1)(b) (appeal against decision not to approve alteration) substitute—
- “(b) decide to refuse approval under paragraph 30(2)(aa).”.

*PAYE*

- 18 (1) Section 701(2)(c) (PAYE: exclusions from meaning of “asset”) is amended as follows.
- (2) In sub-paragraph (i), omit “or 4 (approved CSOP schemes)”.
- (3) After that sub-paragraph insert—
- “(ia) any shares acquired by the employee (whether or not as a result of the exercise of a right to acquire shares) under a scheme approved under Schedule 4 (approved CSOP schemes), other than shares acquired as a result of the exercise of the right before the third anniversary of the date on which it was granted or later than the tenth anniversary of that date;”.
- <sup>F553</sup>(4) .....
- (5) This paragraph has effect in relation to shares acquired on or after 9th April 2003.

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### Textual Amendments

**F553** Sch. 21 para. 18(4) repealed (with effect in accordance with s. 88(11) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(11\)](#)

## SCHEDULE 22

Section 140

### EMPLOYEE SECURITIES AND OPTIONS

#### *Introductory*

1 The Income Tax (Earnings and Pensions) Act 2003 (c. 1) is amended as follows.

#### *Main provisions*

2 (1) For Chapter 1 of Part 7 (and the heading of that Part) substitute—

“EMPLOYMENT INCOME: INCOME AND EXEMPTIONS RELATING TO SECURITIES

### CHAPTER 1

#### INTRODUCTION

#### *General*

#### **Scope of Part 7**

417 (1) This Part contains special rules about cases where securities, interests in securities or securities options are acquired in connection with an employment.

(2) The rules are contained in—

- Chapter 2 (restricted securities),
- Chapter 3 (convertible securities),
- Chapter 3A (securities with artificially depressed market value),
- Chapter 3B (securities with artificially enhanced market value),
- Chapter 3C (securities acquired for less than market value),
- Chapter 3D (securities disposed of for more than market value),
- Chapter 4 (post-acquisition benefits from securities),
- Chapter 5 (securities options),
- Chapter 6 (approved share incentive plans),
- Chapter 7 (approved SAYE option schemes),
- Chapter 8 (approved CSOP schemes),
- Chapter 9 (enterprise management incentives), and
- Chapter 10 (priority share allocations).

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- (3) The following make provision for amounts to count as employment income—
  - Chapters 2 to 6, and
  - Chapter 8.
- (4) The following make provision for exemptions and reliefs from income tax—
  - Chapters 2 and 3, and
  - Chapters 5 to 10.
- (5) Chapter 11 contains supplementary provisions relating to employee benefit trusts.
- (6) Section 5(1) (application of employment income Parts to office-holders generally) does not apply to Chapters 6 to 10; and section 549(5) makes provision about its application to Chapter 11.

### **Other related provisions**

- 418 (1) In Part 3—
  - Chapter 1 (earnings), and
  - Chapter 10 (taxable benefits: residual liability to charge),may also have effect in relation to securities and interests in securities (but not securities options).
- (2) Part 7 of Schedule 7 (transitional provisions relating to securities and securities options) may also be relevant.
  - (3) In view of section 49 of FA 2000 (phasing out of APS schemes) the following are not rewritten in this Act and continue in force unaffected by the repeals made by this Act—
    - section 186 of ICTA (APS schemes) and section 187 of that Act (interpretation) so far as relating to APS schemes, and
    - Schedule 9 to ICTA (approval of share schemes) so far as relating to APS schemes and Schedule 10 to that Act (further provisions about APS schemes).“APS schemes” means profit sharing schemes approved under Schedule 9 to ICTA.
  - (4) Sections 138 to 140 of ICTA (share acquisitions by directors and employees) continue to apply in relation to shares or interests in shares acquired before 26th October 1987 (see paragraph 57 of Schedule 7).

### **Negative amounts treated as nil**

- 419 If the result given by any formula under any provision of this Part would otherwise be a negative amount, the result is to be taken to be nil instead.

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### *Interpretation of Chapters 1 to 5*

#### **Meaning of “securities” etc**

- 420 (1) Subject to subsections (5) and (6), for the purposes of this Chapter and Chapters 2 to 5 the following are “securities”—
- (a) shares in any body corporate (wherever incorporated) or in any unincorporated body constituted under the law of a country or territory outside the United Kingdom,
  - (b) debentures, debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness,
  - (c) warrants and other instruments entitling their holders to subscribe for securities (whether or not in existence or identifiable),
  - (d) certificates and other instruments conferring rights in respect of securities held by persons other than the persons on whom the rights are conferred and the transfer of which may be effected without the consent of those persons,
  - (e) units in a collective investment scheme,
  - (f) futures, and
  - (g) rights under contracts for differences or contracts similar to contracts for differences.
- (2) In subsection (1)(e) “collective investment scheme” means arrangements—
- (a) which are made with respect to property of any description, including money, and
  - (b) the purpose or effect of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income.
- (3) In subsection (1)(f) “futures” means rights under a contract for the sale of a commodity or other property under which delivery is to be made at a future date at a price agreed when the contract is made; and for this purpose a price is to be taken to be agreed when the contract is made—
- (a) if it is left to be determined by reference to the price at which a contract is to be entered into on a market or exchange or could be entered into at a time and place specified in the contract, and
  - (b) in a case where the contract is expressed to be by reference to a standard lot and quality, even if provision is made for a variation in the price to take account of any variation in quantity or quality on delivery.
- (4) For the purposes of subsection (1)(g) a contract similar to a contract for differences is a contract—
- (a) which is not a contract for differences, but
  - (b) the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price of property or an index or other factor designated in the contract.

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- (5) The following are not “securities” for the purposes of this Chapter or Chapters 2 to 5—
- (a) cheques and other bills of exchange, bankers' drafts and letters of credit (other than bills of exchange accepted by a banker),
  - (b) money and statements showing balances on a current, deposit or savings account,
  - (c) leases and other dispositions of property and heritable securities,
  - (d) rights under contracts of insurance (within the meaning of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001), and
  - (e) options.
- (6) The Treasury may by order amend subsections (1) to (5).
- (7) An order under subsection (6) may include any appropriate consequential provision (including provision amending any enactment).
- (8) In this Chapter and Chapters 2 to 5—
- “interest”, in relation to securities (or shares), means an interest in them less than full beneficial ownership and includes an interest in proceeds of their sale, but does not include a right to acquire them,
  - “securities option” means a right to acquire securities, and
  - “shares” includes stock.

#### **Meaning of “market value” etc**

- 421 (1) In this Chapter and Chapters 2 to 5 “market value” has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act.
- (2) Where consideration for anything is given in the form of an asset (as opposed to a payment), any reference in this Chapter or any of Chapters 2 to 5 to the amount of the consideration is to the market value of the asset.

#### **Meaning of “consideration”**

- 421A(1) This section applies for determining for the purposes of Chapters 2 to 5 the amount of the consideration given for anything.
- (2) If any consideration is given partly in respect of one thing and partly in respect of another, the amount given in respect of the different things is to be determined on a just and reasonable apportionment.
- (3) The consideration which is taken to be given wholly or partly for anything does not include the performance of any duties of, or in connection with, an employment.
- (4) No amount is to be counted more than once in calculating the amount of any consideration.

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### *Application of Chapters 2 to 4*

#### **Application of Chapters 2 to 4**

- 421B) Subject as follows (and to any provision contained in Chapters 2 to 4) those Chapters apply to securities, or an interest in securities, acquired by a person where the right or opportunity to acquire the securities or interest is available by reason of an employment of that person or any other person.
- (2) For the purposes of subsection (1)—
    - (a) securities are, or an interest in securities is, acquired at the time when the person acquiring the securities or interest becomes beneficially entitled to those securities or that interest (and not, if different, the time when the securities are, or interest is, conveyed or transferred), and
    - (b) “employment” includes a former or prospective employment.
  - (3) A right or opportunity to acquire securities or an interest in securities made available by a person’s employer, or by a person connected with a person’s employer, is to be regarded for the purposes of subsection (1) as available by reason of an employment of that person unless—
    - (a) the person by whom the right or opportunity is made available is an individual, and
    - (b) the right or opportunity is made available in the normal course of the domestic, family or personal relationships of that person.
  - (4) Chapters 2 to 4 cease to apply to securities, or an interest in securities, when subsection (5), (6) or (7) is satisfied.
  - (5) This subsection is satisfied immediately after the securities are, or the interest in securities is, disposed of otherwise than to an associated person.
  - (6) This subsection is satisfied immediately before the death of the employee.
  - (7) This subsection is satisfied 7 years after the first date after the acquisition on which the employee is an employee of none of the following—
    - (a) the employer,
    - (b) (if the securities are, or the interest in securities is an interest in, securities issued by a company) the company by which they are issued, or
    - (c) a person connected with a person within paragraph (a) or (b).
  - (8) In this Chapter and Chapters 2 to 4—
 

“the acquisition”, in relation to employment-related securities, means the acquisition of the employment-related securities pursuant to the right or opportunity available by reason of the employment,

“the employment”, in relation to employment-related securities, means the employment by reason of which the right or opportunity to acquire the employment-related securities is available (“the employee” and “the employer” being construed accordingly unless otherwise indicated), and



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“employment-related securities” means securities or an interest in securities to which Chapters 2 to 4 apply (ignoring any provision of any of those Chapters which limits the application of the Chapter to a particular description or descriptions of employment-related securities).

### **Associated persons**

- 421(1) For the purposes of this Chapter and Chapters 2 to 4 the following are “associated persons” in relation to employment-related securities—
- (a) the person who acquired the employment-related securities on the acquisition,
  - (b) (if different) the employee, and
  - (c) any relevant linked person.
- (2) A person is a relevant linked person if—
- (a) that person (on the one hand), and
  - (b) either the person who acquired the employment-related securities on the acquisition or the employee (on the other),
- are connected or, although not connected, are members of the same household.
- (3) But a company which would otherwise be a relevant linked person is not if it is—
- (a) the employer,
  - (b) the person from whom the employment-related securities were acquired,
  - (c) the person by whom the right or opportunity to acquire the employment-related securities was made available, or
  - (d) the person by whom the employment-related securities (or the securities in which they are an interest) were issued.

### **Replacement and additional securities and changes in interests**

- 421(1) Subsections (2) and (3) apply where an associated person is entitled to employment-related securities (the “original securities”) and either—
- (a) as a result of the conversion of the original securities (or the securities in which they are an interest), or of any other transaction or series of transactions, that person ceases to be entitled to the original securities but that person or another associated person acquires securities or an interest in securities (the “replacement securities”), or
  - (b) by virtue of that person being entitled to the original securities, that person or another associated person acquires other securities or an interest in other securities (the “additional securities”).
- (2) The replacement securities or the additional securities are to be regarded for the purposes of section 421B(1) (securities acquired pursuant to a right or opportunity available by reason of an employment) as acquired pursuant to the same right or opportunity as the original securities.

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- (3) Where the market value of the original securities is reduced by reason of the issue of, or of securities including, the replacement securities or the additional securities (or the securities in which they are an interest), the amount of that reduction is to be treated for the purposes of Chapters 2 and 3 as consideration or additional consideration given for the acquisition of the replacement securities or the additional securities.
- (4) Subsections (2) and (3) apply whether or not the replacement securities, or the additional securities, were acquired for consideration.
- (5) Where Chapters 2 to 4 apply to an interest in securities, an increase of that interest is to be treated for the purposes of section 421B(1) (securities acquired pursuant to a right or opportunity available by reason of an employment) as a separate interest acquired pursuant to the same right or opportunity as the original interest.
- (6) Where Chapters 2 to 4 apply to an interest in securities, a reduction of that interest (otherwise than by a disposal to an associated person) is to be treated for the purposes of those Chapters as the disposal otherwise than to an associated person of a separate interest proportionate to the reduction.

#### **Exclusions: residence etc**

- 421(F) Chapters 2, 3 and 4 do not apply in relation to employment-related securities if, at the time of the acquisition, the earnings from the employment were not (or would not have been if there had been any) general earnings to which section 15 or 21 applies (earnings for year when employee resident and ordinarily resident in the UK).
- (2) Chapters 3A to 3D do not apply in relation to employment-related securities if, at the time of the acquisition, the earnings from the employment were not (or would not have been if there had been any) general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 apply.
  - (3) Chapters 2 to 4 do not apply in the case of a former employment if they would not apply if the acquisition had taken place in the last tax year in which the employment was held.
  - (4) Chapters 2 to 4 do not apply in the case of a prospective employment if they would not apply if the acquisition had taken place in the first tax year in which the employment is held.
  - (5) Where the employment-related securities are replacement securities or additional securities (within the meaning of section 421D), the references in this section to the acquisition are to the acquisition of the original securities (within the meaning of that section).

#### **Exclusions: public offers**

- 421(F) Chapters 2 to 4 do not apply in relation to employment-related securities that are shares acquired under the terms of an offer to the public or an interest in shares so acquired.
- (2) In a case within subsection (1) of section 544 (exemption for priority share allocations where offer to employees separate from public offer), any

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acquisition made under the terms of either the public offer or the employee offer within the meaning of that subsection is to be treated for the purposes of this section as made under the terms of an offer to the public.

- (3) Subsection (2) applies whether or not there is any benefit within section 544(2) (benefit derived from entitlement to priority allocation exempt from income tax).

### **Exclusions: approved plan or scheme securities**

421G Chapters 2 to 4 do not apply to—

- (a) shares awarded or acquired under an approved share incentive plan (within the meaning of Chapter 6 of this Part),
- (b) shares acquired by the exercise of a share option granted under an approved SAYE option scheme (within the meaning of Chapter 7 of this Part), or
- (c) shares acquired by the exercise of a share option granted under an approved CSOP scheme (within the meaning of Chapter 8 of this Part).

### **Meaning of “employee-controlled” etc**

421H) For the purposes of Chapters 2 to 4 a company is “employee-controlled” by virtue of shares of a class if—

- (a) the majority of the company’s shares of that class (other than any held by or for the benefit of an associated company) are held by or for the benefit of employees of the company or a company controlled by the company, and
- (b) those employees are together able as holders of the shares to control the company.

In this subsection “employee” includes a person who is to be or has been an employee.

- (2) In this section and Chapters 2 to 4 “associated company” has the same meaning as, by virtue of section 416 of ICTA, it has for the purposes of Part 11 of ICTA.

### **Consideration for acquisition of employment-related securities**

421I) This section applies for determining for the purposes of Chapters 2 to 3A the amount of the consideration given for the acquisition of employment-related securities.

- (2) References to consideration given for the acquisition of the employment-related securities are to consideration given by—
- (a) the employee, or
  - (b) (if not the employee) the person by whom the employment-related securities were acquired.
- (3) The amount of the consideration given by a person for the acquisition of the employment-related securities includes the amount of any consideration given for a right to acquire the employment-related securities.

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- (4) If the right to acquire the employment-related securities (“the new option”) is the whole or part of the consideration for the assignment or release of another right to acquire them (“the old option”), the amount of the consideration given for the new option is to be treated as being the sum of—
- (a) the amount by which the amount of the consideration given for the old option exceeds the amount of any consideration for the assignment or release of the old option, apart from the new option, and
  - (b) any valuable consideration given for the new option, apart from the old option.
- (5) Two or more transactions are to be treated for the purposes of subsection (4) as a single transaction by which a right to acquire the employment-related securities is assigned for a consideration which consists of or includes another right to acquire the employment-related securities if—
- (a) the transactions result in a person ceasing to hold a right to acquire the employment-related securities and that person or a connected person coming to hold another right to acquire them, and
  - (b) one or more of the transactions is effected under arrangements to which two or more persons who hold rights to acquire the employment-related securities, in respect of which there may be a liability to tax under Chapter 5 of this Part (securities options), are parties.
- (6) Subsection (5) applies regardless of the order in which the assignment and the acquisition occur.
- (7) In this section “release”, in relation to a right to acquire the employment-related securities, includes agreeing to the restriction of the exercise of the right.

### *Information*

#### **Duty to provide information**

- 421(I) This section applies in relation to reportable events.
- (2) Section 421K explains what are reportable events for the purposes of this section.
  - (3) Each person who is a responsible person in relation to a reportable event must provide the Inland Revenue with particulars in writing of the reportable event before 7th July in the tax year following that in which the reportable event takes place.
  - (4) The Inland Revenue may by notice require any person to provide them with such particulars of any reportable events—
    - (a) which take place in a period specified in the notice, and
    - (b) in relation to which that person is a responsible person,
 as are required by the notice or, if no reportable event in relation to which that person is a responsible person has taken place in that period, to state that fact.

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- (5) A notice under subsection (4) must specify a date by which it must be complied with.
- (6) That date must not be less than 30 days after the date when the notice is given.
- (7) Once one person complies with the duty imposed by subsection (3) in relation to a reportable event, that subsection ceases to impose a duty on any other person in relation to the reportable event.
- (8) Once a person complies with the duty imposed by a notice under subsection (4) by providing the required particulars of a reportable event, subsection (3) ceases to impose a duty on that person or any other person in relation to that reportable event.
- (9) Section 421L explains who are the responsible persons in relation to a reportable event.
- (10) The particulars required by, or by a notice under, this section must be provided in a form specified by the Board of Inland Revenue.
- (11) A person need not provide particulars required by, or by a notice under, this section if they have been given in a notice under paragraph 44 of Schedule 5 (enterprise management incentives: notice of option to be given to Inland Revenue).  
  
In other respects the obligations imposed by, or by a notice under, this section and by that paragraph are independent of each other.
- (12) Paragraph 52 of that Schedule contains a duty to deliver annual returns where a company's shares are subject to a qualifying option within the meaning of that Schedule.

### **Reportable events**

- 421K~~I~~) This section applies for the purposes of section 421J (duty to provide information).
- (2) Each of the events mentioned in subsection (3) is a reportable event.
  - (3) The events are—
    - (a) an acquisition (or an event treated as an acquisition) of securities, an interest in securities or a securities option pursuant to a right or opportunity available by reason of the employment of the person who acquires the securities, interest in securities or securities option or of any other person,
    - (b) an event which is a chargeable event in relation to securities, or an interest in securities, for the purposes of section 426 (chargeable events in relation to restricted securities and restricted interests in securities),
    - (c) an event which is a chargeable event in relation to securities, or an interest in securities, for the purposes of section 438 (chargeable events in relation to convertible securities and interests in convertible securities),

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- (d) the doing of anything which gives rise to a taxable amount counting as employment income under section 446L (artificial enhancement of market value of securities),
- (e) an event which discharges a notional loan relating to securities, or an interest in securities, under section 446U (securities and interests in securities acquired for less than market value),
- (f) a disposal of securities, or an interest in securities, by virtue of which Chapter 3D of this Part applies (securities and interests in securities disposed of for more than market value),
- (g) the receipt of a benefit which gives rise to a taxable amount counting as employment income under section 447 (charge on benefit from securities or interest in securities),
- (h) the assignment or release of a securities option acquired pursuant to a right or opportunity available by reason of the employment of the person who acquires the securities option or any other person, and
- (i) the receipt of a benefit in money or money's worth which is (or by virtue of section 477(6) is to be regarded as being) received in connection with such a securities option.

#### **Persons to whom section 421J applies**

421(1) This section applies for the purposes of section 421J (duty to provide information).

- (2) Each of the following persons is a responsible person in relation to a reportable event.
- (3) The persons are—
  - (a) the employer in question,
  - (b) any host employer of the employee in question,
  - (c) the person from whom the securities in question were, or interest or option in question was, acquired, and
  - (d) in relation to a reportable event concerning securities or an interest in securities which are not excluded securities, the person by whom the securities were issued.
- (4) In subsection (3)(b) “host employer” means a person other than the employer in question—
  - (a) for whom the employee in question works at the time of the reportable event, and
  - (b) who would, by virtue of subsection (2) of section 689 (employees of non-UK employers working for a person other than the employer), be treated for the purposes of PAYE regulations as making a payment of PAYE income of the employee in question if a payment to which subsection (5) would apply were made by the employer in question in respect of the period during which the employee works for the other person.
- (5) For the purposes of subsection (4)(b) this subsection would apply to a payment if—
  - (a) it were a payment of PAYE income of the employee, and

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- (b) the conditions in subsection (1)(c) and (d) of section 689 were satisfied in relation to the payment.
- (6) For the purposes of subsection (3)(d) securities are excluded securities in relation to a reportable event if they are—
  - (a) loan stock, bonds or other instruments creating or acknowledging indebtedness issued by or on behalf of any national or regional government or local authority (in the United Kingdom or elsewhere) or any body whose members consists of states, national or regional governments or local authorities, or
  - (b) securities which are issued by a person who, at the time of the reportable event, is not connected with the employer in question and which are listed or dealt in on a recognised stock exchange.”.
- (2) So far as relating to—
  - (a) each of the new Chapters substituted or inserted in Part 7 by the following paragraphs, and
  - (b) each of the Chapters of that Part as originally enacted for which new Chapters are substituted by the following paragraphs,sub-paragraph (1) has effect in accordance with the provision made by the following paragraphs for the taking effect of the substitution or insertion.
- 3 (1) For Chapter 2 of Part 7 substitute—

## “CHAPTER 2

### RESTRICTED SECURITIES

#### *Introduction*

#### **Application of this Chapter**

- 422 This Chapter applies to employment-related securities if they are—
- (a) restricted securities, or
  - (b) a restricted interest in securities,
- at the time of the acquisition.

#### **“Restricted securities” and “restricted interest in securities”**

- 423 (1) For the purposes of this Chapter employment-related securities are restricted securities or a restricted interest in securities if—
- (a) there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) applies, and
  - (b) the market value of the employment-related securities is less than it would be but for that provision.
- (2) This subsection applies to provision under which—
- (a) there will be a transfer, reversion or forfeiture of the employment-related securities, or (if the employment-related securities are an interest in securities) of the interest or the securities, if certain circumstances arise or do not arise,

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- (b) as a result of the transfer, reversion or forfeiture the person by whom the employment-related securities are held will cease to be beneficially entitled to the employment-related securities, and
  - (c) that person will not be entitled on the transfer, reversion or forfeiture to receive in respect of the employment-related securities an amount of at least their market value (determined as if there were no provision for transfer, reversion or forfeiture) at the time of the transfer, reversion or forfeiture.
- (3) This subsection applies to provision under which there is a restriction on—
- (a) the freedom of the person by whom the employment-related securities are held to dispose of the employment-related securities or proceeds of their sale,
  - (b) the right of that person to retain the employment-related securities or proceeds of their sale, or
  - (c) any other right conferred by the employment-related securities,
- (not being provision to which subsection (2) applies).
- (4) This subsection applies to provision under which the disposal or retention of the employment-related securities, or the exercise of a right conferred by the employment-related securities, may result in a disadvantage to—
- (a) the person by whom the employment-related securities are held,
  - (b) the employee (if not the person by whom they are held), or
  - (c) any person connected with the person by whom they are held or with the employee,
- (not being provision to which subsection (2) or (3) applies).

### **Exceptions**

- 424 Employment-related securities are not restricted securities or a restricted interest in securities by reason only that any one or more of the following is the case—
- (a) the employment-related securities (or the securities in which they are an interest) are unpaid or partly paid shares which may be forfeited for non-payment of calls and there is no restriction on the meeting of calls by the person by whom they are held,
  - (b) that person may be required to offer for sale or transfer the employment-related securities on the employee ceasing, as a result of misconduct, to be employed by the employer or a person connected with the employer, or
  - (c) the employment-related securities (or the securities in which they are an interest) may be redeemed on payment of any amount.

### *Tax exemption on acquisition*

#### **No charge in respect of acquisition in certain cases**

- 425 (1) Subsection (2) applies if the employment-related securities—



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- (a) are restricted securities, or a restricted interest in securities, by virtue of subsection (2) of section 423 (provision for transfer, reversion or forfeiture) at the time of the acquisition, and
  - (b) will cease to be restricted securities, or a restricted interest in securities, by virtue of that subsection within 5 years after the acquisition (whether or not they may remain restricted securities or a restricted interest in securities by virtue of the application of subsection (3) or (4) of that section).
- (2) No liability to income tax arises in respect of the acquisition, except as provided by—
- (a) Chapter 3 of this Part (acquisition by conversion),
  - (b) Chapter 3C of this Part (acquisition for less than market value), or
  - (c) Chapter 5 of this Part (acquisition pursuant to securities option).
- (3) But the employer and the employee may elect that subsection (2) is not to apply to the employment-related securities.
- (4) An election under subsection (3)—
- (a) is to be made by agreement by the employer and the employee, and
  - (b) is irrevocable.
- (5) Such an agreement—
- (a) must be made in a form approved by the Board of Inland Revenue, and
  - (b) may not be made more than 14 days after the acquisition.

#### *Tax charge on post-acquisition chargeable events*

#### **Charge on occurrence of chargeable event**

- 426 (1) This section applies if a chargeable event occurs in relation to the employment-related securities.
- (2) The taxable amount determined under section 428 counts as employment income of the employee for the relevant tax year.
- (3) The “relevant tax year” is the tax year in which the chargeable event occurs.
- (4) Section 427 explains what are chargeable events for the purposes of this section.
- (5) This section is subject to section 429 (case outside charge under this section).

#### **Chargeable events**

- 427 (1) This section applies for the purposes of section 426 (charge on occurrence of chargeable event).
- (2) Any of the events mentioned in subsection (3) is a “chargeable event” in relation to the employment-related securities.
- (3) The events are—

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- (a) the employment-related securities ceasing to be restricted securities, or a restricted interest in securities, in circumstances in which an associated person is beneficially entitled to the employment-related securities after the event,
  - (b) the variation of any restriction relating to the employment-related securities in such circumstances (without the employment-related securities ceasing to be restricted securities or a restricted interest in securities), and
  - (c) the disposal for consideration of the employment-related securities, or any interest in them, by an associated person otherwise than to another associated person (at a time when they are still restricted securities or a restricted interest in securities).
- (4) For the purposes of this Chapter there is a variation of a restriction relating to the employment-related securities if any restriction in relation to them is removed or varied.

#### Amount of charge

- 428 (1) The taxable amount for the purposes of section 426 (charge on occurrence of chargeable event) is—

$$UMV \times (IUP - PCP - OP) - CE$$

- (2) UMV is what would be the market value of the employment-related securities immediately after the chargeable event but for any restrictions.
- (3) IUP is—

$$\frac{IUMV - DA}{IUMV}$$

where—

IUMV is what would have been the market value of the employment-related securities at the time of the acquisition but for any restrictions, and

DA is the total of any deductible amounts.

- (4) PCP is the aggregate of the result of the application of the formula—

$$IUP - PCP - OP$$

on each previous event (if any) occurring since the acquisition that was a chargeable event for the purposes of section 426 in relation to the employment-related securities (and so is nil if there has not been such a previous event).

- (5) OP is—

$$\frac{UMV - AMV}{UMV}$$

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where AMV is the actual market value of the employment-related securities immediately after the chargeable event.

- (6) CE is any expenses incurred by the holder of the employment-related securities in connection with—
- (a) the employment-related securities ceasing to be restricted securities or a restricted interest in securities,
  - (b) the variation of a restriction relating to the employment-related securities, or
  - (c) the disposal of the employment-related securities,
- together (if the chargeable event is one within section 427(3)(a) or (b) (lifting of restrictions and variation of restriction)) with any consideration given for the employment-related securities ceasing to be restricted securities or a restricted interest in securities or the variation of a restriction relating to the employment-related securities.
- (7) For the purposes of this section each of the following is a “deductible amount”—
- (a) the amount of any consideration given for the acquisition of the employment-related securities,
  - (b) any amount that constituted earnings from the employee’s employment under Chapter 1 of Part 3 (earnings) in respect of the acquisition of the employment-related securities,
  - (c) any amount that counted as employment income in relation to the employment-related securities under Chapter 2 or 4 of this Part as originally enacted,
  - (d) if the employment-related securities were acquired on a conversion of other employment-related securities, any amount that counted as employment income of the employee under Chapter 3 of this Part (including that Chapter as originally enacted) (convertible securities) by reason of the conversion, and
  - (e) if the acquisition of the employment-related securities was pursuant to a securities option, any amount that counted as employment income of the employee under section 476 (or section 476 or 477 as originally enacted) (acquisition of securities pursuant to securities option) by reason of the acquisition.
- (8) If the employment-related securities are convertible securities, or an interest in convertible securities, their market value is to be determined for the purposes of this section as if they were not.
- (9) Where the chargeable event is one within section 427(3)(c) (disposal) and CD is less than AMV, the taxable amount for the purposes of section 426 is the amount determined under subsection (1) multiplied by—

$$\frac{CD}{AMV}$$

where—

CD is the consideration given for the employment-related securities, and

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AMV is the actual market value of the employment-related securities immediately after the chargeable event.

#### **Case outside charge under section 426**

429 (1) Section 426 (charge on occurrence of chargeable event) does not apply if—

- (a) the employment-related securities are shares (or an interest in shares) in a company of a class,
  - (b) the provision by virtue of which the employment-related securities are restricted securities, or a restricted interest in securities, applies to all the company's shares of the class,
  - (c) all the company's shares of the class (other than the employment-related securities) are affected by an event similar to that which is a chargeable event in relation to the employment-related securities, and
  - (d) subsection (3) or (4) is satisfied.
- (2) For the purposes of subsection (1)(c) shares are affected by an event similar to that which is a chargeable event in relation to the employment-related securities—
- (a) in the case of a chargeable event within section 427(3)(a) (lifting of restrictions), if the provision mentioned in subsection (1)(b) ceases to apply to them,
  - (b) in the case of a chargeable event within section 427(3)(b) (variation of restriction), if that provision is varied in relation to them in the same way as in relation to the employment-related securities, or
  - (c) in the case of a chargeable event within section 427(3)(c) (disposal), if they are disposed of.
- (3) This subsection is satisfied if, immediately before the event that would be a chargeable event, the company is employee-controlled by virtue of holdings of shares of the class.
- (4) This subsection is satisfied if, immediately before that event, the majority of the company's shares of the class are not held by or for the benefit of any of the following—
- (a) employees of the company,
  - (b) persons who are related to an employee of the company,
  - (c) associated companies of the company,
  - (d) employees of any associated company of the company, or
  - (e) persons who are related to an employee of any such associated company.
- (5) For the purposes of subsection (4) a person is related to an employee if—
- (a) the person acquired the shares pursuant to a right or opportunity available by reason of the employee's employment, or
  - (b) the person is connected with a person who so acquired the shares or with the employee and acquired the shares otherwise than by or under a disposal made by way of a bargain at arm's length from the employee or another person who is related to the employee.

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### **Election for outstanding restrictions to be ignored**

- 430 (1) The employer and the employee may elect that—
- (a) on a chargeable event the taxable amount for the purposes of section 426 is to be determined by applying section 428(1) as if it did not include a reference to OP, and
  - (b) sections 426 to 429 are not to apply to the employment-related securities after that chargeable event.
- (2) An election under this section—
- (a) is to be made by agreement by the employer and the employee, and
  - (b) is irrevocable.
- (3) Such an agreement—
- (a) must be made in a form approved by the Board of Inland Revenue, and
  - (b) may not be made more than 14 days after the chargeable event.

### **Election for full or partial disapplication of this Chapter**

- 431 (1) The employer and the employee may elect in relation to employment-related securities which are restricted securities or a restricted interest in securities that—
- (a) for the relevant tax purposes their market value at the time of the acquisition is to be calculated as if they were not, and
  - (b) sections 425 to 430 are not to apply to the employment-related securities.
- (2) Or the employer and the employee may elect in relation to employment-related securities which are restricted securities or a restricted interest in securities that—
- (a) for the relevant tax purposes their market value at the time of the acquisition is to be calculated, and
  - (b) sections 425 to 430 are to apply to the employment-related securities,
- as if any specified restriction did not apply to the employment-related securities.
- (3) For the purposes of subsections (1) and (2) “the relevant tax purposes” are—
- (a) determining any amount that is to constitute earnings from the employment under Chapter 1 of Part 3 (earnings),
  - (b) determining the amount of any gain realised on the occurrence of an event that is a chargeable event by virtue of section 439(3)(a) (conversion),
  - (c) operating Chapter 3C of this Part (acquisition of securities for less than market value), and
  - (d) determining any amount that counts as employment income of the employee under Chapter 5 of this Part (securities acquired pursuant to securities option).
- (4) An election under this section—

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- (a) is to be made by agreement by the employer and the employee, and
  - (b) is irrevocable.
- (5) Such an agreement—
- (a) must be made in a form approved by the Board of Inland Revenue, and
  - (b) may not be made more than 14 days after the acquisition.

### **Definitions**

- 432 (1) In this Chapter—
- “interest”, in relation to securities,
  - “securities”,
  - “securities option”, and
  - “shares”,
- have the meaning indicated in section 420.
- (2) In this Chapter “market value” has the meaning indicated in section 421(1).
- (3) For the purposes of this Chapter sections 421(2) and 421A apply for determining the amount of the consideration given for anything and section 421I applies for determining the amount of the consideration given for the acquisition of employment-related securities.
- (4) In this Chapter—
- “the acquisition”,
  - “the employee” (except in section 429),
  - “the employer”,
  - “the employment”, and
  - “employment-related securities”,
- have the meaning indicated in section 421B(8).
- (5) In this Chapter “associated person” has the meaning indicated in section 421C.
- (6) In this Chapter—
- “associated company”, and
  - “employee-controlled”,
- have the meaning indicated in section 421H.
- (7) In this Chapter—
- “restricted interest in securities”, and
  - “restricted securities”,
- have the meaning indicated in sections 423 and 424.
- (8) In this Chapter “restriction”, in relation to securities or an interest in securities, means provision relating to the securities or interest which is made by any contract, agreement, arrangement or condition and to which any of subsections (2) to (4) of section 423 applies.
- (9) In this Chapter “variation”, in relation to a restriction, has the meaning indicated in section 427(4).

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- (10) In this Chapter “convertible securities” has the same meaning as in Chapter 3 of this Part (see section 436).”.
- (2) Sub-paragraph (1) has effect on and after such day as the Treasury may by order made by statutory instrument appoint but does not affect any securities, or interests in securities, acquired before 16th April 2003.
- (3) Section 431 has effect in relation to securities, or interests in securities, acquired before the day appointed under sub-paragraph (2)—
- (a) with the substitution in subsections (1)(b) and (2)(b) for “sections 425 to 430” of “ section 426 as originally enacted and sections 426 to 430 as substituted by paragraph 3(1) of Schedule 22 to the Finance Act 2003 ”, and
  - (b) with the substitution in subsection (5)(b) for “the acquisition” of “ the day appointed under paragraph 3(2) of Schedule 22 to the Finance Act 2003 ”.
- (4) But sub-paragraph (3) does not apply where in relation to the securities or interest in securities an amount counts as employment income of the employee under section 427 or 449 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) as originally enacted.

#### **Commencement Information**

- III** Sch. 22 para. 3(1) in force at 1.9.2003 for the purposes of the amendment made by that sub-paragraph by [S.I. 2003/1997, art. 2](#)

- 4 (1) For Chapter 3 of Part 7 substitute—

### **“CHAPTER 3**

#### **CONVERTIBLE SECURITIES**

##### *Introduction*

#### **Application of this Chapter**

- 435 This Chapter applies to employment-related securities if they are—
- (a) convertible securities, or
  - (b) an interest in convertible securities,
- at the time of the acquisition.

#### **“Convertible securities”**

- 436 For the purposes of this Chapter securities are convertible securities if—
- (a) they confer on the holder an immediate or conditional entitlement to convert them into securities of a different description,
  - (b) a contract, agreement, arrangement or condition authorises or requires the grant of such an entitlement to the holder if certain circumstances arise, or do not arise, or

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- (c) a contract, agreement, arrangement or condition makes provision for the conversion of the securities (otherwise than by the holder) into securities of a different description.

*Tax relief on acquisition*

**Adjustment of charge**

437 For the purposes of—

- (a) any liability to tax under Chapter 1 of Part 3 (earnings), Chapter 10 of Part 3 (taxable benefits: residual liability to charge) or Chapter 5 of this Part (acquisition of securities pursuant to securities option), and
- (b) the operation of Chapter 3C of this Part (acquisition of securities for less than market value),

the market value of the employment-related securities is to be determined as if they were not convertible securities or an interest in convertible securities.

*Tax charge on post-acquisition chargeable events*

**Charge on occurrence of chargeable event**

438 (1) This section applies if a chargeable event occurs in relation to the employment-related securities.

- (2) The taxable amount determined under section 440 counts as employment income of the employee for the relevant tax year.
- (3) The “relevant tax year” is the tax year in which the chargeable event occurs.
- (4) Section 439 explains what are chargeable events for the purposes of this section.
- (5) This section is subject to section 443 (case outside charge under this section).

**Chargeable events**

439 (1) This section applies for the purposes of section 438 (charge on occurrence of chargeable event).

- (2) Any of the events mentioned in subsection (3) is a “chargeable event” in relation to the employment-related securities.
- (3) The events are—
- (a) the conversion of the employment-related securities (or the securities in which they are an interest) into securities of a different description in circumstances in which an associated person is beneficially entitled to the securities into which the employment-related securities are converted,
- (b) the disposal for consideration of the employment-related securities, or any interest in them, by an associated person otherwise than to another associated person (at a time when they are still convertible securities or an interest in convertible securities),



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- (c) the release for consideration of the entitlement to convert the employment-related securities (or the securities in which they are an interest) into securities of a different description, and
  - (d) the receipt by an associated person of a benefit in money or money's worth in connection with the entitlement to convert (other than securities acquired on the conversion of the employment-related securities or consideration such as is mentioned in paragraph (b) or (c)).
- (4) A benefit received on account of any disability (within the meaning of the Disability Discrimination Act 1995) of the employee is to be disregarded for the purposes of subsection (3)(d).

#### **Amount of charge**

- 440 (1) The taxable amount for the purposes of section 438 (charge on occurrence of chargeable event) is—

### **AG - CE**

- (2) AG is the amount of any gain realised on the occurrence of the chargeable event.
- (3) CE is the amount of any consideration given for the entitlement to convert the employment-related securities or the securities in which they are an interest together with the amount of any expenses incurred by the holder of the employment-related securities in connection with the conversion, disposal, release or receipt.
- (4) Section 441 explains what is the amount of any gain realised on the occurrence of a chargeable event.
- (5) Section 442 explains whether consideration is given for the entitlement to convert the employment-related securities or the securities in which they are an interest and, if it is, what is its amount.

#### **Amount of gain realised on occurrence of chargeable event**

- 441 (1) This section applies for the purposes of section 440 (amount of charge on occurrence of chargeable event).
- (2) The amount of the gain realised on the occurrence of an event that is a chargeable event by virtue of section 439(3)(a) (conversion) is—

### **CMVCS - (CMVERS + CC)**

- (3) The amount of the gain realised on the occurrence of an event that is a chargeable event by virtue of section 439(3)(b) (disposal) is—

### **DC - CMVERS**

- (4) The amount of the gain realised on the occurrence of an event that is a chargeable event by virtue of section 439(3)(c) (release of entitlement to

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convert) is the amount of the consideration received by an associated person in respect of the release.

- (5) The amount of the gain realised on the occurrence of an event that is a chargeable event by virtue of section 439(3)(d) (receipt of benefit) is the amount or market value of the benefit.
- (6) CMVCS—
  - (a) if the employment-related securities are securities, is the market value at the time of the chargeable event of the securities into which they are converted (determined, where those securities are themselves convertible securities, as if they were not), or
  - (b) if the employment-related securities are an interest in securities, is the same proportion of that market value as the market value of the interest in the securities in which the employment-related securities are an interest bears to the market value of those securities.
- (7) CMVERS is the market value of the employment-related securities at the time of the chargeable event determined as if they were not convertible securities or an interest in convertible securities.
- (8) CC is the amount of any consideration given for the conversion of the employment-related securities.
- (9) DC is the amount of the consideration given on the disposal.

#### **Amount of consideration given for entitlement to convert**

- 442 (1) This section applies for the purposes of section 440 (amount of charge on occurrence of chargeable event).
- (2) Consideration is to be regarded as given for the entitlement to convert the employment-related securities (or the securities in which they are an interest) if (and only if) ACS exceeds NCMV.
- (3) The amount of the consideration to be regarded as so given is the amount of the excess.
- (4) ACS is the amount of the consideration given for the acquisition of the employment-related securities.
- (5) NCMV is the market value of the employment-related securities at the time of the acquisition, determined as if they were not convertible securities or an interest in convertible securities.

#### **Case outside charge under section 438**

- 443 (1) Section 438 (charge on occurrence of chargeable event) does not apply if—
  - (a) the employment-related securities are shares (or an interest in shares) in a company of a class,
  - (b) all the company's shares of the class are convertible securities,
  - (c) all the company's shares of the class (other than the employment-related securities) are affected by an event similar to that which is a chargeable event in relation to the employment-related securities, and

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- (d) subsection (3) or (4) is satisfied.
- (2) For the purposes of subsection (1)(c) shares are affected by an event similar to that which is a chargeable event in relation to the employment-related securities—
  - (a) in the case of a chargeable event within section 439(3)(a) (conversion), if they are converted into securities of a different description,
  - (b) in the case of a chargeable event within section 439(3)(b) (disposal), if they are disposed of,
  - (c) in the case of a chargeable event within section 439(3)(c) (release of entitlement to convert), if the entitlement to convert them into securities of a different description is released, or
  - (d) in the case of a chargeable event within section 439(3)(d) (receipt of benefit), if a similar benefit is received in respect of the entitlement to convert them.
- (3) This subsection is satisfied if, immediately before the event that would be a chargeable event, the company is employee-controlled by virtue of holdings of shares of the class.
- (4) This subsection is satisfied if, immediately before that event, the majority of the company's shares of the class are not held by or for the benefit of any of the following—
  - (a) employees of the company,
  - (b) persons who are related to an employee of the company,
  - (c) associated companies of the company,
  - (d) employees of any associated company of the company, or
  - (e) persons who are related to an employee of any such associated company.
- (5) For the purposes of subsection (4) a person is related to an employee if—
  - (a) the person acquired the shares pursuant to a right or opportunity available by reason of the employee's employment, or
  - (b) the person is connected with a person who so acquired the shares or with the employee and acquired the shares otherwise than by or under a disposal made by way of a bargain at arm's length from the employee or another person who is related to the employee.

### *Supplementary*

#### **Definitions**

444 (1) In this Chapter—

“interest”, in relation to securities,  
“securities”, and  
“shares”,

have the meaning indicated in section 420.

(2) In this Chapter “market value” has the meaning indicated in section 421(1).

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- (3) For the purposes of this Chapter sections 421(2) and 421A apply for determining the amount of the consideration given for anything and section 421I applies for determining the amount of the consideration given for the acquisition of employment-related securities.
- (4) In this Chapter—  
“the acquisition”,  
“the employee” (except in section 443), and  
“employment-related securities”,  
have the meaning indicated in section 421B(8).
- (5) In this Chapter “associated person” has the meaning indicated in section 421C.
- (6) In this Chapter—  
“associated company”, and  
“employee-controlled”,  
have the meaning indicated in section 421H.
- (7) In this Chapter “convertible securities” has the meaning indicated in section 436.”.
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2) (so that, apart from section 437, the provisions of Chapter 3 of Part 7 as substituted by that sub-paragraph apply on and after that day in relation to employment-related securities irrespective of the date of the acquisition).
- 5 (1) After Chapter 3 of Part 7 insert—

### “CHAPTER 3A

#### SECURITIES WITH ARTIFICIALLY DEPRESSED MARKET VALUE

##### *Introduction*

#### **Application of this Chapter**

- 446A(1) This Chapter applies in certain cases where the market value of employment-related securities (or other relevant securities or interests in securities) is reduced by things done otherwise than for genuine commercial purposes.
- (2) The following are among the things that are, for the purposes of this Chapter, done otherwise than for genuine commercial purposes—
- (a) anything done as part of a scheme or arrangement the main purpose, or one of the main purposes, of which is the avoidance of tax or national insurance contributions, and
  - (b) any transaction between companies which are members of the same group on terms which are not such as might be expected to be agreed between persons acting at arm’s length (other than a payment for group relief).
- (3) In subsection (2)(b)—

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- (a) “group” means a company and its 51% subsidiaries, and
- (b) “group relief” has the same meaning as in section 402(6) of ICTA.

### *Tax charge on acquisition*

#### **Charge on acquisition**

- 446B) This section applies where the market value of employment-related securities at the time of the acquisition has been reduced by at least 10% as a result of things done otherwise than for genuine commercial purposes within the period of 7 years ending with the acquisition.
- (2) The taxable amount determined under section 446C counts as employment income of the employee for the tax year in which the acquisition occurs.
  - (3) But this section does not apply if section 425(2) (no charge on acquisition of certain restricted securities or restricted interests in securities) applies in relation to the employment-related securities.
  - (4) This section does not affect any liability to income tax arising in respect of the acquisition of the employment-related securities under—
    - (a) Chapter 1 of Part 3 (earnings),
    - (b) Chapter 10 of Part 3 (taxable benefits: residual liability to charge),
    - (c) Chapter 3 of this Part (acquisition by conversion),
    - (d) Chapter 3C of this Part (acquisition for less than market value), or
    - (e) Chapter 5 of this Part (acquisition pursuant to securities option).

#### **Amount of charge**

- 446C) The taxable amount for the purposes of section 446B (charge on acquisition) is—

### **FMV - MV**

- (2) FMV is what would be the market value of the employment-related securities at the time of the acquisition if the things mentioned in section 446B(1) had not been done.
- (3) MV is the actual market value of the employment-related securities at the time of the acquisition.
- (4) But where what would be MV is less than the amount of any consideration given for the acquisition of the employment-related securities, MV is the amount of that consideration.
- (5) This section is subject to section 446D (restricted securities and convertible securities).

#### **Restricted securities and convertible securities**

- 446D) Where the employment-related securities are restricted securities or a restricted interest in securities, FMV (but not MV) is to be determined as if the employment-related securities were not restricted securities or a

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restricted interest in securities; and, accordingly, sections 426 to 431 (post-acquisition charges on restricted securities) do not apply to the employment-related securities.

- (2) Where the employment-related securities are convertible securities or an interest in convertible securities, FMV and MV are to be determined as if they were not.

#### *Other tax charges*

#### **Charge on restricted securities**

446E) This section applies where the market value of employment-related securities which are restricted securities or a restricted interest in securities is artificially low—

- (a) immediately after an event which is a chargeable event in relation to the employment-related securities for the purposes of section 426 (charge on restricted securities), or
  - (b) on 5th April in any year.
- (2) The market value of the employment-related securities is artificially low where it has been reduced by at least 10% as a result of things done otherwise than for genuine commercial purposes within the relevant period.
- (3) The reference in subsection (2) of section 428 (amount of charge on restricted securities) to what would be the market value of the employment-related securities is, so far as it relates to subsection (1) of that section, a reference to what would be the market value but for the reduction as a result of the things done as mentioned in subsection (2) (and but for any restrictions).
- (4) In a case within subsection (1)(b), there shall be treated as occurring on the 5th April concerned a chargeable event within section 427(3)(a) (lifting of restrictions) in relation to the employment-related securities.
- (5) “The relevant period” is the period of 7 years ending with—
- (a) in a case within subsection (1)(a), the chargeable event concerned, or
  - (b) in a case within subsection (1)(b), the 5th April concerned.
- (6) But if section 425(2) (no charge on acquisition of certain restricted securities or restricted interests in securities) applied in relation to the employment-related securities, the relevant period is the period beginning 7 years before the acquisition.

#### **Adjustment of market value: conditional interests**

446F) This section applies where the market value of an employee’s interest in shares which is only conditional is artificially low immediately after a chargeable event relating to the shares under section 427 as originally enacted.

- (2) The market value of the shares is artificially low where it has been reduced by at least 10% as a result of things done otherwise than for genuine commercial purposes within the period beginning—
- (a) 7 years before the chargeable event, or

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(b) with 16th April 2003,  
whichever is later.

- (3) There is a chargeable event in relation to shares if section 427 (as originally enacted) applies in relation to them.
- (4) The reference in the definition of MV in section 428(1) (as originally enacted) to the market value of the employee's interest is to what would be the market value but for the reduction as a result of the things done as mentioned in subsection (2).
- (5) Expressions used in this section and in Chapter 2 of this Part as originally enacted have the same meaning in this section as in that Chapter.

#### **Adjustment of market value: consideration for entitlement to convert**

- 446(G) This section applies where the market value of employment-related securities which are convertible securities or an interest in convertible securities (determined as if they were not) has been reduced by at least 10% as a result of things done otherwise than for genuine commercial purposes within the period of 7 years ending with the acquisition.
- (2) The reference to the market value of the employment-related securities in the definition of NCMV in section 442(5) (value of convertible securities at time of acquisition) is to what would be the market value but for the reduction as a result of the things done as mentioned in subsection (1) (and but for the fact that they are convertible securities or an interest in convertible securities).

#### **Adjustment of market value: charge on conversion**

- 446(H) This section applies where the market value of securities (“the converted securities”) into which employment-related securities (or securities in which employment-related securities are an interest) are converted is artificially low at the time of an event which is a chargeable event in relation to the employment-related securities by virtue of section 439(3)(a) (conversion).
- (2) The market value of the converted securities is artificially low where it has been reduced by at least 10% as a result of things done otherwise than for genuine commercial purposes within the period of 7 years ending with the chargeable event.
  - (3) The references to the market value of the converted securities in the definition of CMVCS in section 441(6) (amount of gain realised by conversion) are to what would be the market value but for the reduction as a result of the things done as mentioned in subsection (2).

#### **Adjustment of consideration or benefit received**

- 446(I) This section applies where any consideration or benefit mentioned in—
- (a) section 428(9) (consideration on disposal of restricted securities),
  - (b) section 441(4), (5) or (9) (consideration for disposal of convertible securities or release of entitlement to convert or benefit received in respect of entitlement to convert),

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- (c) section 446C(4) (securities with artificially depressed market value: MV to be amount of consideration),
  - (d) sections 446X and 446Y(3) (consideration for disposal of securities exceeding market value), or
  - (e) section 448 (securities benefit not otherwise subject to tax),
- consists (in whole or in part) in the provision of securities or an interest in securities the market value of which is artificially low.
- (2) The market value of any securities or interest in securities is artificially low where it has been reduced by at least 10% as a result of things done otherwise than for genuine commercial purposes within the period of 7 years ending with the receipt of the consideration or benefit.
  - (3) The market value of the consideration or benefit consisting in the provision of the securities or interest in securities is for the purposes of the provision or provisions concerned to be taken to be what it would be but for the reduction as a result of the things done as mentioned in subsection (2).

### *Supplementary*

#### **Definitions**

- 446(1) In this Chapter—
  - “interest”, in relation to securities, and
  - “securities”,
 have the meaning indicated in section 420.
- (2) In this Chapter “market value” has the meaning indicated in section 421(1).
- (3) For the purposes of this Chapter sections 421(2) and 421A apply for determining the amount of the consideration given for anything and section 421I applies for determining the amount of the consideration given for the acquisition of employment-related securities.
- (4) In this Chapter—
  - “the acquisition”,
  - “the employee”, and
  - “employment-related securities”,
 have the meaning indicated in section 421B(8).
- (5) In this Chapter—
  - “restricted interest in securities”, and
  - “restricted securities”,
 have the same meaning as in Chapter 2 of this Part (see sections 423 and 424).
- (6) In this Chapter “restriction” has the same meaning as in Chapter 2 of this Part (see section 432(8)).
- (7) In this Chapter “convertible securities” has the same meaning as in Chapter 3 of this Part (see section 436).”.



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- (2) Sub-paragraph (1) has effect on and after 16th April 2003 (so that sections 446A, 446F to 446H, 446I(1)(b) to (e), (2) and (3) and 446J apply on and after that date in relation to employment-related securities irrespective of the date of the acquisition).
  - (3) Sections 446E and 446I(1)(a) do not affect any securities, or interests in securities, acquired before 16th April 2003; and, in relation to any securities or interests in securities acquired on or after that date but before the day appointed under paragraph 3(2), those provisions apply only on or after that appointed day.
  - (4) Section 446F—
    - (a) applies in relation to conditional interests in shares acquired before 16th April 2003, and
    - (b) applies during the period beginning with that date and ending with the day preceding that appointed day in relation to conditional interests in shares acquired during that period.
- 6 (1) After Chapter 3A of Part 7 (inserted by paragraph 5(1)) insert—

### “CHAPTER 3B

#### SECURITIES WITH ARTIFICIALLY ENHANCED MARKET VALUE

##### *Introduction*

#### **Application of this Chapter**

- 446KI) This Chapter applies in certain cases where the market value of employment-related securities is increased by things done otherwise than for genuine commercial purposes.
- (2) The following are among the things that are, for the purposes of this Chapter, done otherwise than for genuine commercial purposes—
    - (a) anything done as part of a scheme or arrangement the main purpose, or one of the main purposes, of which is the avoidance of tax or national insurance contributions, and
    - (b) any transaction between companies which are members of the same group on terms which are not such as might be expected to be agreed between persons acting at arm’s length (other than a payment for group relief).
  - (3) In subsection (2)(b)—
    - (a) “group” means a company and its 51% subsidiaries, and
    - (b) “group relief” has the same meaning as in section 402(6) of ICTA.
  - (4) In this Chapter, in relation to the market value of the employment-related securities—
    - “non-commercial increase” means an increase in the market value as a result of anything done otherwise than for genuine commercial purposes, and

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“non-commercial reduction” means a reduction in the market value as a result of anything done otherwise than for genuine commercial purposes.

### *Charge on non-commercial increases*

#### **Charge on non-commercial increases**

- 446(1) This section applies in relation to employment-related securities where on a date that is the valuation date in relation to a relevant period IMV is at least 10% greater than MV.
- (2) The taxable amount determined under subsection (4) counts as employment income of the employee for the relevant tax year (but subject to sections 446M and 446N).
- (3) The “relevant tax year” is the tax year in which the valuation date falls.
- (4) The taxable amount is—

### **IMV - MV**

- (5) IMV is the market value of the employment-related securities on the valuation date.
- (6) MV is the amount that would be the market value of the employment-related securities on the valuation date if any non-commercial increases during the relevant period were disregarded.
- (7) For the purposes of subsections (5) and (6)—
- (a) any restrictions having effect in relation to the employment-related securities on the valuation date, and
  - (b) any non-commercial reductions during the relevant period,
- are to be disregarded.

#### **Securities subject to restriction on valuation date**

- 446M(1) This section applies where on the valuation date the employment-related securities are relevant restricted securities.
- (2) The amount determined under section 446L(4) is to be multiplied by CP.
- (3) CP is—

### **1-OP**

where OP is the amount that would be determined under section 428(5) (amount of charge on chargeable event in relation to restricted securities) on the valuation date if there were on that date a chargeable event (resulting in no tax charge).

- (4) For the purposes of this section the employment-related securities are relevant restricted securities if they are restricted securities or a restricted interest in securities but are not subject to—

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- (a) an election under section 430 (election to ignore outstanding restrictions) in relation to a chargeable event which occurred before the valuation date, or
  - (b) an election under section 431(1) (election to treat securities as not subject to restrictions).
- (5) If sections 425 to 430 apply to the employment-related securities in accordance with section 431(2) (election to treat securities as not subject to specified restrictions), the reference in subsection (3) to the amount that would be determined under section 428(5) is to the amount that would be so determined in accordance with section 431(2).

### **Securities subject to restriction during relevant period**

- 446N) This section applies where the employment-related securities have been restricted securities or a restricted interest in securities at any time during the relevant period.
- (2) DA is to be deducted from the amount determined under section 446L(4) (or, where section 446M applies, the amount determined under sections 446L(4) and 446M).
  - (3) DA is the aggregate of the amounts arrived at under subsection (4) in relation to each event occurring during the relevant period that is a chargeable event in relation to the employment-related securities.
  - (4) The amount is—

## **TA- ARTA**

- (5) TA is the taxable amount actually determined under section 428 in relation to the chargeable event.
- (6) ARTA is the taxable amount which would have been determined under section 428 in relation to the chargeable event if any non-commercial increases during the period—
  - (a) beginning at the same time as the relevant period, and
  - (b) ending immediately before the chargeable event,had been disregarded.

### *Supplementary*

### **“Relevant period” and “valuation date”**

- 446O) This section explains what is meant by “relevant period” and “valuation date” in this Chapter.
- (2) The first relevant period in relation to employment-related securities is the period beginning with the date of the acquisition and ending with the following 5th April.
  - (3) After the first relevant period, each period beginning with 6th April and ending with the following 5th April is a relevant period in relation to the employment-related securities.

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- (4) But if this Chapter ceases to apply to the employment-related securities during a relevant period, the relevant period ends with the date on which this Chapter ceases to apply to them.
- (5) And if this Chapter ceases to apply to an interest in the employment-related securities during a relevant period, the relevant period ends in relation to that interest with the date on which this Chapter ceases to apply to that interest.
- (6) In a case where subsection (5) applies, this Chapter has effect separately in relation to that interest and the remainder of the employment-related securities.
- (7) In this Chapter “valuation date”, in relation to a relevant period, means the date with which the relevant period ends.

### Definitions

- 446P(1) In this Chapter “interest”, in relation to securities, has the meaning indicated in section 420.
- (2) In this Chapter “market value” has the meaning indicated in section 421(1).
  - (3) In this Chapter—
    - “the acquisition”,
    - “the employee”, and
    - “employment-related securities”,
 have the meaning indicated in section 421B(8).
  - (4) In this Chapter—
    - “restricted interest in securities”, and
    - “restricted securities”,
 have the same meaning as in Chapter 2 of this Part (see sections 423 and 424).
  - (5) In this Chapter “chargeable event” means an event which is a chargeable event for the purposes of section 426.
  - (6) In this Chapter “restriction” has the same meaning as in Chapter 2 of this Part (see section 432(8)).
  - (7) In this Chapter—
    - “non-commercial increase”, and
    - “non-commercial reduction”,
 have the meaning indicated in section 446K(4).
  - (8) In this Chapter—
    - “relevant period”, and
    - “valuation date”,
 have the meaning indicated in section 446O.”.
- (2) Subject as follows, sub-paragraph (1) has effect on and after 16th April 2003 (so that it applies on and after that date in relation to employment-related securities irrespective of the date of the acquisition).

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- (3) Sections 446M and 446N do not affect any securities, or interests in securities, acquired before 16th April 2003; and, in relation to any securities or interests in securities acquired on or after that date but before the day appointed under paragraph 3(2), those sections apply only on and after that appointed day.
- (4) For the purposes of section 446O employment-related securities acquired before 16th April 2003 are to be treated as acquired on that date.
- 7 (1) After Chapter 3B of Part 7 (inserted by paragraph 6(1)) insert—

### “CHAPTER 3C

#### SECURITIES ACQUIRED FOR LESS THAN MARKET VALUE

##### **Application of this Chapter**

446Q) This Chapter applies if—

- (a) no payment is made for employment-related securities at or before the time of the acquisition, or
  - (b) the payment made for employment-related securities at or before that time is less than their market value.
- (2) For the purposes of subsection (1) any obligation to make a payment or further payment after the time of the acquisition is to be disregarded.
- (3) Where the employment-related securities are, or are an interest in, securities which are not fully paid up, the reference in subsection (1) to the market value of the employment-related securities is to what it would be if the securities were fully paid up.
- (4) If section 425(2) (no charge on acquisition of certain restricted securities or restricted interests in securities) applies in relation to the employment-related securities, this Chapter has effect as if the employment-related securities were not acquired until the occurrence of the first event which is a chargeable event for the purposes of section 426 in relation to the employment-related securities.
- (5) This section is subject to section 446R (case outside this Chapter).

##### **Case outside this Chapter**

446R) This Chapter does not apply if—

- (a) the employment-related securities are shares (or an interest in shares) in a company of a class,
  - (b) all the company’s shares of the class are acquired either for no payment or for a payment less than their market value, and
  - (c) subsection (3) or (4) is satisfied.
- (2) Where the company’s shares of the class are not fully paid up, the reference in subsection (1) to their market value is to what it would be if they were fully paid up.

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- (3) This subsection is satisfied if, at the time of the acquisition of the employment-related securities, the company is employee-controlled by virtue of holdings of shares of the class.
- (4) This subsection is satisfied if, at that time, the majority of the company's shares of the class are not held by or for the benefit of any of the following—
- (a) employees of the company,
  - (b) persons who are related to an employee of the company,
  - (c) associated companies of the company,
  - (d) employees of any associated company of the company, or
  - (e) persons who are related to an employee of any such associated company.
- (5) For the purposes of subsection (4) a person is related to an employee if—
- (a) the person acquired the shares pursuant to a right or opportunity available by reason of the employee's employment, or
  - (b) the person is connected with a person who so acquired the shares or with the employee and acquired the shares otherwise than by or under a disposal made by way of a bargain at arm's length from the employee or another person who is related to the employee.

#### **Notional loan**

- 446(S) Where this Chapter applies an interest-free loan ("the notional loan") is to be treated as having been made to the employee by the employer at the time of the acquisition.
- (2) The provisions listed in subsection (3) apply as though the notional loan were an employment-related loan as defined in section 174 if and for so long as the employment has not terminated.
- (3) The provisions are—
- section 175 (benefit of taxable cheap loan treated as earnings),
  - section 178 (exception for loans where interest qualifies for tax relief),
  - section 180 (threshold for benefit of loan to be treated as earnings),
  - section 182 (normal method of calculation: averaging),
  - section 183 (alternative method of calculation),
  - section 184 (interest treated as paid),
  - section 185 (apportionment of cash equivalent in case of joint loan etc),
  - and
  - section 187 (aggregation of loans by close company to director).

#### **Amount of notional loan**

- 446(T) The amount of the notional loan initially outstanding is—

MV - DA

where—

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MV is the market value of the employment-related securities at the time of the acquisition, and

DA is the total of any deductible amounts.

- (2) Where the employment-related securities are, or are an interest in, securities which are not fully paid up, the reference in subsection (1) to the market value of the employment-related securities is to what it would be if the securities were fully paid up.
- (3) For the purposes of subsection (1) each of the following is a “deductible amount”—
  - (a) any payment made for the employment-related securities by the employee, and any payment so made by the person by whom they were acquired (if not the employee), at or before the time of the acquisition,
  - (b) any amount that constitutes earnings from the employee’s employment under Chapter 1 of Part 3 (earnings) in respect of the acquisition of the employment-related securities,
  - (c) if section 425(2) (no charge on acquisition of certain restricted securities or restricted interests in securities) applies in relation to the employment-related securities, any amount that counts as employment income of the employee under section 426 by reason of the first event which is a chargeable event for the purposes of that section in relation to the employment-related securities,
  - (d) if the employment-related securities were acquired on a conversion of other employment-related securities, any amount that counts as employment income of the employee under section 438 (charge on conversion) by reason of the conversion, and
  - (e) if the acquisition is pursuant to a securities option, any amount that counted as employment income of the employee under section 476 (acquisition of securities pursuant to securities option) in respect of the acquisition.
- (4) The amount of the notional loan outstanding at any subsequent time is the difference between—
  - (a) the amount initially outstanding, and
  - (b) the amount of any payments or further payments made for the employment-related securities after the acquisition but before that time.

#### **Discharge of notional loan**

446(U) The notional loan is treated as discharged when—

- (a) the employment-related securities are disposed of otherwise than to an associated person, or
- (b) if the employment-related securities were securities, or an interest in securities, not fully paid up at the time of the acquisition, the outstanding or contingent liability to pay for them is released, transferred or adjusted so as no longer to bind any associated person.

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- (2) If the notional loan is discharged as the result of an event specified in subsection (1), the amount of the notional loan outstanding immediately before the occurrence of the event counts as employment income of the employee for the relevant tax year (whether or not the employment has terminated before or since the acquisition).
- (3) The “relevant tax year” is the tax year in which the notional loan is treated as discharged.
- (4) The notional loan is also treated as discharged when—
  - (a) payments or further payments for the employment-related securities equal to the amount initially outstanding in relation to them have been made by an associated person, or
  - (b) the employee dies.

### **Chapter to be additional to other income tax charges**

446V This Chapter does not affect any liability to income tax arising in respect of the acquisition under—

- (a) Chapter 1 of Part 3 (earnings),
- (b) Chapter 10 of Part 3 (taxable benefits: residual liability to charge),
- (c) Chapter 3 of this Part (acquisition by conversion),
- (d) Chapter 3A of this Part (securities with artificially depressed market value), or
- (e) Chapter 5 of this Part (acquisition of securities pursuant to securities option).

### **Definitions**

446W) In this Chapter—

“interest”, in relation to securities,  
“securities”,  
“securities option”, and  
“shares”,

have the meaning indicated in section 420.

- (2) In this Chapter “market value” has the meaning indicated in section 421(1).
- (3) In this Chapter “the acquisition” has the meaning indicated in section 421B(8) (but subject to section 446Q(4)).
- (4) In this Chapter—
  - “the employment”,
  - “the employee” (except in section 446R),
  - “the employer”, and
  - “employment-related securities”,
 have the meaning indicated in section 421B(8).
- (5) In this Chapter “associated person” has the meaning indicated in section 421C.
- (6) In this Chapter—



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“associated company”, and  
“employee-controlled”,  
have the meaning indicated in section 421H.

(7) In this Chapter “the notional loan” has the meaning indicated in section 446S(1).”.

(2) Sub-paragraph (1) has effect in relation to securities, and interests in securities, acquired on or after 16th April 2003.

8 (1) After Chapter 3C of Part 7 (inserted by paragraph 7(1)) insert—

### “CHAPTER 3D

#### SECURITIES DISPOSED OF FOR MORE THAN MARKET VALUE

##### **Application of this Chapter**

446X This Chapter applies if—

- (a) employment-related securities are disposed of by an associated person so that no associated person is any longer beneficially entitled to them, and
- (b) the disposal is for a consideration which exceeds the market value of the employment-related securities at the time of the disposal.

##### **Amount treated as income**

~~446~~(1) Where this Chapter applies the amount determined under subsection (3) counts as employment income of the employee for the relevant tax year.

- (2) The “relevant tax year” is the tax year in which the disposal occurs.
- (3) The amount is—

### CD - MV - DA

where—

CD is the amount of the consideration given on the disposal,

MV is the market value of the employment-related securities at the time of the disposal, and

DA is the amount of any expenses incurred in connection with the disposal.

##### **Definitions**

~~446~~(1) In this Chapter “market value” has the meaning indicated in section 421(1).

(2) For the purposes of this Chapter sections 421(2) and 421A apply for determining the amount of the consideration given for anything.

(3) In this Chapter—  
“the employee”, and

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“employment-related securities”,  
have the meaning indicated in section 421B(8).

(4) In this Chapter “associated person” has the meaning indicated in section 421C.”.

(2) Sub-paragraph (1) has effect in relation to securities, and interests in securities, disposed of on or after 16th April 2003.

9 (1) For Chapter 4 of Part 7 substitute—

#### “CHAPTER 4

##### POST-ACQUISITION BENEFITS FROM SECURITIES

#### **Charge on other chargeable benefits from securities**

447 (1) This Chapter applies if an associated person receives a benefit by virtue of the ownership of employment-related securities by that person or another associated person.

(2) The taxable amount determined under section 448 counts as employment income of the employee for the relevant tax year.

(3) The “relevant tax year” is the tax year in which the benefit is received.

(4) This section does not apply if the benefit is otherwise chargeable to income tax.

(5) This section is subject to section 449 (case outside this Chapter).

#### **Amount of charge**

448 The taxable amount for the purposes of section 447 (charge on other chargeable benefits) is the amount or market value of the benefit.

#### **Case outside this Chapter**

449 (1) This Chapter does not apply if—

- (a) the employment-related securities are shares (or an interest in shares) in a company of a class,
- (b) a similar benefit is received by the owners of all the company’s shares of the class, and
- (c) subsection (2) or (3) is satisfied.

(2) This subsection is satisfied if, immediately before the receipt of the benefit, the company is employee-controlled by virtue of holdings of shares of the class.

(3) This subsection is satisfied if, immediately before the receipt of the benefit, the majority of the company’s shares of the class are not held by or for the benefit of any of the following—

- (a) employees of the company,
- (b) persons who are related to an employee of the company,

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- (c) associated companies of the company,
  - (d) employees of any associated company of the company, or
  - (e) persons who are related to an employee of any such associated company.
- (4) For the purposes of subsection (3) a person is related to an employee if—
- (a) the person acquired the shares pursuant to a right or opportunity available by reason of the employee’s employment, or
  - (b) the person is connected with a person who so acquired the shares or with the employee and acquired the shares otherwise than by or under a disposal made by way of a bargain at arm’s length from the employee or another person who is related to the employee.

### Definitions

450 (1) In this Chapter—

“interest”, in relation to shares, and  
“shares”,

have the meaning indicated in section 420(8).

(2) In this Chapter “market value” has the meaning indicated in section 421(1).

(3) In this Chapter—

“the employee” (except in section 449), and  
“employment-related securities”,

have the meaning indicated in section 421B(8).

(4) In this Chapter “associated person” has the meaning indicated in section 421C.

(5) In this Chapter—

“associated company”, and  
“employee-controlled”,

have the meaning indicated in section 421H.”.

(2) Subject to sub-paragraph (3), sub-paragraph (1) has effect on and after 16th April 2003 (so that it applies on and after that date in relation to employment-related securities irrespective of the date of the acquisition).

(3) The provisions of Chapter 4 as originally enacted which are mentioned in sub-paragraph (4)—

(a) continue to apply in relation to shares, and interests in shares, acquired before 16th April 2003, and

(b) apply in relation to shares, and interests in shares, acquired on or after that date until the day appointed under paragraph 3(2).

In this sub-paragraph “shares” means shares in a company or securities as defined in section 254(1) of the Taxes Act 1988 issued by a company.

(4) The provisions are—

section 450(1), (2), (3)(a), (4), (5) and (6)(a), and

sections 447 to 449, section 451, section 452(1) to (3), section 461(1) and (2), section 462, sections 464 to 466 and sections 468 to 470, so far as relevant

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for the purposes of those provisions of section 450 (or the other provisions mentioned in this subsection so far as so relevant).

10 (1) For Chapter 5 of Part 7 substitute—

## “CHAPTER 5

### SECURITIES OPTIONS

#### *Introduction*

#### **Options to which this Chapter applies**

- 471 (1) This Chapter applies to a securities option acquired by a person where the right or opportunity to acquire the securities option is available by reason of an employment of that person or any other person.
- (2) For the purposes of subsection (1) “employment” includes a former or prospective employment.
- (3) A right or opportunity to acquire a securities option made available by a person’s employer, or a person connected with a person’s employer, is to be regarded for the purposes of subsection (1) as available by reason of an employment of that person unless—
- (a) the person by whom the right or opportunity is made available is an individual, and
  - (b) the right or opportunity is made available in the normal course of the domestic, family or personal relationships of that person.
- (4) A right or opportunity to acquire a securities option available by reason of holding employment-related securities is to be regarded for the purposes of subsection (1) as available by reason of the same employment as that by reason of which the right or opportunity to acquire the employment-related securities was available.
- (5) In this Chapter—
- “the acquisition”, in relation to an employment-related securities option, means the acquisition of the employment-related securities option pursuant to the right or opportunity available by reason of the employment,
- “the employment” means the employment by reason of which the right or opportunity to acquire the employment-related securities option is available (“the employee” and “the employer” being construed accordingly), and
- “employment-related securities option” means a securities option to which this Chapter applies.

#### **Associated persons**

- 472 (1) For the purposes of this Chapter the following are “associated persons” in relation to an employment-related securities option—

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- (a) the person who acquired the employment-related securities option on the acquisition,
  - (b) (if different) the employee, and
  - (c) any relevant linked person.
- (2) A person is a relevant linked person if—
- (a) that person (on the one hand), and
  - (b) either the person who acquired the employment-related securities option on the acquisition or the employee (on the other),
- are connected or, although not connected, are members of the same household.
- (3) But a company which would otherwise be a relevant linked person is not if it is—
- (a) the employer,
  - (b) the person from whom the employment-related securities option was acquired, or
  - (c) the person by whom the right or opportunity to acquire the employment-related securities option was made available.

### **Introduction to taxation of securities options**

- 473 (1) The starting-point is that section 475 contains an exemption from the liability to tax that might otherwise arise under—
- (a) Chapter 1 of Part 3 (earnings), or
  - (b) Chapter 10 of that Part (taxable benefits: residual liability to charge),
- when an employment-related securities option is acquired.
- (2) Liability to tax may arise, when securities are acquired pursuant to the employment-related securities option, under—
- (a) section 446B (charge on acquisition where market value of securities or interest artificially depressed),
  - (b) Chapter 3C of this Part (acquisition of securities for less than market value), or
  - (c) section 476 (acquisition of securities pursuant to securities option).
- (3) Liability to tax may also arise by virtue of section 476 when—
- (a) the employment-related securities option is assigned or released, or
  - (b) a benefit is received in connection with the employment-related securities option.
- (4) There are special rules relating to share options acquired under—
- (a) approved SAYE option schemes (see Chapter 7 of this Part),
  - (b) approved CSOP schemes (see Chapter 8 of this Part), or
  - (c) enterprise management incentives (see Chapter 9 of this Part).

### **Cases where this Chapter does not apply**

- 474 (1) This Chapter (apart from sections 473 and 483) does not apply in relation to an employment-related securities option if, at the time of the acquisition, the earnings from the employment were not (or would not have been if there

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had been any) general earnings to which section 15 or 21 applies (earnings for year when employee resident and ordinarily resident in the UK).

- (2) This Chapter (apart from sections 473 and 483) does not apply in the case of a former employment if it would not apply if the acquisition had taken place in the last tax year in which the employment was held.
- (3) This Chapter (apart from sections 473 and 483) does not apply in the case of a prospective employment if it would not apply if the acquisition had taken place in the first tax year in which the employment is held.
- (4) Where the employment-related securities option is a new option (within the meaning of section 483), the references in this section to the acquisition are to the acquisition of the old option (within the meaning of that section).

#### *Tax relief on acquisition of option*

##### **No charge in respect of acquisition of option**

- 475 (1) No liability to income tax arises in respect of the acquisition of an employment-related securities option.
- (2) Subsection (1) is subject to section 526 (approved CSOP schemes: charge where share option granted at a discount).

#### *Tax charge on post-acquisition chargeable events*

##### **Charge on occurrence of chargeable event**

- 476 (1) This section applies if a chargeable event occurs in relation to an employment-related securities option.
- (2) The taxable amount determined under section 478 counts as employment income of the employee for the relevant tax year (but subject to subsection (5)).
  - (3) The “relevant tax year” is the tax year in which the chargeable event occurs.
  - (4) Section 477 explains what are chargeable events for the purposes of this section.
  - (5) If the employee has been divested of the employment-related securities option by operation of law, the person who is the relevant person in relation to the chargeable event (see section 477(7)) is chargeable to tax under Case VI of Schedule D on the amount determined under section 478.
  - (6) This section is subject to—
    - section 519 (approved SAYE option schemes: no charge in respect of exercise of share option by employee),
    - section 524 (approved CSOP schemes: no charge in respect of exercise of share option by employee), and
    - section 530 (enterprise management incentives: no charge on exercise by employee of option to acquire shares at market value).

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### **Chargeable events**

- 477 (1) This section applies for the purposes of section 476 (charge on occurrence of chargeable event).
- (2) Any of the events mentioned in subsection (3) is a “chargeable event” in relation to the employment-related securities option unless it occurs on or after the death of the employee.
- (3) The events are—
- (a) the acquisition of securities pursuant to the employment-related securities option by an associated person,
  - (b) the assignment for consideration of the employment-related securities option by an associated person otherwise than to another associated person or the release for consideration of the employment-related securities option by an associated person, or
  - (c) the receipt by an associated person of a benefit in money or money’s worth in connection with the employment-related securities option (other than securities acquired pursuant to the employment-related securities option or consideration for its assignment or release).
- (4) For the purposes of subsection (3)(a) securities are acquired at the time when a beneficial interest is acquired (and not, if different, the time when the securities are conveyed or transferred).
- (5) A benefit received on account of any disability (within the meaning of the Disability Discrimination Act 1995) of the employee is to be disregarded for the purposes of subsection (3)(c).
- (6) A benefit in money or money’s worth received in consideration for or otherwise in connection with—
- (a) failing or undertaking not to acquire securities pursuant to the employment-related securities option, or
  - (b) granting or undertaking to grant to another person a right to acquire securities which are subject to the employment-related securities option or any interest in them,
- is to be regarded for the purposes of subsection (3)(c) as received in connection with the employment-related securities option.
- (7) For the purposes of section 476(5) (charge under Case VI of Schedule D) the relevant person in relation to a chargeable event is—
- (a) in the case of an event that is a chargeable event by virtue of subsection (3)(a), the person by whom the securities are acquired, and
  - (b) in the case of an event that is a chargeable event by virtue of subsection (3)(b) or (c), the person by whom the consideration or benefit is received.

### **Amount of charge**

- 478 (1) The taxable amount for the purposes of section 476 (charge on occurrence of chargeable event) is—

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## AG - DA

where—

AG is the amount of any gain realised on the occurrence of the chargeable event, and

DA is the total of any deductible amounts.

- (2) Section 479 explains what is the amount of any gain realised on the occurrence of a chargeable event.
- (3) Section 480 specifies what are deductible amounts.

### **Amount of gain realised on occurrence of chargeable event**

- 479 (1) This section applies for the purposes of section 478 (amount of charge on occurrence of chargeable event).
- (2) The amount of the gain realised on the occurrence of an event that is a chargeable event by virtue of section 477(3)(a) (acquisition of securities) is (subject to subsection (4))—

## MV - C

- (3) In subsection (2)—
  - MV is the market value of the securities that are acquired at the time when they are acquired, and
  - C is the amount of any consideration given for the securities that are acquired.
- (4) But the amount of the gain realised on the occurrence of an event that is a chargeable event by virtue of section 477(3)(a) (acquisition of securities) is calculated—
  - (a) if section 531 (enterprise management incentives: limitation of charge on exercise of option to acquire shares below market value) applies, in accordance with that section, and
  - (b) if section 532 (enterprise management incentives: modified tax consequences following disqualifying events) applies, in accordance with that section.
- (5) The amount of the gain realised on the occurrence of an event that is a chargeable event by virtue of section 477(3)(b) (assignment or release of option) is the amount of the consideration given for the assignment or release.
- (6) The amount of the gain realised on the occurrence of an event that is a chargeable event by virtue of section 477(3)(c) (receipt of benefit in connection with option) is the amount or market value of the benefit.
- (7) But if—
  - (a) the consideration mentioned in subsection (5), or
  - (b) the benefit mentioned in subsection (6),



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consists (in whole or in part) in the provision of securities or an interest in securities the market value of which has been reduced by at least 10% as a result of things done otherwise than for genuine commercial purposes within the period of 7 years ending with the receipt of the consideration or benefit, its market value is to be taken to be what it would be but for the reduction.

- (8) The following are among the things that are, for the purposes of subsection (7), done otherwise than for genuine commercial purposes—
- (a) anything done as part of a scheme or arrangement the main purpose, or one of the main purposes, of which is the avoidance of tax or national insurance contributions, and
  - (b) any transaction between companies which are members of the same group on terms which are not such as might be expected to be agreed between persons acting at arm's length (other than a payment for group relief).
- (9) In subsection (8)(b)—
- (a) “group” means a company and its 51% subsidiaries, and
  - (b) “group relief” has the same meaning as in section 402(6) of ICTA.

### **Deductible amounts**

480 (1) This section applies for the purposes of section 478 (amount of charge on occurrence of chargeable event).

- (2) The amount of—
- (a) any consideration given for the acquisition of the employment-related securities option, and
  - (b) the amount of any expenses incurred in connection with the acquisition of securities, assignment, release or receipt which constitutes the chargeable event,

is a deductible amount.

- (3) Where in consequence of—
- (a) the acquisition of the employment-related securities option,
  - (b) the acquisition of securities pursuant to the employment-related securities option, or
  - (c) a transaction of which the acquisition of the employment-related securities option or the acquisition of securities pursuant to the employment-related securities option forms part,

there is a reduction in the market value of any employment-related securities to which an associated person is beneficially entitled, the amount of the reduction is to be treated for the purposes of subsection (2) as consideration (or additional consideration) given for the acquisition of the employment-related securities option.

- (4) If an amount counts as employment income of the employee under section 526 (approved CSOP schemes: charge where option granted at a discount) in respect of the employment-related securities option, so much of that amount as is attributable to the shares in question is a deductible amount.
- (5) The following are also deductible amounts—

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- (a) any amount that constituted earnings from the employment under Chapter 1 of Part 3 (earnings) in respect of the acquisition of the employment-related securities option,
  - (b) any amount that was treated as earnings from the employment under Chapter 10 of that Part (taxable benefits: residual liability to charge) in respect of the acquisition of the employment-related securities option, and
  - (c) the amount of any gain by a previous holder on an assignment of the employment-related securities option which would have been a deductible cost by virtue of subsection (2)(c) of section 479 (as originally enacted) on an exercise of the option at a time when that section was in force.
- (6) If there has been a previous chargeable event in relation to the employment-related securities option (or if section 476 or 477 as originally enacted applied to the option by virtue of an earlier event), so much of any deductible amount as was deducted in calculating the taxable amount on the occasion of that event is to be regarded as not being a deductible amount.
- (7) Sections 481 and 482 (deductible amounts in respect of secondary Class 1 contributions or special contribution met by the employee) specify further deductible amounts.

#### **Deductible amount in respect of secondary Class 1 contributions met by employee**

- 481 (1) The amount calculated under subsection (2) is a deductible amount if—
- (a) an agreement having effect under paragraph 3A of Schedule 1 to the Contributions and Benefits Act has been entered into allowing the secondary contributor to recover from the employee the whole or part of any secondary Class 1 contributions in respect of the gain, or
  - (b) an election having effect under paragraph 3B of Schedule 1 to that Act is in force which has the effect of transferring to the employee the whole or part of the liability to pay secondary Class 1 contributions in respect of the gain.
- (2) The amount is the sum of—
- (a) any amount that under the agreement referred to in subsection (1) (a) is recovered in respect of the gain by the secondary contributor before 5th June in the tax year following that in which the gain is realised, and
  - (b) the amount of any liability in respect of the gain that, by virtue of the election referred to in subsection (1)(b), has become the employee's liability.
- (3) If notice of withdrawal of approval of the election is given, the amount of any liability in respect of the gain for the purposes of subsection (2)(b) is limited to the amount of the liability met before 5th June in the tax year following that in which the gain is realised.
- (4) Subsection (1) does not apply in respect of a liability to pay Class 1 contributions which is prevented from arising by virtue of section 2(1)(a) of the Social Security Contributions (Share Options) Act 2001 (liability to pay

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Class 1 contributions in respect of gains replaced by liability to pay special contribution).

(5) In this section—

“approval”, in relation to an election, means approval by the Board of Inland Revenue under paragraph 3B of Schedule 1 to the Contributions and Benefits Act, and

“secondary contributor” has the same meaning as in that Act (see section 7).

### **Deductible amount in respect of special contribution met by employee**

482 (1) The amount of the liability referred to in subsection (4) is a deductible amount if conditions A to D are met.

(2) Condition A is that a notice in respect the employment-related securities option was given to the Board of Inland Revenue in accordance with section 1 of the Social Security Contributions (Share Options) Act 2001 before 11th August 2001.

(3) Condition B is that the person, or one of the persons, who gave that notice is a person who (apart from that Act) was liable, or would have become liable, by virtue of an election under paragraph 3B of Schedule 1 to the Contributions and Benefits Act, to pay secondary Class 1 contributions in respect of an event which is a chargeable event for the purposes of section 476.

(4) Condition C is that that person became liable to pay a special contribution under section 2 of the Social Security Contributions (Share Options) Act 2001 in respect of the employment-related securities option.

(5) Condition D is that that person met that liability before 11th August 2001 or before the end of such further period as the Board of Inland Revenue directed under section 2(5) of that Act.

### *Supplementary provisions*

### **Application of this Chapter where option exchanged for another**

483 (1) This section applies if—

- (a) the employment-related securities option (the “old option”) is assigned or released, and
- (b) the whole or part of the consideration for the assignment or release consists of or includes another securities option (the “new option”).

(2) For the purposes of section 479(5) (amount of gain realised by assigning or releasing option) the new option is not to be treated as consideration given for the assignment or release of the old option.

(3) This Chapter applies to the new option as it applies to the old option.

(4) For the purposes of section 480(2) (consideration for acquisition of option) the amount of the consideration given for the acquisition of the new option is to be treated as being the sum of—

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- (a) the amount by which the amount of the consideration given for the acquisition of the old option exceeds the amount of any consideration given for the assignment or release of the old option, apart from the new option, and
  - (b) any valuable consideration given for the acquisition of the new option, apart from the old option.
- (5) Two or more transactions are to be treated for the purposes of subsection (1) as a single transaction by which one option is assigned for a consideration which consists of or includes another option if—
- (a) the transactions result in—
    - (i) a person ceasing to hold an option, and
    - (ii) that person or a connected person coming to hold another option, and
  - (b) one or more of the transactions is effected under arrangements to which two or more persons holding options, in respect of which there may be liability to tax under this Chapter, are parties.
- (6) Subsection (5) applies regardless of the order in which the assignments and the acquisition occur.

### Definitions

484 (1) In this Chapter—

“securities”, and  
“securities option”,  
have the meaning indicated in section 420.

(2) In this Chapter “market value” has the meaning indicated in section 421(1).

(3) For the purposes of this Chapter sections 421(2) and 421A apply for determining the amount of consideration given for anything.

(4) In this Chapter “employment-related securities” has the same meaning as in Chapter 1 of this Part (see section 421B(8)).

(5) In this Chapter—

“the acquisition”,  
“the employee”,  
“the employer”,  
“the employment”, and  
“employment-related securities option”,  
have the meaning indicated in section 471(5).

(6) In this Chapter “associated person” has the meaning indicated in section 472.

(7) In this Chapter—

“secondary Class 1 contributions” has the same meaning as in the Contributions and Benefits Act (see section 1 of that Act), and  
“the Contributions and Benefits Act” means SSCBA 1992 or SSCB(NI)A 1992.”.

(2) Sub-paragraph (1) has effect—

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- (a) on and after 16th April 2003 in relation to employment-related securities options which are not share options, and
  - (b) on and after the day appointed under paragraph 3(2) in relation to employment-related securities options which are share options;
- and for this purpose “share options” means rights to acquire shares in a company or securities as defined in section 254(1) of the Taxes Act 1988 issued by a company.

#### PAYE

- 11 (1) Section 509 (modification of section 696 where charge on shares ceasing to be subject to plan) is amended as follows.
- (2) In subsection (4), for “subsection (5)” substitute “ subsections (5) and (6) ”.
- (3) After subsection (5) insert—
- “(6) In determining for the purposes of this section (and of section 696 in its application in accordance with this section) whether the shares are readily convertible assets, section 702 has effect with the omission of subsections (5A) to (5D).”.
- 12 (1) For sections 698 and 699 (PAYE: conditional interests in shares and convertible shares) substitute—

#### “698 PAYE: special charges on employment-related securities

- (1) This section applies where by reason of the operation of—
- (a) section 426 (chargeable events in relation to restricted securities and restricted interests in securities),
  - (b) section 438 (chargeable events in relation to convertible securities and interests in convertible securities),
  - (c) section 446B (charge on acquisition where market value of securities or interest artificially depressed),
  - (d) section 446L (charge where market value of securities artificially enhanced),
  - (e) section 446U (securities or interest acquired for less than market value: charge on discharge of notional loan),
  - (f) section 446Y (charge where securities or interest disposed of for more than market value), or
  - (g) section 447 (chargeable benefit from securities or interest),
- in relation to employment-related securities, an amount counts as employment income of an employee.
- (2) Sections 684 to 691 and 696 have effect as if—
- (a) the employee were provided with PAYE income in the form of the employment-related securities by the employer on the relevant date, and
  - (b) the reference in subsection (2) of section 696 to the amount of income likely to be PAYE income in respect of the provision of the asset were to the amount likely to count as employment income.
- (3) In a case in which the employment-related securities are not readily convertible assets, if—

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- (a) the amount counts as income by virtue of section 427(3)(c), 439(3)(b), (c) or (d), 446Y or 447, and
  - (b) the whole or any part of the consideration or benefit concerned takes the form of a payment or consists in the provision of an asset, subsection (4) applies.
- (4) Sections 684 to 691 and 696 have effect —
- (a) to the extent that the consideration or benefit takes the form of a payment, as if it were a payment of PAYE income of the employee by the employer, and
  - (b) to the extent that the consideration or benefit consists in the provision of an asset, as if the provision of the asset were the provision of PAYE income in the form of the asset by the employer on the relevant date.
- (5) Section 696 as applied by subsection (4)(b) has effect as if the reference in subsection (2) of that section to the amount of income likely to be PAYE income were to the same proportion of the amount likely to count as employment income as so much of the consideration or benefit as consists in the provision of the asset bears to the whole of the consideration or benefit.
- (6) In this section “the relevant date” means—
- (a) in relation to an amount counting as employment income under section 426 or 438, the date on which the chargeable event in question occurs,
  - (b) in relation to an amount counting as employment income under section 446B, the date of the acquisition of the securities or interest in securities in question,
  - (c) in relation to an amount counting as employment income under section 446L, the valuation date in question,
  - (d) in relation to an amount counting as employment income under section 446U, the date on which the notional loan in question is treated as discharged,
  - (e) in relation to an amount counting as employment income under section 446Y, the date of the disposal of the securities or interest in securities in question, and
  - (f) in relation to an amount counting as employment income under section 447, the date on which the benefit in question is received.
- (7) In this section “employment-related securities” has the same meaning as in Chapters 1 to 4 of Part 7.”
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2) but does not affect the operation of section 698 as originally enacted in relation to any securities, or interests in securities, acquired before 16th April 2003.
- 13 (1) For section 700 (PAYE: gains from share options) substitute—

**“700 PAYE: gains from securities options**

- (1) This section applies where by reason of the operation of section 476 (acquisition of securities pursuant to securities option etc) in relation to

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an employment-related securities option an amount counts as employment income of an employee.

- (2) In a case where the amount counts as employment income by virtue of section 477(3)(a) (acquisition of securities), sections 684 to 691 and 696 have effect as if—
  - (a) the employee were provided with PAYE income in the form of the securities by the employer on the relevant date, and
  - (b) the reference in subsection (2) of section 696 to the amount of income likely to be PAYE income in respect of the provision of the asset were to the amount likely to count as employment income.
- (3) In a case where the amount counts as income by virtue of section 477(3)(b) or (c) (assignment or release for consideration or receipt of benefit), sections 684 to 691 and 696 have effect—
  - (a) to the extent that the consideration or benefit takes the form of a payment, as if it were a payment of PAYE income of the employee by the employer, and
  - (b) to the extent that the consideration or benefit consists in the provision of an asset, as if the provision of the asset were the provision of PAYE income in the form of the asset by the employer on the relevant date.
- (4) Section 696 as applied by subsection (3)(b) has effect as if the reference in subsection (2) of that section to the amount of income likely to be PAYE income were to the same proportion of the amount likely to count as employment income as so much of the consideration or benefit as consists in the provision of the asset bears to the whole of the consideration or benefit.
- (5) In this section “the relevant date” means the date on which the chargeable event in question occurs.
- (6) In this section—

“employment-related securities option”, and  
“securities”,  
have the same meaning as in Chapter 5 of Part 7.”.

- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2).
- 14 (1) In section 701(2)(b) (“asset” not to include vouchers or credit-tokens), omit “subject to section 700(6).”.
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2).
- 15 (1) Section 702 (meaning of “readily convertible asset”) is amended as follows.
- (2) After subsection (5) insert—
  - “(5A) An asset consisting in securities which is not a readily convertible asset apart from this subsection is to be treated as a readily convertible asset unless the securities are shares that are corporation tax deductible.
  - (5B) For the purposes of subsection (5A) shares are corporation tax deductible if they are acquired by a person—
    - (a) by reason of that, or another person's, employment with a company,  
or

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- (b) pursuant to an option granted by reason of that, or another person's, employment with a company,  
and the company is entitled to corporation tax relief in respect of the shares under Schedule 23 to the Finance Act 2003 (corporation tax relief for employee share acquisition).
- (5C) If a person acquires additional shares by virtue of holding shares that are corporation tax deductible, the additional shares are to be treated for the purposes of subsection (5A) as if they were corporation tax deductible.
- (5D) If—
- (a) on a person ceasing to be beneficially entitled to shares that are corporation tax deductible, that person acquires other shares, and
- (b) the circumstances are such that the shares to which the person ceases to be beneficially entitled constitute “original shares” and the other shares constitute a “new holding” for the purposes of sections 127 to 130 of TCGA 1992,  
the shares that constitute the new holding are to be treated for the purposes of subsection (5A) as if they were corporation tax deductible.”.
- (3) In subsection (6), after the definition of “money debt” insert—
- ““securities” has the same meaning as in Chapters 1 to 5 of Part 7 (employment income from securities) (see section 420),  
“shares” includes—
- (a) an interest in shares, and
- (b) stock or an interest in stock.”.
- (4) For the purposes of section 702, shares are to be treated as corporation tax deductible during an accounting period which began before 1st January 2003 if they would have been corporation tax deductible had the accounting period begun on or after that date.

#### *Consequential amendments*

- 16 (1) In section 3(1) (structure of employment income Parts), in the entry relating to Part 7, for “share-related income and exemptions” substitute “ income and exemptions relating to securities and securities options acquired in connection with an employment ”.
- (2) Sub-paragraph (1) has effect on and after 16th April 2003.
- 17 (1) In section 7(6)(b) (employment income), for “(share-related income and exemptions)” substitute “ (income and exemptions relating to securities and securities options) ”.
- (2) Sub-paragraph (1) has effect on and after 16th April 2003.
- 18 (1) In section 19(2) (year in which earnings treated as received), omit the entries relating to Chapters 8 and 9 of Part 3.
- (2) Sub-paragraph (1) has effect—
- (a) so far as relating to Chapter 8 of Part 3, in accordance with the provision made for the repeal of that Chapter, and



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- (b) so far as relating to Chapter 9 of Part 3, in accordance with the provision made for the repeal of that Chapter.
- 19 (1) In section 32(2) (receipt of non-money earnings), omit the entries relating to Chapters 8 and 9 of Part 3.
  - (2) Sub-paragraph (1) has effect—
    - (a) so far as relating to Chapter 8 of Part 3, in accordance with the provision made for the repeal of that Chapter, and
    - (b) so far as relating to Chapter 9 of Part 3, in accordance with the provision made for the repeal of that Chapter.
- 20 (1) In section 63(1) (the benefits code), omit the entries relating to Chapters 8 and 9 of Part 3.
  - (2) Sub-paragraph (1) has effect—
    - (a) so far as relating to Chapter 8 of Part 3, in accordance with the provision made for the repeal of that Chapter, and
    - (b) so far as relating to Chapter 9 of Part 3, in accordance with the provision made for the repeal of that Chapter.
- 21 (1) In section 64 (relationship between earnings and benefits code), omit subsections (5) and (6).
  - (2) Sub-paragraph (1) has effect in accordance with the provision made for the repeal of Chapter 8 of Part 3.
- 22 (1) Omit Chapter 8 of Part 3.
  - (2) Sub-paragraph (1) has effect in relation to shares, and interests in shares, acquired on or after 16th April 2003.
- 23 (1) Omit Chapter 9 of Part 3.
  - (2) Sub-paragraph (1) has effect in relation to shares, and interests in shares, disposed of on or after 16th April 2003.
- 24 (1) Section 216 (provisions not applicable to lower-paid employments) is amended as follows.
  - (2) In subsection (4), omit the entries relating to Chapters 8 and 9 of Part 3.
  - (3) In subsection (6), omit the entries relating to section 195(3) and section 199(4).
  - (4) Sub-paragraphs (1) to (3) have effect—
    - (a) so far as relating to Chapter 8 of Part 3, in accordance with the provision made for the repeal of that Chapter, and
    - (b) so far as relating to Chapter 9 of Part 3, in accordance with the provision made for the repeal of that Chapter.
- 25 (1) Section 227(4) (employment income: exemptions) is amended as follows.
  - (2) For paragraphs (a) and (b) substitute—
    - “(a) section 425 (restricted securities: no charge in respect of acquisition in certain circumstances),
    - (b) section 475 (no charge in respect of acquisition of securities option),”.

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- (3) Omit paragraphs (d), (f) and (h).
- (4) This paragraph has effect—
  - (a) so far as relating to section 425, in accordance with the provision made for the substitution of Chapter 2 of Part 7, and
  - (b) otherwise, in accordance with the provision made for the substitution of Chapter 5 of Part 7.
- 26 (1) Omit section 491 (no charge under Chapter 8 of Part 3 in respect of acquisition of approved share incentive plan shares).
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the repeal of Chapter 8 of Part 3.
- 27 (1) Omit section 494 (no charge on removal of restrictions applying to approved share incentive plan shares).
- (2) Sub-paragraph (1) has effect—
  - (a) so far as relating to section 427, in accordance with the provision made for the substitution of Chapter 2 of Part 7, and
  - (b) so far as relating to section 449, in accordance with the provision made for the substitution of Chapter 4 of Part 7.
- 28 (1) Omit section 495 (approved share incentive plan shares: value of shares in dependent subsidiary).
- (2) Sub-paragraph (1) has effect on 16th April 2003.
- 29 (1) Omit section 518 (no charge in respect of acquisition of approved SAYE share scheme option).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 30 (1) In section 519 (no charge in respect of exercise of approved SAYE share scheme option), omit subsection (4).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 31 (1) Omit section 520 (approved SAYE option schemes: no charge in respect of post-acquisition benefits).
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 4 of Part 7.
- 32 (1) Omit section 523 (no charge in respect of acquisition of approved CSOP scheme option).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 33 (1) In section 524 (no charge in respect of exercise of approved CSOP scheme option), omit subsection (4).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 34 (1) Omit section 525 (approved CSOP schemes: no charge in respect of post-acquisition benefits).
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 4 of Part 7.

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- 35 (1) In section 526(4) (charge where approved CSOP scheme option granted at a discount: deductions of charge from amount chargeable under other provisions), for the words from the beginning to “deductions” substitute “ Section 480(4) (gain realised on acquisition of securities pursuant to option etc) provides for a deduction ”.
- (2) Sub-paragraph (1) has effect—
- (a) so far as relating to section 194, in accordance with the provision made for the repeal of Chapter 8 of Part 3, and
- (b) otherwise, on and after the day appointed under paragraph 3(2).
- 36 (1) Omit section 528 (enterprise management incentives: no charge in respect of acquisition of qualifying option).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 37 (1) In section 531(4) (enterprise management incentives: limitation of charge on exercise of qualifying option to acquire shares below market value), for the words after “which” substitute “ under section 478 (amount of charge under section 476) is to be regarded as the taxable amount for the purposes of section 476 in respect of the acquisition of the shares pursuant to the option. ”.
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2).
- 38 (1) In section 532(5) (enterprise management incentives: modified tax consequences following disqualifying events), for the words after “which” substitute “ under section 478 (amount of charge under section 476) is to be regarded as the taxable amount for the purposes of section 476 in respect of the acquisition of the shares pursuant to the option. ”.
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2).
- 39 (1) In section 538 (share conversions excluded for purposes of section 536), for subsection (4) substitute—
- “(4) In this section—
- “associated company” has the same meaning as, by virtue of section 416 of ICTA, it has for the purposes of Part 11 of ICTA,
- “director” has the same meaning as in the benefits code (see section 67) but also includes a person who is to be or has been a director,
- “employee” includes a person who is to be or has been an employee, and
- “employee-controlled” has the same meaning as in Chapters 1 to 4 of this Part (see section 421H(1)).”.
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2).
- 40 (1) In section 540(1) (enterprise management incentives: notional loan provisions not to apply in relation to acquisition of shares by exercise of qualifying option), for “Chapter 8 of Part 3” substitute “ Chapter 3C of this Part ”.
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the repeal of Chapter 8 of Part 3.
- 41 (1) In section 541 (enterprise management incentives: effect on other income tax charges), for subsections (1) and (2) substitute—

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- “(1) Nothing in the EMI code affects—
- (a) the operation of Chapters 2 to 4 of this Part in relation to shares acquired under a qualifying option, or
  - (b) the operation of Chapter 5 of this Part otherwise than in relation to the acquisition of shares under a qualifying option.
- (2) But in calculating the taxable amount for the purposes of section 426 (post-acquisition charge on restricted securities) in respect of shares acquired under a qualifying option, the amount of relief on the exercise of the option is to be regarded as a deductible amount for the purposes of section 428 (amount of charge).”.

- (2) So far as relating to—
- (a) Chapter 9 of Part 3 (which is repealed and replaced by provisions inserted in Part 7),
  - (b) any of the new Chapters substituted or inserted in Part 7 by this Schedule, and
  - (c) each of the Chapters of that Part as originally enacted for which new Chapters are substituted by this Schedule,
- sub-paragraph (1) has effect in accordance with the provision made for the taking effect of the repeal, substitution or insertion.

42 (1) Part 2 of Schedule 1 (index of defined expressions) is amended as follows.

- (2) Omit the entries relating to—
- “acquisition (in Chapter 8 of Part 3)”,
  - “the acquisition (in Chapter 8 of Part 3)”,
  - “acquisition (in Chapter 9 of Part 3)”,
  - “the acquisition (in Chapter 4 of Part 7)”,
  - “as a director or employee, in relation to the acquisition of an interest in shares (in Chapter 2 of Part 7)”,
  - “as a director or employee, in relation to the acquisition of shares or an interest in shares (in Chapter 3 of Part 7)”,
  - “as a director or employee, in relation to the acquisition of shares or an interest in shares (in Chapter 4 of Part 7)”,
  - “assign, in relation to a share option (in Chapter 5 of Part 7)”,
  - “associated company (in Chapter 4 of Part 7)”,
  - “company (in Chapter 5 of Part 7)”,
  - “the Contributions and Benefits Act (in Chapter 5 of Part 7)”,
  - “convertible, in relation to shares (in Chapter 3 of Part 7)”,
  - “dependent subsidiary (in Chapter 4 of Part 7)”,
  - “director (in Chapter 2 of Part 7)”,
  - “director (in Chapter 3 of Part 7)”,
  - “director (in Chapter 4 of Part 7)”,
  - “director (in Chapter 5 of Part 7)”,
  - “employee (in Chapter 8 of Part 3)”,
  - “employee (in Chapter 9 of Part 3)”,
  - “employee (in Chapter 2 of Part 7)”,
  - “the employee (in Chapter 2 of Part 7)”,
  - “employee (in Chapter 3 of Part 7)”,

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“the employee (in Chapter 3 of Part 7)”,  
“employee (in Chapter 4 of Part 7)”,  
“the employee (in Chapter 4 of Part 7)”,  
“employee (in Chapter 5 of Part 7)”,  
“the employee (in Chapter 5 of Part 7)”,  
“employee-controlled (in relation to a company) (in Chapter 4 of Part 7)”,  
“the employee’s interest (in Chapter 2 of Part 7)”,  
“the employer company (in Chapter 2 of Part 7)”,  
“the employer company (in Chapter 3 of Part 7)”,  
“the employer company (in Chapter 4 of Part 7)”,  
“employment-related shares (in Chapter 9 of Part 3)”,  
“the employment-related shares (in Chapter 8 of Part 3)”,  
“held by outside shareholders (in Chapter 4 of Part 7)”,  
“interest in shares (in Chapter 8 of Part 3)”,  
“interest in shares (in Chapter 9 of Part 3)”,  
“interest in shares (in Chapter 4 of Part 7)”,  
“market value (in Chapter 8 of Part 3)”,  
“market value (in Chapter 9 of Part 3)”,  
“market value (in Chapter 2 of Part 7)”,  
“only conditional (interest in shares) (in Chapter 2 of Part 7)”,  
“payment for the employment-related shares (in Chapter 8 of Part 3)”,  
“release, in relation to a share option (in Chapter 5 of Part 7)”,  
“secondary Class 1 contributions (in Chapter 5 of Part 7)”,  
“share option (in Chapter 5 of Part 7)”,  
“the share option (in Chapter 5 of Part 7)”,  
“shares (in Chapter 8 of Part 3)”,  
“shares (in Chapter 9 of Part 3)”,  
“shares (in Chapter 2 of Part 7)”,  
“the shares (in Chapter 2 of Part 7)”,  
“shares (in Chapter 3 of Part 7)”,  
“the shares (in Chapter 3 of Part 7)”,  
“shares (in Chapter 4 of Part 7)”,  
“the shares (in Chapter 4 of Part 7)”,  
“shares (in Chapter 5 of Part 7)”,  
“terms (in Chapter 2 of Part 7)”,  
“terms (in Chapter 3 of Part 7)”, and  
“value (in relation to shares) (in Chapter 4 of Part 7)”.

(3) At the appropriate places insert—

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“the acquisition (in Chapters 1 to 4 of Part 7) section 421B(8) (see also section 446Q(4))”,

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“the acquisition (in Chapter 5 of Part 7) section 471(5)”,

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“associated company (in section 421H(1) and section 421H(2)),  
Chapters 2 to 4 of Part 7)

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“associated person (in Chapters 1 to 4 of Part section 421C”,  
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“associated person (in Chapter 5 of Part 7) section 472”,

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“chargeable event (in Chapter 3B of Part 7) section 446P(5)”,

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“the Contributions and Benefits Act (in section 484(7)”,  
Chapter 5 of Part 7)

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“consideration (in Chapters 2 to 5 of Part 7) sections 421(2) and 421A”,

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“consideration given for the acquisition of section 421I”,  
employment-related securities (in Chapters 2  
to 3A of Part 7)

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“convertible securities (in Chapters 2 to 3A section 436”,  
of Part 7)

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“the employee (in Chapters 1 to 4 of Part 7) section 421B(8)”,

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“the employee (in Chapter 5 of Part 7) section 471(5)”,

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“employee-controlled (in Chapters 2 to 4 of section 421H(1)”,  
Part 7)

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“the employer (in Chapters 1 to 4 of Part 7) section 421B(8)”,

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“the employer (in Chapter 5 of Part 7) section 471(5)”,

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“the employment (in Chapters 1 to 4 of Part 7) section 421B(8)”,

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“the employment (in Chapter 5 of Part 7) section 471(5)”,

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“employment-related securities (in Chapters 1 to 5 of Part 7) section 421B(8) (see also section 484(4))”,

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“employment-related securities option (in Chapter 5 of Part 7) section 471(5)”,

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“interest, in relation to securities (or shares) (in Chapters 1 to 5 of Part 7) section 420(8)”,

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“market value (in Chapters 1 to 5 of Part 7) section 421(1)”,

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“non-commercial increase (in Chapter 3B of Part 7) section 446K(4)”,

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“non-commercial reduction (in Chapter 3B of Part 7) section 446K(4)”,

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“the notional loan (in Chapter 3C of Part 7) section 446S(1)”,

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“recognised stock exchange section 841 of ICTA”,

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“relevant period (in Chapter 3B of Part 7) section 446O”,

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“restricted securities and restricted interest in securities (in Chapters 2, 3A and 3B of Part 7) sections 423 and 424”,

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“restriction (in Chapters 2, 3A and 3B of Part 7) section 432(8)”,

“secondary Class 1 contributions (in Chapter 5 of Part 7) section 484(7)”,

“securities (in Chapters 1 to 5 of Part 7) section 420”,

“securities option (in Chapters 1 to 5 of Part 7) section 420(8)”,

“shares (in Chapters 1 to 5 of Part 7) section 420(8)”,

“valuation date (in Chapter 3B of Part 7) section 446O”, and

“variation, in relation to a restriction (in Chapter 2 of Part 7) section 427(4)”.

- (4) So far as relating to—
- (a) Chapters 8 and 9 of Part 3 (which are repealed and replaced by provisions inserted in Part 7),
  - (b) each of the new Chapters substituted or inserted in Part 7, and
  - (c) each of the Chapters of that Part as originally enacted for which new provisions are substituted,
- sub-paragraphs (1) to (3) have effect in accordance with the provision made for the taking effect of the repeal, substitution or insertion.
- 43 (1) In paragraph 35 of Schedule 2 (approved share incentive plans: maximum annual award), for sub-paragraphs (3) and (4) substitute—
- “(3) For the purposes of this paragraph the market value of restricted shares is to be determined as if they were not.
- (4) Shares are “restricted shares” if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares.”.
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 2 of Part 7.
- 44 (1) In paragraph 42(3) of Schedule 3 (approved SAYE option schemes: withdrawal of approval), for paragraph (b) substitute—



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- “(b) section 421G(b) (exemption from Chapters 2 to 4 of Part 7),”.
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 4 of Part 7.
- 45 (1) Schedule 5 (enterprise management incentives) is amended as follows.
- (2) In paragraph 5, for sub-paragraphs (7) and (8) substitute—
- “(7) For the purposes of this paragraph the market value of restricted shares is to be determined as if they were not.
- (8) Shares are “restricted shares” if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares.”.
- (3) In paragraph 37, for sub-paragraphs (4) to (6) substitute—
- “(4) Where the shares that may be acquired by the employee are restricted shares, the agreement must contain details of the restrictions.
- (5) For the purposes of sub-paragraph (4)—
- (a) shares are “restricted shares” if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares, and
- (b) “restrictions” means that provision.”.
- (4) Sub-paragraphs (1) to (3) have effect in accordance with the provision made for the substitution of Chapter 2 of Part 7.
- 46 (1) Schedule 7 (transitionals and savings) is amended as follows.
- (2) Omit paragraphs 30 and 31.
- (3) In the heading of Part 6, for “share-related” substitute “ related to securities ”.
- (4) In the heading of Part 7, for “share-related income” substitute “ income related to securities ”.
- (5) Before paragraph 44 insert—

*“Pre-6th April 2003 acquisitions*

- 43A(1) This paragraph relates to the operation of section 421E (exclusions from Chapters 2 to 4 of Part 7: residence) in relation to an acquisition made before 6th April 2003.
- (2) Section 421E(1) has effect with the substitution of “ the employee was not chargeable under Case I of Schedule E in respect of the employment ” for the words from “the earnings”.
- (3) Section 421E(2) has effect with the substitution of “ the emoluments of the employment did not fall to be charged to income tax under Schedule E ” for the words from “the earnings”.”.

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- (6) In paragraph 44, after “Part 7” insert “, as originally enacted,”.
- (7) In paragraph 45(1), at end insert “, as originally enacted.”.
- (8) In paragraph 46(1), after “disposal” insert “, as originally enacted,”.
- (9) Omit paragraphs 47 and 48.
- (10) In paragraph 49, for “shares” substitute “ securities ”.
- (11) Omit paragraphs 50 to 52.
- (12) Omit paragraph 53.
- (13) In paragraph 54, after “Part 7” insert “, both as originally enacted and as substituted by the Finance Act 2003,”.
- (14) In paragraph 55—
  - (a) after “Part 7” insert “, as originally enacted,” and
  - (b) omit sub-paragraph (2)(a).
- (15) In paragraph 56, after “section 449” insert “, as originally enacted,”.
- (16) In paragraph 58(1), at end insert “, as originally enacted.”
- (17) Omit paragraph 59.
- (18) Omit paragraphs 60 and 61.
- (19) After paragraph 61 insert—

*“Securities disposed of for more than market value*

61A Chapter 3D of Part 7 does not apply in relation to securities, or an interest in securities, acquired on or before 6th April 1976.”.

- (20) Omit paragraph 62.
- (21) For paragraph 63 substitute—
  - “63 (1) This paragraph relates to the operation of section 474 (exclusions from Chapter 5 of Part 7: residence) in relation to an acquisition made before 6th April 2003.
  - (2) Section 474(1) has effect with the substitution of “ the employee was not chargeable under Case I of Schedule E in respect of the employment ” for the words from “the earnings”.”.
- (22) In paragraph 64—
  - (a) for “share” (in both places) substitute “ securities ”,
  - (b) for “obtained” substitute “ acquired ”, and
  - (c) for “receipt” substitute “ acquisition ”.
- (23) In paragraph 65—
  - (a) in sub-paragraph (1), for “479 (amount of gain realised by exercising option) in relation to a share option obtained” substitute “ 478 in relation to an event that is a chargeable event by virtue of section 477(3)(a) or (b) (acquisition

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- of securities pursuant to an option and assignment and release of option) in the case of a share option acquired”, and
- (b) in sub-paragraph (2), for “479(1)” substitute “ 478(1) ” and for “cost” substitute “ amount ”.
- (24) Omit paragraph 66.
- (25) Omit paragraph 67.
- (26) In this paragraph—
- (a) sub-paragraphs (2) and (19) have effect in relation to securities, and interests in securities, disposed of on or after 16th April 2003,
- (b) sub-paragraphs (5) and (13) to (17) have effect on and after 16th April 2003,
- (c) sub-paragraphs (6) to (8), (10), (11), (20), (23) and (24) have effect on the day appointed under paragraph 3(2), and
- (d) sub-paragraphs (21) and (22) have effect in accordance with the provision made for the substitution of Chapter 5 of Part 7.

*Consequential amendments of other enactments*

- 47 (1) In section 98 of the Taxes Management Act 1970 (c. 9) (penalties for failure to furnish information etc)—
- (a) in the first column of the Table, at the appropriate place insert “ Section 421J(4) of ITEPA 2003. ”, and
- (b) in the second column of the Table, for the entries relating to sections 432, 433, 445, 465, 466 and 486 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) substitute “ Section 421J(3) of ITEPA 2003. ”.
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 1 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003.
- 48 (1) In section 4(4)(a) of—
- (a) the Social Security Contributions and Benefits Act 1992 (c. 4) (payments treated as earnings), and
- (b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (corresponding provision for Northern Ireland),
- for the words after “479” substitute “ of ITEPA 2003 in respect of which an amount counts as employment income of the earner under section 476 of that Act (charge on acquisition of securities pursuant to option etc), reduced by any amounts deducted under section 480(1) to (6) of that Act in arriving at the amount counting as such employment income; ”.
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 5 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003.
- 49 The Taxation of Chargeable Gains Act 1992 (c. 12) is amended as follows.
- 50 (1) After section 119 insert—

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**“119A Increase in expenditure by reference to tax charged in relation to employment-related securities**

- (1) This section applies to a disposal of an asset consisting of employment-related securities if the disposal—
  - (a) is an event giving rise to a relevant income tax charge, or
  - (b) is the first disposal after an event, other than a disposal, giving rise to a relevant income tax charge.
- (2) Section 38(1)(a) applies as if the relevant amount had formed part of the consideration given by the person making the disposal for his acquisition of the employment-related securities.
- (3) For the purposes of this section an event gives rise to a relevant income tax charge if it results in an amount counting as employment income—
  - (a) under section 426 of ITEPA 2003 (restricted securities),
  - (b) under section 438 of ITEPA 2003 by virtue of section 439(3)(a) of that Act (conversion of convertible securities),
  - (c) under section 446U of ITEPA 2003 (securities acquired for less than market value: discharge of notional loan), or
  - (d) under section 476 of ITEPA 2003 by virtue of section 477(3)(a) of that Act (acquisition of securities pursuant to employment-related securities option),
 in respect of the employment-related securities.
- (4) For the purposes of this section “the relevant amount” is the aggregate of the amounts counting as employment income as mentioned in subsection (3) above by reason of events occurring—
  - (a) not later than the disposal, and
  - (b) where this section has applied to an earlier disposal of the employment-related securities, after the last disposal to which this section applied.
- (5) But where the relevant amount consists of or includes an amount counting as employment income under section 476 of ITEPA 2003, it is to be increased by the aggregate of any amounts deducted under section 480(5)(a) or (b), 481 or 482 of that Act in arriving at the amount of that employment income.
- (6) Where securities or interests in securities cease to be employment-related securities—
  - (a) by reason of subsection (6) of section 421B of ITEPA 2003 in circumstances in which, immediately before the employee’s death, the employment-related securities are held otherwise than by the employee, or
  - (b) by reason of subsection (7) of that section,
 they are to be regarded for the purposes of this section as remaining employment-related securities until the next occasion on which they are disposed of.
- (7) In this section—
 

“employment-related securities”, and

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“employee”, in relation to employment-related securities,  
have the same meaning as in Chapters 1 to 4 of Part 7 of ITEPA  
2003.

(8) References in this section to ITEPA 2003 are to that Act as amended by  
Schedule 22 to the Finance Act 2003.”.

(2) Sub-paragraph (1) has effect in relation to disposals on or after 16th April 2003.

51 In section 120 (increase in expenditure by reference to tax charged in relation to  
shares etc), after subsection (8) insert—

“(9) References in this section to ITEPA 2003 are to that Act as originally  
enacted.”.

52 (1) After section 149A insert—

**“149AA Restricted and convertible employment-related securities**

(1) Where an individual has acquired an asset consisting of employment-related  
securities which are—

- (a) restricted securities or a restricted interest in securities, or
- (b) convertible securities or an interest in convertible securities,

the consideration for the acquisition shall (subject to section 119A) be taken  
to be equal to the aggregate of the actual amount or value given for the  
employment-related securities and any amount that constituted earnings  
under Chapter 1 of Part 3 of ITEPA 2003 (earnings) in respect of the  
acquisition.

(2) Subsection (1) above applies only to the individual making the acquisition  
and, accordingly, is to be disregarded in calculating the consideration  
received by the person from whom the employment-related securities are  
acquired.

(3) This section has effect in relation to acquisitions on or after the day appointed  
under paragraph 3(2) of Schedule 22 to the Finance Act 2003.

(4) In this section “employment-related securities” has the same meaning as in  
Chapters 1 to 4 of Part 7 of ITEPA 2003 (as substituted by Schedule 22 to  
the Finance Act 2003).

(5) In this section—

“restricted interest in securities”, and  
“restricted securities”,

have the same meaning as in Chapter 2 of that Part of ITEPA 2003  
(as so substituted).

(6) In this section “convertible securities” has the same meaning as in Chapter 3  
of that Part of ITEPA 2003 (as so substituted).”.

53 In section 149B (employee incentive schemes: conditional interests in shares), after  
subsection (4) insert—

“(5) This section does not apply to acquisitions on or after the day appointed  
under paragraph 3(2) of Schedule 22 to the Finance Act 2003.

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(6) References in this section to ITEPA 2003 are to that Act as originally enacted.”.

54 (1) In section 288 (interpretation), after subsection (1) insert—

“(1A) If any employment-related securities option would not otherwise be regarded as an option for the purposes of this Act, it shall be so regarded; and the acquisition of securities by an associated person pursuant to an employment-related securities option is to be treated for the purposes of this Act as the exercise of the option.

Expressions used in this subsection and Chapter 5 of Part 7 of ITEPA 2003 have the same meaning in this subsection as in that Chapter.”.

(2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 5 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

55 (1) The Social Security Contributions (Share Options) Act 2001 (c. 20) is amended as follows.

(2) The amendments of that Act have effect on and after the day appointed under paragraph 3(2).

56 In section 2(3)(b) (effect of notice under section 1), insert at the end “ (less any deductible amounts under section 480(1) to (6) of that Act). ”.

57 (1) Section 3 (special provision for roll-overs) is amended as follows.

(2) In subsection (4)—

(a) in paragraph (a), for “section 485(1) to (4)” substitute “ section 483(1) to (4) ”, and

(b) insert at the end of paragraph (b)(i) “ (less any deductible amounts under section 480(1) to (6) of that Act). ”.

(3) In subsection (6), for “485(1) to (3)” substitute “ 483(1) to (3) ”.

(4) In subsection (11)(a), insert at the end “ (less any deductible amounts under section 480(1) to (6)); ”.

58 In section 5(2)(c) (interpretation), for “483(1)” substitute “ 477(6) ”.

F554 59 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

F554 60 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

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F554 61 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 62 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 63 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 64 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 65 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 66 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 67 .....

**Textual Amendments**

F554 Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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F554 68 .....

**Textual Amendments**

**F554** Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 69 .....

**Textual Amendments**

**F554** Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 70 .....

**Textual Amendments**

**F554** Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 71 .....

**Textual Amendments**

**F554** Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 72 .....

**Textual Amendments**

**F554** Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F554 73 .....

**Textual Amendments**

**F554** Sch. 22 paras. 59-73 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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**Textual Amendments**

**F555** Sch. 23 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. 566, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F556** SCHEDULE 24

Section 143

**Textual Amendments**

**F556** Sch. 24 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. 567, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F557** SCHEDULE 25

Section 149(3)

**Textual Amendments**

**F557** Sch. 25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F558** SCHEDULE 26

Section 152

**Textual Amendments**

**F558** Sch. 26 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 421, **Sch. 3 Pt. 1** (with Sch. 2)

SCHEDULE 27

Section 155

PERMANENT ESTABLISHMENT ETC: CONSEQUENTIAL AMENDMENTS

*Taxes Act 1988*

1 (1) The Taxes Act 1988 is amended as follows.

**F559** (2) .....

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<sup>F560</sup>(3) .....

(4) In Schedule 15 (qualifying policies), in paragraph 24 (policies issued by non-resident companies), in sub-paragraph (3)(b) (twice) and (c) for “branch” substitute “ permanent establishment ”.

**Textual Amendments**

**F559** Sch. 27 para. 1(2) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 3** (with Sch. 36)  
**F560** Sch. 27 para. 1(3) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

*Taxation of Chargeable Gains Act 1992*

- 2 (1) The Taxation of Chargeable Gains Act 1992 (c. 12) is amended as follows.
- (2) In section 10 (non-resident with United Kingdom branch or agency)—
- (a) omit subsection (3); and
  - (b) in subsection (4), omit “or corporation tax”.
- (3) In sections 13(5)(d), 25(7)(b), <sup>F561</sup>... 139(1A), 140A(2), 159(4)(b), 171(1A), 175(2AA), 179(1A), 190(2)(b) and (3)(b), 199(6)(b) and 228(6)(b), and in Schedule 7A, paragraph 1(3A), for “10(3)” substitute “ 10B ”.

**Textual Amendments**

**F561** Words in Sch. 27 para. 2(3) repealed (with effect in accordance with Sch. 26 Pt. 3(9) Note 2 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 26 Pt. 3(9)**

*Finance Act 1993*

<sup>F562</sup>3 .....

**Textual Amendments**

**F562** Sch. 27 para. 3 repealed (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(6)**

*Finance Act 1995*

<sup>F563</sup>4 .....

**Textual Amendments**

**F563** Sch. 27 para. 5 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 11** (with Sch. 9 paras. 1-9, 22)

<sup>F563</sup>5 .....

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**Textual Amendments**

**F563** Sch. 27 para. 5 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 10 Pt. 11](#) (with Sch. 9 paras. 1-9, 22)

**F564** 6 .....

**Textual Amendments**

**F564** Sch. 27 para. 6 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

7 Omit section 129 of the Finance Act 1995 (c. 4) (limit on income chargeable on non-residents: corporation tax).

*Finance Act 1996*

8 In Schedule 15 to the Finance Act 1996 (c. 8) (loan relationships: transitional provisions), in paragraph 8(6)(c)—  
(a) for “10(3)” substitute “ 10B ”, and  
(b) for “on a disposal by a branch or agency” substitute “ attributable to a permanent establishment ”.

*Finance Act 2000*

9 In Schedule 15 to the Finance Act 2000 (c. 17) (corporate venturing scheme), in paragraph 79(5) (gain accruing on chargeable event), for “section 10” substitute “ section 10B ”.

SCHEDULE 28

Section 159

CAPITAL GAINS TAX: REPORTING LIMITS AND ANNUAL EXEMPT AMOUNT

**PART 1**

REPORTING LIMITS

1 After section 3 of the Taxation of Chargeable Gains Act 1992 (c. 12) insert—

**“3A Reporting limits**

- (1) Where in the case of an individual—
- (a) the amount of chargeable gains accruing to him in any year of assessment does not exceed the exempt amount for that year, and
  - (b) the aggregate amount or value of the consideration for all chargeable disposals of assets made by him in that year does not exceed four times the exempt amount for that year,
- a statement to that effect is sufficient compliance with so much of any notice under section 8 of the Management Act as requires information for the

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purposes of establishing the amount in which he is chargeable to capital gains tax for that year.

- (2) For the purposes of subsection (1)(a) above—
    - (a) the amount of chargeable gains accruing to an individual in a year of assessment for which no deduction falls to be made in respect of allowable losses is the amount after any reduction for taper relief;
    - (b) the amount of chargeable gains accruing to an individual in a year of assessment for which such a deduction does fall to be made is the amount before deduction of losses or any reduction for taper relief.
  - (3) For the purposes of subsection (1)(b) above a “chargeable disposal” is any disposal other than—
    - (a) a disposal on which any gain accruing is not a chargeable gain, or
    - (b) a disposal the consideration for which is treated by virtue of section 58 (husband and wife) as being such that neither a gain nor a loss would accrue.
  - (4) Subsection (1) above applies to personal representatives (for the year of assessment in which the individual in question dies and for the next 2 following years) as it applies to an individual.
  - (5) Subsection (1) above applies to the trustees of a settlement in accordance with Schedule 1.
  - (6) In this section “exempt amount” has the meaning given by section 3 (read, where appropriate, with Schedule 1).”
- 2
- (1) In the heading to Schedule 1 to that Act (application of exempt amount in cases involving settled property) after “EXEMPT AMOUNT” insert “ AND REPORTING LIMITS ”.
  - (2) In paragraph 1 of that Schedule (trustees for person with a disability) after sub-paragraph (5) insert—
 

“(5A) In its application to the trustees of a settlement, section 3A(1) has effect with the substitution for the reference to section 8 of the Management Act of a reference to section 8A of that Act.”.
  - (3) In paragraph 2 of that Schedule (other trustees) after sub-paragraph (6) insert—
 

“(6A) In its application to the trustees of a settlement, section 3A(1) has effect with the substitution for the reference to section 8 of the Management Act of a reference to section 8A of that Act.”.

## PART 2

### ANNUAL EXEMPT AMOUNT

- 3
- (1) Section 3 of the Taxation of Chargeable Gains Act 1992 (c. 12) is amended as follows.
  - (2) Omit subsection (6).
  - (3) In subsection (7) for “subsections (1) to (6)” substitute “ subsections (1) to (5C) ”.
  - (4) After that subsection insert—

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- “(7A) As they apply by virtue of subsection (7) above—
- (a) subsection (5A) has effect with the omission of paragraph (b), and
  - (b) subsection (5B) has effect with the omission of the words “or (b)”.
- 4 (1) Paragraph 1 of Schedule 1 to that Act is amended as follows.
- (2) In sub-paragraph (1), in the words following paragraph (b)—
- (a) for “section 3(1) to (6)” substitute “ sections 3(1) to (5C) and 3A ”;
  - (b) at the end insert “ , but with the modifications specified in this paragraph ”.
- (3) After sub-paragraph (2) insert—
- “(2A) As they apply by virtue of sub-paragraph (1) above—
- (a) section 3(5A) has effect with the omission of paragraph (b), and
  - (b) section 3(5B) has effect with the omission of the words “or (b)”.
- (4) In sub-paragraph (3)—
- (a) for “section 3” substitute “ sections 3 and 3A(1)(a) ”;
  - (b) after “the exempt amount for the year”, where it first occurs, insert “ (except the one in section 3(2)) ”.
- <sup>F565</sup>(5) .....

**Textual Amendments**

**F565** Sch. 28 para. 4(5) omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, [Sch. para. 60\(i\)](#)

- 5 (1) Paragraph 2 of that Schedule is amended as follows.
- (2) In sub-paragraph (1) for “section 3(1) to (6)” substitute “ sections 3(1) to (5C) and 3A ”.
- (3) In sub-paragraph (2)—
- (a) for “subsections (1) and (5)” substitute “ section 3(1), (5A), (5B) and (5C) ”;
  - (b) after “section 3(1), (5A), (5B) and (5C)” insert “ and section 3A(1)(a) ”.
- (4) After sub-paragraph (2) insert—
- “(2A) As they apply by virtue of sub-paragraph (1) above—
- (a) section 3(5A) has effect with the omission of paragraph (b), and
  - (b) section 3(5B) has effect with the omission of the words “or (b)”.
- (5) Omit sub-paragraph (3).
- <sup>F566</sup>(6) .....

**Textual Amendments**

**F566** Sch. 28 para. 5(6) omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, [Sch. para. 60\(i\)](#)

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- 6 In the first column of the Table in section 98 of the Taxes Management Act 1970 (c. 9) (penalty for failure to furnish particulars etc), at the appropriate place insert — “ Paragraph 1(7) of Schedule 1 to the 1992 Act. ”.

### PART 3

#### COMMENCEMENT

- 7 The amendments in paragraphs 1, 2, 3(2) and (3), 4(2)(a) and (4)(a) and 5(2), (3) (b) and (5) of this Schedule apply in relation to any notice under section 8 or, as the case may be, section 8A of the Taxes Management Act 1970 given in relation to the year 2003-04 or any subsequent year of assessment.
- 8 The amendments in paragraphs 3(4), 4(2)(b), (3) and (4)(b) and 5(3)(a) and (4) of this Schedule shall be deemed always to have had effect.
- 9 The amendments in paragraphs 4(5), 5(6) and 6 of this Schedule have effect in relation to any notice given in respect of the year 2002-03 or any subsequent year of assessment, except that the amendment in paragraph 6 has effect only in relation to such a notice given after the passing of this Act.

#### SCHEDULE 29

Section 163(2)

#### TRANSFERS OF VALUE: ATTRIBUTION OF GAINS TO BENEFICIARIES

##### *Introduction*

- 1 Schedule 4C to the Taxation of Chargeable Gains Act 1992 (c. 12) (transfers of value: attribution of gains to beneficiaries) is amended as follows.

##### *Scope and scheme of Schedule*

- 2 For paragraphs 1 and 2 (introduction and general scheme of Schedule) substitute—

##### *“Introduction*

- 1 (1) This Schedule applies where the trustees of a settlement (“the transferor settlement”) make a transfer of value to which Schedule 4B applies (“the original transfer”).
- (2) Where this Schedule applies, the following gains—
- (a) any Schedule 4B trust gains accruing by virtue of the transfer (see paragraphs 3 to 7), and
  - (b) any outstanding section 87/89 gains of the transferor settlement at the end of the year of assessment in which the transfer is made (see paragraph 7A),
- are pooled for the purpose of attributing them, in accordance with this Schedule, to beneficiaries who receive capital payments. Paragraph 7B provides for further gains to be brought into the pool in the case of a further transfer of value.

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- (3) The gains mentioned in sub-paragraph (2) are referred to in this Schedule as “Schedule 4C gains” and the pool is referred to as the transferor settlement’s “Schedule 4C pool”.
- (4) Paragraphs 8 to 9 provide for the attribution of gains in a settlement’s Schedule 4C pool.
- (5) References in this Schedule to a transfer to which Schedule 4B applies include any such transfer, whether or not any chargeable gain or allowable loss accrues under that Schedule by virtue of the transfer.”

*Other gains to be brought into Schedule 4C pool*

F5673 .....

**Textual Amendments**

**F567** Sch. 29 para. 3 omitted (with effect in accordance with Sch. 7 para. 147 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 146** (with Sch. 7 para. 155)

*Attribution of gains to beneficiaries*

- 4 (1) For paragraphs 8 and 9 (attribution of gains to beneficiaries) substitute—

*“Attribution of Schedule 4C gains to beneficiaries*

- 8 (1) The gains in a settlement’s Schedule 4C pool at the end of any year of assessment are treated as chargeable gains accruing in that year to beneficiaries who receive in that year, or have received in an earlier year, capital payments from the trustees of any settlement that is a relevant settlement in relation to the pool.

Paragraph 8A defines “relevant settlement” for this purpose.

- (2) The attribution of chargeable gains to beneficiaries under this paragraph shall be made in proportion to, but shall not exceed, the amounts of the capital payments made to them.

Paragraphs 8B and 8C provide for the matching of gains with available capital payments.

- (3) A chargeable gain shall not be treated as accruing to a beneficiary under this Schedule unless he is chargeable to tax for that year of assessment.
- (4) For the purposes of this Schedule a beneficiary is “chargeable to tax” for a year of assessment if, and only if—
- (a) he is resident in the United Kingdom for any part of that year or is ordinarily resident in the United Kingdom for that year, and
  - (b) he is domiciled in the United Kingdom for any part of that year.
- (5) Any gains in a settlement’s Schedule 4C pool that are not attributed to beneficiaries in a year of assessment are carried forward to the following year of assessment, when this paragraph applies again.

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### *Relevant settlements*

- 8A (1) This paragraph specifies what settlements are relevant settlements in relation to a Schedule 4C pool.
- (2) The transferor and transferee settlements in relation to the original transfer of value are relevant settlements.
- (3) If the trustees of any settlement that is a relevant settlement in relation to a Schedule 4C pool—
- (a) make a transfer of value to which Schedule 4B applies, or
  - (b) make a transfer of settled property to which section 90 applies,
- any settlement that is a transferee settlement in relation to that transfer is also a relevant settlement in relation to that pool.
- (4) If the trustees of a settlement that is a relevant settlement in relation to a Schedule 4C pool make a transfer of value to which Schedule 4B applies, any other settlement that is a relevant settlement in relation to that pool is also a relevant settlement in relation to the Schedule 4C pool arising from the further transfer.

### *Attribution of gains in Schedule 4C pool*

- 8B (1) The following rules apply as regards the attribution of the gains in a settlement's Schedule 4C pool to beneficiaries of relevant settlements.
- This paragraph has effect subject to paragraph 8C (order of attribution as between gains in Schedule 4C pool and other trust gains).
- (2) Gains of earlier years are attributed to beneficiaries before gains of later years.
- (3) For the purposes of this Schedule the year of a gain is determined as follows—
- (a) a Schedule 4B trust gain is a gain of the year of assessment in which the transfer of value in question takes place;
  - (b) a section 87/89 gain is a gain of the year of assessment in which it first forms part of a settlement's trust gains in accordance with section 87(2).
- (4) Gains of the same year are matched with available capital payments made at any time by trustees of any relevant settlement.
- (5) If gains of one year are wholly matched, gains of the next year are then matched, and so on.
- (6) The gains are attributed to beneficiaries in proportion to, but not so as to exceed, the amount of available capital payments received by them.

### *Attribution of gains: Schedule 4C pool gains and other gains*

- 8C (1) Where in a year of assessment—
- (a) gains in a settlement's Schedule 4C pool fall to be attributed to beneficiaries of relevant settlements, and



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- (b) one or more of those settlements also have gains that fall to be attributed to beneficiaries under section 87(4) or 89(2), the provisions of paragraph 8B have effect as follows.
- (2) The rules in that paragraph apply in relation to all the gains falling to be so attributed.
- (3) As between gains of the same year, Schedule 4C gains are attributed to beneficiaries before other gains.

*Attribution of gains: available capital payments*

- 9 (1) In any year of assessment capital payments made to a beneficiary by the trustees of a relevant settlement, in that year or any earlier year, are available for the purposes of paragraphs 8 to 8C subject to the following provisions.
- (2) A capital payment is no longer available to the extent that chargeable gains have, by reason of it, been treated as accruing to the recipient in an earlier year of assessment—
  - (a) under this Schedule, or
  - (b) under section 87(4) or 89(2).
- (3) Capital payments received—
  - (a) before 21st March 2000, or
  - (b) before the year of assessment preceding the year of assessment in which the original transfer of value was made,shall be disregarded.”.
- (2) After paragraph 12 insert—

**Attribution of gains to beneficiaries in section 10A cases**

- “12A(1) This paragraph applies where by virtue of section 10A an amount of gains would (apart from this Schedule) be treated under section 87 as accruing to a person (“the beneficiary”) in the year of return by virtue of a capital payment made to him in an intervening year.
- (2) Where this paragraph applies, a capital payment equal to so much of that capital payment as exceeds the amount otherwise charged shall be deemed for the purposes of this Schedule to be made to the beneficiary in the year of return.
- (3) The “amount otherwise charged” means the total of any chargeable gains attributed to the beneficiary under section 87(4) or 89(2) by virtue of the capital payment.
- (4) For the purposes of paragraph 13(5)(b) a deemed capital payment under this paragraph shall be treated as made when the actual capital payment mentioned in sub-paragraph (1) above was made.
- (5) Expressions used in this paragraph and section 10A have the same meanings in this paragraph as in that section”.

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*Gains attributed to settlor*

F568 5 .....

**Textual Amendments**

**F568** Sch. 29 para. 5 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(f)(ii)**

*Minor and consequential amendments*

6 (1) In paragraph 10(1) for “of the transferor settlement, or of any transferee settlement,” substitute “ of any relevant settlement ”.

F569 (2) .....

F570 (3) .....

(4) After paragraph 13 insert—

*“Effect of settlement ceasing to exist after transfer of value*

13A Where a settlement ceases to exist after the trustees have made a transfer of value to which Schedule 4B applies, this Schedule has effect as if a year of assessment had ended immediately before the settlement ceased to exist.”.

**Textual Amendments**

**F569** Sch. 29 para. 6(2) omitted (with effect in accordance with Sch. 7 para. 147 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 146** (with Sch. 7 para. 155)

**F570** Sch. 29 para. 6(3) omitted (with effect in accordance with Sch. 7 para. 147 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 146** (with Sch. 7 para. 155)

SCHEDULE 30

FIRST-YEAR ALLOWANCES FOR EXPENDITURE ON ENVIRONMENTALLY BENEFICIAL PLANT OR MACHINERY

*Introductory*

1 The Capital Allowances Act 2001 (c. 2) is amended as follows.

*Types of expenditure for which first-year allowances available*

2 In section 39—

- (a) after “under” insert “ any of the following provisions ”;
- (b) at the end of the entry relating to section 45E, omit “or”;

F571 (c) .....

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**Textual Amendments**

**F571** Sch. 30 para. 2(c) repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 33\(2\)\(c\)\(ii\)](#)

*First-year qualifying expenditure on environmentally beneficial plant or machinery*

**F572**<sub>3</sub> .....

**Textual Amendments**

**F572** Sch. 30 para. 3 repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 33\(2\)\(c\)\(ii\)](#)

*General exclusions affecting first-year qualifying expenditure*

- 4 (1) In section 46(1)—
- (a) after “under” insert “ any of the following provisions ”;
  - (b) at the end of the entry relating to section 45E, omit “or”;
  - F573**(c) .....
- F574**(2) .....

**Textual Amendments**

**F573** Sch. 30 para. 4(1)(c) repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 33\(2\)\(c\)\(ii\)](#)

**F574** Sch. 30 para. 4(2) repealed (with effect in accordance with Sch. 26 Pt. 3(13) Note of the amending Act) by [Finance Act 2006 \(c. 25\), Sch. 26 Pt. 3\(13\)](#); Sch. 30 para. 4(2) repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 33\(2\)\(c\)\(ii\)](#)

*Amount of first-year allowances*

**F575**<sub>5</sub> .....

**Textual Amendments**

**F575** Sch. 30 paras. 5-7 repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 33\(2\)\(c\)\(ii\)](#)

*Penalty for failure to provide information etc*

**F575**<sub>6</sub> .....

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**Textual Amendments**

**F575** Sch. 30 paras. 5-7 repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 33\(2\)\(c\)\(ii\)](#)

*Transitory provision: expenditure incurred etc before first order made*

F5757

**Textual Amendments**

**F575** Sch. 30 paras. 5-7 repealed (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 33\(2\)\(c\)\(ii\)](#)

<sup>F576</sup>SCHEDULE 31

Section 168

**Textual Amendments**

**F576** Sch. 31 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with Sch. 2 Pts. 1, 2)

SCHEDULE 32

Section 169

TONNAGE TAX: RESTRICTIONS ON CAPITAL ALLOWANCES FOR LESSORS OF SHIPS

*The ring fence: amendments to the provisions about capital allowances and ship leasing*

- 1 (1) In Schedule 22 to the Finance Act 2000 (c. 17) (tonnage tax), Part 10 (the ring fence: capital allowances: ship leasing) is amended as follows.
- (2) Omit the word “finance” from the expression “finance lease” in paragraphs 89(1), 90(1), 92(1), 93(1), 94(1), 98(1)(a) and 99(1)(a).
- (3) At the end of sub-paragraph (1) of paragraph 89 (introduction to Part 10) insert—  
“ This is subject to paragraph 89A (exception for ordinary charters). ”.
- (4) For sub-paragraph (2) of that paragraph substitute—  
“(2) In this Part of this Schedule “lease” means any arrangements that provide for a ship to be leased or otherwise made available by a person (“the lessor”) to another person (“the lessee”).”.
- (5) After that paragraph insert—

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*“Quantitative restrictions not to apply to ordinary charters*

89A(1) Paragraphs 94 to 102, and paragraph 89(1) so far as relating to those paragraphs, do not apply in the following cases.

- (2) The first case is where the ship is chartered out by a person who is responsible—
- (a) for the operation of the ship, including the appointment of the master and those members of the crew engaged in navigation, throughout the period of the charter, and
  - (b) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses other than those directly incidental to a particular voyage or to the employment of the ship during that period.

For the purposes of this sub-paragraph a person is “responsible” if he is responsible as principal or if he appoints another person, other than the lessee or a person connected with the lessee, to be responsible in his place.

- (3) The second case is where—
- (a) the ship is chartered out by a person acting in the course of a trade that consists of, or to a significant extent includes, operating ships, and
  - (b) the conditions in sub-paragraph (4) are met.
- (4) Those conditions are—
- (a) that the period of the charter does not exceed seven years, and there is no provision or agreement under which it could be extended beyond seven years;
  - (b) that the period of the charter, together with any other periods in the same ten years during which the ship is chartered out to the lessee or a person connected with him, does not exceed seven years in total;
  - (c) that there are no arrangements under which the lessee or a person connected with him may acquire the ship, whether directly or indirectly, from the lessor.

In paragraph (b) “the same ten years” means any period of ten years that includes the period of the charter mentioned in that paragraph.

- (5) References in this paragraph to the period of a charter are to the term specified in the lease or, if longer, the actual period during which the ship is chartered.
- (6) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.”.

*Consequential amendments*

- 2 (1) In paragraph 41(4) of that Schedule (the requirement not to enter into tax avoidance arrangements: exemption for finance leases)—
- (a) in the first sentence omit “finance”;
  - (b) for the second sentence substitute— “ In this sub-paragraph “lease”, and “lessor” in relation to a lease, have the meaning given by paragraph 89(2). ”.

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- (2) In paragraph 147 (index of defined expressions)—
- (a) omit the entry for “finance lease (and lessor and lessee) (in Part X)”;
  - (b) insert at the appropriate place—

---

“lease (and lessor and lessee) (in Part X) paragraph 89(2)”.

---

*Commencement and temporary provision*

- 3 (1) Subject to paragraph 4(2), the amendments made by paragraphs 1 and 2 apply in relation to any lease entered into on or after 19th December 2002.
- (2) In sub-paragraph (4)(b) of the paragraph 89A inserted by paragraph 1(5) above, the reference to any other periods during which the ship is chartered out does not include any period during which it is chartered out under a lease entered into before 19th December 2002.
- 4 (1) This paragraph applies in relation to any lease entered into on or after 19th December 2002 and before 16 April 2003.
- (2) Part 10 of the Schedule 22 to the Finance Act 2000 (c. 17) has effect as if, instead of the paragraph inserted after paragraph 89 by paragraph 1(5) above, the following paragraph were inserted—

*“Exception for ordinary charters*

- 89A (1) Paragraph 89(1), and the provisions of this Part of this Schedule listed there, do not apply in the following cases.
- (2) The first case is where the ship is chartered out by a person who is responsible—
- (a) for the operation of the ship, including the appointment of the master and those members of the crew engaged in navigation, throughout the period of the charter, and
  - (b) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses other than those directly incidental to a particular voyage or to the employment of the ship during that period.

For the purposes of this sub-paragraph a person is “responsible” if he is responsible as principal or if he appoints another person, other than the lessee or a person connected with the lessee, to be responsible in his place.

- (3) The second case is where—
- (a) the ship is chartered out to another person (“the charterer”) because of short-term over-capacity,
  - (b) the person chartering out the ship does so in the course of a trade that consists of or includes operating ships, and
  - (c) the conditions in sub-paragraph (4) are met.
- (4) Those conditions are—

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- (a) that the period of the charter does not exceed three years, and there is no provision or agreement under which it could be extended beyond three years;
  - (b) that the period of the charter, together with any other periods in the same five years during which the ship is chartered out to the charterer or a person connected with him, does not exceed three years in total;
  - (c) that neither the charterer nor any person connected with him has an option to purchase the ship.
- (5) In sub-paragraph (4)(b)—
- (a) the reference to any other periods during which the ship is chartered out does not include any period during which it is chartered out under a lease entered into before 19th December 2002;
  - (b) “the same five years” means any period of five years that includes the period of the charter mentioned in that sub-paragraph.
- (6) References in this paragraph to the period of a charter are to the term specified in the lease or, if longer, the actual period during which the ship is chartered.
- (7) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.”.
- (3) Paragraph 93(1) of that Schedule (certificates required to support claim by lessor) has effect as if after paragraph (a) there were inserted—
- “(aa) that the lease is such that, by virtue of paragraph 89A (exception for ordinary charters), paragraph 89(1) does not apply, or”.
- 5 In paragraphs 3 and 4 “lease” means any arrangements that provide for a ship to be leased or otherwise made available by one person to another.

SCHEDULE 33

Section 170

INSURANCE COMPANIES

*Case I profits*

F577<sub>1</sub> .....

**Textual Amendments**

F577 Sch. 33 para. 1 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(k)

F578<sub>2</sub> .....

*Status: Point in time view as at 31/12/2020.*

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#### Textual Amendments

**F578** Sch. 33 para. 2 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(k)

**F579**<sup>3</sup> .....

#### Textual Amendments

**F579** Sch. 33 para. 3 omitted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 17 para. 3(b)

- 4 (1) In section 83AA of the Finance Act 1989 (c. 26) (amounts added to long-term insurance fund of a company in excess of company's loss), omit—
- (a) subsections (3) to (5),
  - (b) subsection (6)(a),
  - (c) subsection (7)(b) and the word “and” before it, and
  - (d) in subsection (10), the definitions of “the relevant accounting period” and “the transferor company”.
- (2) Sub-paragraph (1) has effect for periods of account beginning on or after 1st January 2003.

**F580**<sup>5</sup> .....

#### Textual Amendments

**F580** Sch. 33 para. 5 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(k)

6 **F581**(1) .....

- (2) Section 89 of that Act (meaning of policy holders' share of profits) is amended as follows.
- (3) In subsection (1), for the words after “references to” substitute—
- “(a) in a case where there are no Case I profits of the company for the period in respect of its life assurance business, the amount of the relevant profits, and
  - (b) in any other case, the amount arrived at in accordance with subsection (1A) below.”.
- (4) After that subsection insert—
- “(1A) An amount is arrived at in accordance with this subsection by—
- (a) deducting from any profits of the company for the period chargeable under Case VI of Schedule D under sections 436, 439B and 441 of the Taxes Act 1988 (as reduced by any losses under those sections and any charges on income referable to any category of business other than basic life assurance and general annuity business) so much of the Case I profits of the company for the period in respect of its life assurance business as does not exceed the amount of any profits of the company for the period so chargeable, and



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- (b) deducting any remaining Case I profits of the company for the period in respect of its life assurance business from any BLAGAB profits of the company for the period.
- (1B) For the purposes of this section, the BLAGAB profits of a company for an accounting period are the income and chargeable gains referable to the company’s basic life assurance and general annuity business reduced by the aggregate amount of—
- (a) any non-trading deficit on the company’s loan relationships,
  - (b) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and
  - (c) charges on income,
- so far as referable to the company’s basic life assurance and general annuity business.”.
- (5) In subsection (2), for “subsection (1)” substitute “ subsections (1) and (1A) ”.
- <sup>F582</sup>(6) .....
- (7) In—
- <sup>F583</sup>(a) .....
  - (b) the second sentence of section 434A(3) of that Act (computation of losses and limitation on relief),  
for “88” substitute “ 89 ”.
- (8) In section 434A(2)(a)(i) of the Taxes Act 1988 (computation of losses and limitation on relief), for “for the period, otherwise than in accordance with those provisions, the profits or losses of the company’s life assurance business” substitute “ , otherwise than in accordance with those provisions, the relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of the company for the period ”.
- (9) In section 437(1A) of the Taxes Act 1988 (general annuity business), for “profits for any accounting period of a company’s life assurance business” substitute “ relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period ”.
- (10) In paragraph 16(1) of Schedule 7 to the Finance Act 1991 (c. 31) (transitional relief for old general annuity contracts), for “profits for any accounting period of an insurance company’s life assurance business” substitute “ relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period ”.
- (11) Section 89(1B) of the Finance Act 1989 (c. 26) (inserted by sub-paragraph (4)) has effect for the purposes of section 210A of the Taxation of Chargeable Gains Act 1992 (c. 12) (inserted by paragraph 14(1)) in relation to any accounting period of a company if it is necessary under that section to determine the company’s BLAGAB profits for the period.
- (12) But, subject to that, this paragraph has effect for accounting periods ending on or after 9th April 2003.

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**Textual Amendments**

- F581** Sch. 33 para. 6(1) omitted (with effect in accordance with Sch. 17 para. 18(6) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 18\(5\)\(e\)](#)
- F582** Sch. 33 para. 6(6) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F583** Sch. 33 para. 6(7)(a) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

F584<sup>7</sup> .....

**Textual Amendments**

- F584** Sch. 33 para. 7 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(8\)](#)

F585<sup>8</sup> .....

**Textual Amendments**

- F585** Sch. 33 para. 8 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(k\)](#)

F586<sup>9</sup> .....

**Textual Amendments**

- F586** Sch. 33 para. 9 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

F587<sup>10</sup> .....

**Textual Amendments**

- F587** Sch. 33 para. 10 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(k\)](#)

F588<sup>11</sup> .....

**Textual Amendments**

- F588** Sch. 33 para. 11 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

F589<sup>12</sup> .....

**Textual Amendments**

- F589** Sch. 33 para. 12 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(k\)](#)

*Rate of tax on policy holders' share of life assurance profits*

13 (1) The Finance Act 1989 is amended as follows.

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- (2) In section 88(1) (corporation tax rate on policy holders' share of relevant profits of companies carrying on life assurance business to be basic rate of income tax)—
  - (a) omit “and section 88A”, and
  - (b) for “basic” substitute “ lower ”.
- (3) Omit section 88A (cases where tax rate already is lower rate).
- (4) In section 89(1) (meaning of “policy holders' share of profits”)—
  - (a) for “sections 88 and 88A” substitute “ section 88 ”, and
  - (b) omit “or, as the case may be, basic life assurance and general annuity business”.
- (5) The Taxes Act 1988 is amended as follows.
- (6) In section 438B(5) (income or gains arising from property investment LLP)—
  - (a) omit paragraph (b) and the word “and” before it, and
  - <sup>F590</sup>(b) .....
- (7) Section 755A (controlled foreign companies: chargeable profits and creditable tax apportioned to company carrying on life assurance business) is amended as follows.
- (8) In subsection (3), for “88A(1)” substitute “ 88(1) ”.
- (9) For subsection (11) substitute—
  - “(11) For the purposes of this section the policy holders' part of any BLAGAB apportioned profit is—
    - (a) where subsection (11A) below applies, the whole of that profit, and
    - (b) in any other case, the relevant fraction (within the meaning of subsection (11B) below) of that profit.
  - (11A) This subsection applies if—
    - (a) the UK company’s life assurance business is mutual business,
    - (b) the policy holders' share of the UK company’s relevant profits for the relevant accounting period is equal to all those profits, or
    - (c) the policy holders' share of the UK company’s relevant profits for the relevant accounting period is more than its BLAGAB profits for that period.
  - (11B) The relevant fraction for the purposes of subsection (11)(b) above is the fraction arrived at by dividing—
    - (a) the policy holders' share of the UK company’s relevant profits for the relevant accounting period, by
    - (b) the UK company’s BLAGAB profits for that period.
  - (11C) In subsections (11A) and (11B) above—
    - (a) references to the policy holders' share of the UK company’s share of the relevant profits are to be construed in accordance with sections 88(3) and 89 of the Finance Act 1989, and
    - (b) references to the UK company’s BLAGAB profits are to be construed in accordance with section 89(1B) of that Act.”.

<sup>F591</sup>(10) .....

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(11) This paragraph has effect for the financial year 2003 and subsequent financial years.

#### Textual Amendments

**F590** Sch. 33 para. 13(6)(b) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

**F591** Sch. 33 para. 13(10) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(1\)](#)

#### Chargeable gains

14 (1) In the Taxation of Chargeable Gains Act 1992 (c. 12), after section 210 insert—

##### “210A Ring-fencing of losses

- (1) Section 8(1) has effect in relation to insurance companies subject to the provisions of this section.
- (2) Non-BLAGAB allowable losses accruing to an insurance company are not allowable as a deduction from the policy holders' share of the BLAGAB chargeable gains accruing to the company.
- (3) BLAGAB allowable losses accruing to an insurance company are allowable as a deduction from non-BLAGAB chargeable gains accruing to the company as permitted by the following provisions of this section (and not otherwise).
- (4) They are allowable as a deduction from only so much of non-BLAGAB chargeable gains accruing to the company in an accounting period as exceeds the aggregate of—
  - (a) non-BLAGAB allowable losses accruing to the company in the accounting period, and
  - (b) non-BLAGAB allowable losses previously accruing to the company which have not been allowed as a deduction from chargeable gains accruing in any previous accounting period.
- (5) And they are allowable as a deduction from non-BLAGAB chargeable gains accruing to the company in an accounting period only to the extent that they do not exceed the permitted amount for the accounting period.
- (6) The permitted amount for the first accounting period of an insurance company in relation to which this section has effect is the aggregate of—
  - (a) the amount by which shareholders' share for that accounting period of BLAGAB allowable losses accruing to the company in the accounting period exceeds the shareholders' share of BLAGAB chargeable gains so accruing, and
  - (b) the shareholder's share for the immediately preceding accounting period of BLAGAB allowable losses previously accruing to the company which have not been allowed as a deduction from chargeable gains accruing in that immediately preceding accounting period or any earlier accounting period.
- (7) The permitted amount for any subsequent accounting period of the company is arrived at by—

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- (a) deducting from the permitted amount for the immediately preceding accounting period the amount of any BLAGAB allowable losses allowed as a deduction from non-BLAGAB chargeable gains accruing to the company in the immediately preceding accounting period, and
  - (b) adjusting the result in accordance with subsection (8) or (9) below.
- (8) If the BLAGAB chargeable gains accruing to the company in the subsequent accounting period exceed the BLAGAB allowable losses so accruing, the amount arrived at under subsection (7)(a) above is reduced by a fraction of which—
  - (a) the denominator is the BLAGAB allowable losses accruing to the company in any previous accounting period which have not been allowed as a deduction from chargeable gains accruing to the company in any previous accounting period, and
  - (b) the numerator is so many of those allowable losses as are allowed as a deduction from BLAGAB chargeable gains accruing to the company in the accounting period.
- (9) If the BLAGAB allowable losses accruing to the company in the subsequent accounting period exceed the BLAGAB chargeable gains so accruing, the amount arrived at under subsection (7)(a) above is increased by the shareholders' share of the amount by which those allowable losses exceed those chargeable gains.
- (10) For the purposes of this section the policy holders' share of chargeable gains or allowable losses accruing to an insurance company in an accounting period—
  - (a) if the policy holders' share of the relevant profits for the accounting period exceeds the BLAGAB profits of the company for the period (within the meaning of section 89(1B) of the Finance Act 1989), is the whole amount of the chargeable gains or allowable losses, and
  - (b) otherwise, is the same proportion of that whole amount as the policy holders' share of the relevant profits of the company for the accounting period bears to those relevant profits.
- (11) In arriving at the policy holders' share of chargeable gains accruing to an insurance company under subsection (10) above there is to be ignored—
  - (a) any deduction under section 202(9) (mineral leases: capital losses),
  - (b) any reduction under section 213(3) (spreading of losses from deemed disposal of holdings of unit trust etc), and
  - (c) any amount carried back under paragraph 4(3) of Schedule 11 to the Finance Act 1996 (non-trading deficit on loan relationships).
- (12) For the purposes of this section the shareholders' share of chargeable gains or allowable losses in relation to an accounting period of an insurance company is the proportion of the whole which is not represented by the policy holders' share of them in relation to the accounting period.
- (13) In this section—
  - “BLAGAB allowable losses”, in relation to an insurance company, means allowable losses referable to the company's basic life assurance and general annuity business,

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“BLAGAB chargeable gains”, in relation to an insurance company, means chargeable gains referable to the company’s basic life assurance and general annuity business,

“non-BLAGAB allowable losses”, in relation to an insurance company, means allowable losses of the company which are not BLAGAB allowable losses,

“non-BLAGAB chargeable gains”, in relation to an insurance company, means chargeable gains of the company which are not BLAGAB chargeable gains, and

“the relevant profits” and “the policy holders' share of the relevant profits” have the same meaning as they have for the purposes of subsection (1) of section 88 of the Finance Act 1989 by virtue of subsection (3) of that section and section 89 of that Act.”.

- (2) Sub-paragraph (1) has effect to limit the deductions which may be made from chargeable gains accruing in—
- (a) any accounting period of an insurance company beginning on or after 23rd December 2002, and
  - (b) any accounting period of an insurance company beginning before that date but ending on or after it,
- in respect of allowable losses accruing in any accounting period (whenever beginning or ending).
- (3) In relation to an accounting period within sub-paragraph (2)(b) the limitations imposed by virtue of sub-paragraph (1) apply only as respects chargeable gains accruing on or after 23rd December 2002.
- 15 (1) In the Taxation of Chargeable Gains Act 1992 (c. 12), after section 210A (inserted by paragraph 14(1)) insert—

**“210B Disposal and acquisition of section 440A securities**

- (1) Subsections (2) to (4) below apply in a case where, within a period of 10 days, an insurance company disposes of a number of section 440A securities and (whether subsequently or previously) acquires a number of section 440A securities if—
  - (a) the securities disposed of decrease the size of a chargeable section 440A holding,
  - (b) the securities acquired increase the size of the same chargeable section 440A holding, and
  - (c) (apart from this section) an allowable loss would accrue on the disposal.
- (2) The securities disposed of shall be identified with the securities acquired.
- (3) The securities disposed of shall be identified with securities acquired before the disposal rather than securities acquired after the disposal and—
  - (a) in the case of securities acquired before the disposal, with those acquired later rather than those acquired earlier, and
  - (b) in the case of securities acquired after the disposal, with those acquired earlier rather than those acquired later.

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- (4) Where securities acquired could be identified with securities disposed of either at an earlier or at a later date, they shall be identified with the former rather than the latter; and the identification of securities acquired with securities disposed of on any occasion shall preclude their identification with securities comprised in a later disposal.
- (5) Subsections (2) to (4) above have effect subject to section 105(1).
- (6) Subsections (2) to (4) above do not apply to—
- (a) securities which are section 212 assets within the meaning of section 214(1) (rights under authorised unit trusts and interests in offshore funds), or
  - (b) securities deemed by section 440 of the Taxes Act to be disposed of and immediately re-acquired by virtue of paragraph 3 of Schedule 19AA to the Taxes Act (assets becoming or ceasing to be assets of overseas life assurance fund).
- (7) Subsections (2) to (4) above do not apply if—
- (a) the securities disposed of are linked assets appropriated to a BLAGAB internal linked fund,
  - (b) the securities acquired are, on acquisition, appropriated to that or another internal linked fund, and
  - (c) the disposal and acquisition are made with a view to adjusting the value of the assets of that fund, or of those funds, in order to match its or their liabilities.
- (8) In this section—
- “BLAGAB internal linked fund” means an internal linked fund all the assets appropriated to which are linked solely to basic life assurance and general annuity business,
  - “chargeable section 440A holding” means a holding which is a separate holding by virtue of subsection (2)(a)(iii) or (d) of section 440A of the Taxes Act (and subsections (3) and (4) of that section),
  - “internal linked fund” has the same meaning as in section 432ZA of the Taxes Act, and
  - “section 440A securities” means securities within the meaning of section 440A of the Taxes Act.”.
- (2) Sub-paragraph (1) has effect in relation to disposals on or after 23rd December 2002.
- (3) But sub-paragraph (1) has effect in relation to disposals made by an insurance company during the period—
- (a) beginning with 23rd December 2002, and
  - (b) ending with 31st December 2002,
- only if the amount of the allowable losses referable to the company’s life assurance business which would have accrued to the company on the disposals (but for that sub-paragraph) would have been at least £10 million.
- 16 (1) Section 213 of the Taxation of Chargeable Gains Act 1992 (c. 12) (spreading of gains and losses under section 212) is amended as follows.
- (2) In subsection (3)—

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- (a) for “subsection (3A)” substitute “ subsection (8H) ”,
- (b) in paragraph (b), for “one of the next 6” substitute “ either of the next 2 ” and for “subsection” substitute “ section ”,
- (c) in paragraph (c), for “any intervening accounting period” substitute “ the intervening accounting period (if there is one) ”, and
- (d) in paragraph (ca), for “none of the intervening accounting periods is” substitute “ the intervening accounting period (if there is one) is not ”.

(3) Omit subsections (3A) and (3B).

(4) For subsection (5) substitute—

“(4A) The following provisions apply where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”).

(5) Subject to subsections (5A) to (7) below, any chargeable gain or allowable loss which (assuming that the transferor had continued to carry on the business transferred) would have accrued to the transferor by virtue of subsection (1) above after the transfer shall instead be deemed to accrue to the transferee.”

(5) After subsection (8) insert—

“(8A) Subsection (8B) below applies where—

- (a) immediately before the transfer the transferee did not carry on business consisting of the effecting or carrying out of contracts of long-term insurance,
- (b) the transferor and the transferee are, at the time of the transfer, members of the same group,
- (c) the net amount for the accounting period of the transferor ending with the day of the transfer, or for the immediately preceding accounting period of the transferor, (“the relevant pre-transfer period of the transferor”) represents an excess of gains over losses,
- (d) the net amount for the accounting period of the transferee in which the transfer takes place, or for the immediately following accounting period of the transferee, (“the relevant post-transfer period of the transferee”) represents an excess of losses over gains (after taking account of any reductions made by virtue of this section), and
- (e) within 2 years after the end of the relevant post-transfer period of the transferee, the transferor and the transferee make a joint election in respect of the whole or part of the net amount for that period by notice to an officer of the Board.

(8B) Subject to subsections (8C) to (8E) and (8H) below, the net amounts for both the relevant pre-transfer period of the transferor and the relevant post-transfer period of the transferee shall be reduced by the amount in respect of which the election is made.

(8C) Subsection (8B) above does not apply if—

- (a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and



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- (b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer.
- (8D) If—
  - (a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and
  - (b) the relevant pre-transfer period of the transferor is the accounting period ending with the day of the transfer,subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferee in which the transfer takes place.
- (8E) If—
  - (a) the relevant post-transfer period of the transferee is the accounting period in which the transfer takes place, and
  - (b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer,subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferor ending with the day of the transfer.
- (8F) The conditions referred to in subsections (8D) and (8E) above are that—
  - (a) there is (after taking account of any reductions made by virtue of this section) no net amount for the accounting period, and
  - (b) the company whose accounting period it is did not join a group of companies in the accounting period.
- (8G) A copy of the notice containing an election under subsection (8A)(e) above must accompany the tax return for the relevant post-transfer period of the transferee; and paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.
- (8H) Subsections (3) and (8A) and (8B) above have effect where the company, or the transferee, in question joins a group of companies in the accounting period for which the net amount represents an excess of losses over gains as if a claim or election could not be made in respect of that net amount except to the extent (if any) that the net amount is an amount which, assuming there to be gains accruing to the company or transferee immediately after the beginning of that period, would fall to be treated under paragraph 4 of Schedule 7AA as a qualifying loss in relation to those gains.
- (8I) References in this section to a company joining a group of companies are to be construed in accordance with paragraph 1 of Schedule 7AA as if those references were contained in that Schedule; and in subsection (8A)(b) above “group” has the same meaning as in that Schedule.”.
- (6) This paragraph has effect where the accounting period for which the net amount represents an excess of losses over gains is an accounting period beginning on or after 1st January 2003.

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F592 17 .....

**Textual Amendments**  
F592 Sch. 33 para. 17 omitted (with effect in accordance with Sch. 12 para. 5 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 12 para. 4(c)

*Transfers of business*

F593 18 .....

**Textual Amendments**  
F593 Sch. 33 para. 18 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(9)

F594 19 .....

**Textual Amendments**  
F594 Sch. 33 para. 19 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(9)

F595 20 .....

**Textual Amendments**  
F595 Sch. 33 para. 20 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(k)

21 (1) In the Taxation of Chargeable Gains Act 1992 (c. 12), after section 211 insert—

**“211ZA Transfers of business: transfer of unused losses**

- (1) This section applies where—
  - (a) an insurance business transfer scheme has effect to transfer business consisting of or including basic life assurance and general annuity business from one person (“the transferor”) to another (“the transferee”) or more than one others (“the transferees”), and
  - (b) the transferor has relevant unused losses.
- (2) For the purposes of subsection (1)(b) above the transferor has relevant unused losses if—
  - (a) BLAGAB allowable losses accrue to the transferor in the accounting period ending with the day of the transfer or have so accrued in any earlier accounting period, and
  - (b) they are not deducted from chargeable gains accruing to the transferor in that accounting period and have not been deducted from chargeable gains so accruing in any previous accounting period.
- (3) Subject as follows—
  - (a) for the purposes of ascertaining the transferor’s total profits for any accounting period after that in which the transfer takes place,

*Status: Point in time view as at 31/12/2020.*

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the relevant unused losses are deemed not to have accrued to the transferor, but

(b) (instead) they are treated as accruing to the transferee (in accordance with subsection (4) below).

(4) The losses treated as accruing to the transferee under subsection (3)(b) above shall be deemed to be BLAGAB allowable losses accruing to the transferee in the accounting period of the transferee in which the transfer takes place.

(5) But those losses are not allowable as a deduction from chargeable gains accruing before the transfer takes place.

(6) For the purposes of section 210A (ring-fencing of losses), the shareholders' share of those losses is to be taken to be the same proportion as would be the shareholders' share of them if they had remained losses of the transferor.

(7) If only part of the transferor's basic life assurance and general annuity business is transferred, subsection (3) above applies as if the references to the relevant unused losses were to such part of the relevant unused losses as is appropriate.

(8) If the transfer is to more than one others, subsection (3)(b) above applies as if the reference to the relevant unused losses being treated as accruing to the transferee were to such part of the relevant unused losses as is appropriate being treated as accruing to each of the transferees.

(9) Any question arising as to the operation of subsection (7) or (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee (or the one of the transferees concerned) shall be entitled to appear and be heard or to make representations in writing.

(10) In this section "BLAGAB allowable losses" means allowable losses referable to the transferor's basic life assurance and general annuity business."

(2) Sub-paragraph (1) has effect in relation to insurance business transfer schemes taking place on or after 1st January 2003.

F596<sup>22</sup> .....

**Textual Amendments**

F596 Sch. 33 paras. 22-24 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(k)

F596<sup>23</sup> .....

**Textual Amendments**

F596 Sch. 33 paras. 22-24 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(k)

F596<sup>24</sup> .....

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**Textual Amendments**

**F596** Sch. 33 paras. 22-24 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(k)

*Meaning of “investment reserve” etc*

<sup>F597</sup>25 .....

**Textual Amendments**

**F597** Sch. 33 para. 25 repealed (with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), arts. 1, 10(a)

<sup>F598</sup>26 .....

**Textual Amendments**

**F598** Sch. 33 para. 26 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(10)

27 In paragraph 4(5) of Schedule 19AA to the Taxes Act 1988 (overseas life assurance fund), in the definition of “investment reserve”, for paragraphs (a) and (b) substitute—  
    “(a) the value of the liabilities of that business, and  
    (b) any money debts of the company not within paragraph (a) above which are owed in respect of that business;”.

28 Paragraphs 25 to 27 have effect in relation to periods of account beginning on or after 1st January 2003.

*Meaning of “period of account”*

<sup>F599</sup>29 .....

**Textual Amendments**

**F599** Sch. 33 para. 29 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(k)

*Rationalisation of interpretation provisions*

<sup>F600</sup>30 .....

**Textual Amendments**

**F600** Sch. 33 paras. 30-32 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(10)

<sup>F600</sup>31 .....

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**Textual Amendments**

**F600** Sch. 33 paras. 30-32 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

**F600** 32 .....

**Textual Amendments**

**F600** Sch. 33 paras. 30-32 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)

**F601** SCHEDULE 34

Section 171

**Textual Amendments**

**F601** Sch. 34 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 14 para. 17\(l\)](#)

SCHEDULE 35

Section 173

GAINS ON POLICIES OF LIFE INSURANCE ETC: RATE OF TAX

*Application of the lower rate*

**F602** 1 .....

**Textual Amendments**

**F602** Sch. 35 para. 1 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Method of charging gains from policies of life insurance etc to tax*

**F603** 2 .....

**Textual Amendments**

**F603** Sch. 35 para. 2 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Relief where gain charged at a higher rate*

**F604** 3 .....

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**Textual Amendments**

**F604** Sch. 35 para. 3 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Gains included in aggregate income of estate of deceased*

**F605**4 .....

**Textual Amendments**

**F605** Sch. 35 para. 4 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

*Income to be disregarded in determining highest part of person's income*

**F606**5 .....

**Textual Amendments**

**F606** Sch. 35 para. 5 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F607** SCHEDULE 36

Section 176

**Textual Amendments**

**F607** Sch. 36 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 626](#), [Sch. 3](#) (with [Sch. 2](#))

**F608** SCHEDULE 37

Section 178

**Textual Amendments**

**F608** Sch. 37 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

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SCHEDULE 38

Section 181

SALE AND REPURCHASE OF SECURITIES ETC

*Increase of repurchase price of UK securities by amount of deemed manufactured dividend*

- 1 In section 737C of the Taxes Act 1988 (deemed manufactured payments)—
- (a) in subsection (3)(b) (repurchase price of UK equities to be treated as increased by gross amount of deemed manufactured dividend), omit “gross”, and
  - (b) omit subsection (4) (definition of gross amount).

*Deemed manufactured payment where transferor or connected person makes payment representative of dividend*

F609<sup>2</sup> .....

**Textual Amendments**

F609 Sch. 38 para. 2 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

F610<sup>3</sup> .....

**Textual Amendments**

F610 Sch. 38 para. 3 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

*Provisions to cover both “put” and “call” options*

F611<sup>4</sup> .....

**Textual Amendments**

F611 Sch. 38 para. 4 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

F612<sup>5</sup> .....

**Textual Amendments**

F612 Sch. 38 para. 5 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

F613<sup>6</sup> .....

**Textual Amendments**

F613 Sch. 38 para. 6 omitted (with effect in accordance with s. 66(8) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 66(4)(j)

F614<sup>7</sup> .....

*Status: Point in time view as at 31/12/2020.*

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**Textual Amendments**

**F614** Sch. 38 paras. 7-14 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

F614<sup>8</sup> .....

**Textual Amendments**

**F614** Sch. 38 paras. 7-14 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

F614<sup>9</sup> .....

**Textual Amendments**

**F614** Sch. 38 paras. 7-14 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

*Option premium to be reflected in sale price unless brought into account under derivative contracts provisions*

F614<sup>10</sup> .....

**Textual Amendments**

**F614** Sch. 38 paras. 7-14 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

*Exchange gains and losses*

F614<sup>11</sup> .....

**Textual Amendments**

**F614** Sch. 38 paras. 7-14 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

F614<sup>12</sup> .....

**Textual Amendments**

**F614** Sch. 38 paras. 7-14 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

F614<sup>13</sup> .....

**Textual Amendments**

**F614** Sch. 38 paras. 7-14 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

F614<sup>14</sup> .....



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**Textual Amendments**

**F614** Sch. 38 paras. 7-14 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

*Exceptions*

**F615**<sup>15</sup> .....

**Textual Amendments**

**F615** Sch. 38 para. 15 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F616**<sup>16</sup> .....

**Textual Amendments**

**F616** Sch. 38 paras. 16-20 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

**F616**<sup>17</sup> .....

**Textual Amendments**

**F616** Sch. 38 paras. 16-20 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

**F616**<sup>18</sup> .....

**Textual Amendments**

**F616** Sch. 38 paras. 16-20 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

*Connected persons*

**F616**<sup>19</sup> .....

**Textual Amendments**

**F616** Sch. 38 paras. 16-20 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

*Correction of section 730A(6B) of the Taxes Act 1988*

**F616**<sup>20</sup> .....

**Textual Amendments**

**F616** Sch. 38 paras. 16-20 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

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### *Commencement*

- 21 (1) Paragraph 1 has effect in relation to repurchase prices becoming due on or after 9th April 2003.
- (2) Paragraphs 2 to 19 have effect in relation to agreements to sell securities made on or after 9th April 2003.
- F617(3) .....

#### **Textual Amendments**

**F617** Sch. 38 para. 21(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(14\)](#)

## SCHEDULE 39

Section 182

### RELEVANT DISCOUNTED SECURITIES: WITHDRAWAL OF RELIEF FOR COSTS AND LOSSES, ETC

#### *Withdrawal of relief for incidental costs*

F618<sub>1</sub> .....

#### **Textual Amendments**

**F618** Sch. 39 paras. 1-4 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

#### *Withdrawal of relief for losses*

F618<sub>2</sub> .....

#### **Textual Amendments**

**F618** Sch. 39 paras. 1-4 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

#### *Withdrawal of loss relief: exception for strips of government securities*

F618<sub>3</sub> .....

#### **Textual Amendments**

**F618** Sch. 39 paras. 1-4 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

#### *Extension of provisions about strips to strips of foreign government securities*

F618<sub>4</sub> .....

*Status: Point in time view as at 31/12/2020.*

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**Textual Amendments**

**F618** Sch. 39 paras. 1-4 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Consequential amendments*

- 5 **F619**(1) .....
- F619**(2) .....
- F619**(3) .....
- F620**(4) .....

**Textual Amendments**

**F619** Sch. 39 para. 5(1)-(3) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))  
**F620** Sch. 39 para. 5(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Commencement and transitional provisions*

- F621**<sub>6</sub> .....

**Textual Amendments**

**F621** Sch. 39 para. 6 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

SCHEDULE 40

Section 195

ACQUISITION BY COMPANY OF ITS OWN SHARES

*Venture capital trusts*

- F622**<sub>1</sub> .....

**Textual Amendments**

**F622** Sch. 40 para. 1 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Stamp duty and stamp duty reserve tax*

- 2 In section 66 of the Finance Act 1986 (c. 41) (stamp duty: company's purchase of own shares)—

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- (a) in subsection (2)—
  - (i) for “The return which relates to the shares” substitute “ Any return which relates to any of the shares ”,
  - (ii) after “169” insert “ (1) or (1B) ”, and
  - (iii) after “transferring the shares” insert “ to which it relates ”,
- <sup>F623</sup>(b) .....
- (c) in subsection (3), after “169” insert “ (1) or (1B) ”.

#### Textual Amendments

**F623** Sch. 40 para. 2(b) omitted (with effect in accordance with s. 99(2) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 32 para. 21](#)

#### Commencement Information

**I12** Sch. 40 para. 2 has effect as specified by [The Finance Act 2003, Section 195 and Schedule 40 \(Appointed Day\) Order 2003 \(S.I. 2003/3077\)](#), [art. 2](#)

- 3 In section 90 of that Act (exemptions from stamp duty reserve tax), after subsection (7) insert—

“(7A) Section 87 above does not apply as regards an agreement to transfer any shares in a company which are held by the company (whether in accordance with section 162A of the Companies Act 1985 (treasury shares) or otherwise).”.

#### Commencement Information

**I13** Sch. 40 para. 3 has effect as specified by [The Finance Act 2003, Section 195 and Schedule 40 \(Appointed Day\) Order 2003 \(S.I. 2003/3077\)](#), [art. 2](#)

- 4 (1) Section 92 of that Act (stamp duty reserve tax: repayment or cancellation of tax) is amended as follows.

- (2) After subsection (1B) insert—

“(1C) If, as regards an agreement to transfer shares in a company to that company (“the own-shares agreement”)—

- (a) tax is charged under section 87 above, and
- (b) it is proved to the Board’s satisfaction that at a time in the period of six years beginning on the relevant day (as defined in section 87(3)) the conditions mentioned in subsection (1D) have been fulfilled in respect of those shares,

subsections (2) to (4A) apply.

- (1D) The conditions referred to in subsection (1C) are—

- (a) that, in relation to the transfer made in pursuance of the own-shares agreement, a return has been made in respect of each of those shares in accordance with section 169(1) or (1B) of the Companies Act 1985 (disclosure by company of purchase of own shares), and
- (b) that any such return has been duly stamped in accordance with section 66.”.

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(3) In subsection (2), after “subsection (1)” insert “ or, as the case may be, (1C) ”.

**Commencement Information**

**I14** Sch. 40 para. 4 has effect as specified by [The Finance Act 2003, Section 195 and Schedule 40 \(Appointed Day\) Order 2003 \(S.I. 2003/3077\)](#), **art. 2**

5 In Schedule 13 to the Finance Act 1999 (c. 16) (stamp duty: instruments chargeable and rates of duty), in Part 1 (conveyance or transfer on sale), in paragraph 1 (stamp duty charge), after sub-paragraph (2) insert—

“(3) Sub-paragraph (1) is subject to sub-paragraphs (4) to (6).

(4) Where a company acquires any shares in itself by virtue of section 162 of the Companies Act 1985 (power of company to purchase own shares) or otherwise, sub-paragraph (1) does not apply to any instrument by which the shares are transferred to the company.

(5) Where a company holds any shares in itself by virtue of section 162A of that Act (treasury shares) or otherwise, any instrument to which sub-paragraph (6) applies is to be treated for the purposes of this Schedule as a conveyance otherwise than on sale, and paragraph 16 applies accordingly.

(6) This sub-paragraph applies to any instrument for the sale or transfer of any of the shares by the company, other than an instrument which, in the absence of sub-paragraph (5), would be an instrument in relation to which—

- (a) section 67(2) of the Finance Act 1986 (transfer to person whose business is issuing depositary receipts etc), or
- (b) section 70(2) of that Act (transfer to person who provides clearance services etc),

applied.”.

**Commencement Information**

**I15** Sch. 40 para. 5 has effect as specified by [The Finance Act 2003, Section 195 and Schedule 40 \(Appointed Day\) Order 2003 \(S.I. 2003/3077\)](#), **art. 2**

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**Textual Amendments**

**F624** Sch. 41 para. 1 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Responsibility of officers of company in administration*

- 2 (1) Section 108 of the Taxes Management Act 1970 (c. 9) (responsibility of company officers) is amended as follows.
- (2) In subsection (3)(a)—
- (a) after first “liquidator” insert “ or administrator ”, and
  - (b) after second “liquidator” insert “ or, as the case may be, administrator ”.
- (3) After subsection (3) insert—
- “(4) For the purposes of subsection (3)(a), where two or more persons are appointed to act jointly or concurrently as the administrator of a company, the proper officer is—
- (a) such one of them as is specified in a notice given to the Board by those persons for the purposes of this section, or
  - (b) where the Board is not so notified, such one or more of those persons as the Board may designate as the proper officer for those purposes.”.

*Tax on companies in administration*

**F625** .....

**Textual Amendments**

**F625** Sch. 41 para. 3 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Debit for bad debt where parties connected and creditor insolvent*

**F626** .....

**Textual Amendments**

**F626** Sch. 41 para. 4 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Commencement*

- 5 (1) Subject to sub-paragraph (2), this Schedule has effect in relation to companies which enter administration (whether under the Insolvency Act 1986 (c. 45) or otherwise) on or after the commencement of section 248 of the Enterprise Act 2002 (c. 40) (which substitutes Part 2 of the Insolvency Act 1986 (administration)).

*Status: Point in time view as at 31/12/2020.*

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F627(2) .....

**Textual Amendments**

**F627** Sch. 41 para. 5(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

SCHEDULE 42

Section 200

CONTROLLED FOREIGN COMPANIES: EXEMPT ACTIVITIES

*Introductory*

1 Part 2 of Schedule 25 to the Taxes Act 1988 (controlled foreign companies: exempt activities) is amended as follows.

*Companies engaged in wholesale, distributive, financial or service business*

2 (1) Paragraph 6 (meaning of “engaged in exempt activities”) is amended as follows.

F628(2) .....

(3) In sub-paragraph (2A) (persons from whom less than 50% of the gross trading receipts of a wholesale etc business of the controlled foreign company must be derived) omit the word “and” immediately preceding paragraph (c) and at the end of that paragraph add “;

- (d) persons not falling within paragraphs (a) to (c) above which are companies resident in the United Kingdom;
- (e) persons not falling within paragraphs (a) to (c) above which are companies not resident in the United Kingdom which carry on business through a branch or agency in the United Kingdom;
- (f) persons not falling within paragraphs (a) to (c) above who are individuals habitually resident in the United Kingdom;

but where the company is a controlled foreign company falling within sub-paragraph (2B) below, paragraphs (d) to (f) above shall be disregarded.”.

(4) After sub-paragraph (2A) insert—

- “(2B) A controlled foreign company falls within this sub-paragraph if either—
- (a) its main business is the effecting or carrying out of contracts of long-term insurance, other than protection business; or
  - (b) it is a member of an insurance group and its main business is insuring or reinsuring large risks.

Paragraph 11A below has effect for the interpretation of this sub-paragraph.

(2C) For the purposes of sub-paragraph (2)(b) above, a company’s gross trading receipts from a business shall be regarded as directly or indirectly derived from a person falling within sub-paragraph (2A)(e) above only to the extent that they are derived directly or indirectly from contracts or other

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arrangements relating to that person’s branch or agency in the United Kingdom.”.

- (5) In sub-paragraph (4C) (which defines for the purposes of sub-paragraph (2)(b) a “25 per cent assessable interest”, an expression not used in sub-paragraph (2)(b) but used in sub-paragraph (2A)(b)) for “(2)(b)” substitute “(2A)(b)”.

#### Textual Amendments

**F628** Sch. 42 para. 2(2) omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 16 para. 11(c) (with Sch. 16 paras. 13-20)

#### *Companies engaged in business of banking etc*

- 3 (1) Paragraph 11 (provisions relating to wholesale, distributive, financial or service business) is amended as follows.
- (2) In sub-paragraph (3) (controlled foreign company engaged in business of banking etc) for paragraph (a) (interest from UK company not to be regarded as receipt derived from connected or associated persons) substitute—
- “*(a)* no payment of interest received from a company resident in the United Kingdom which is connected or associated with the controlled foreign company shall be regarded for the purposes of paragraph 6(2)(b) above as a receipt derived directly or indirectly from a person falling within paragraph 6(2A) above, but”.
- (3) At the end of paragraph (b) of that sub-paragraph (the capitalisation test) add “, and
- (c)* it shall also be conclusively presumed that the condition in paragraph 6(2)(b) is not fulfilled if 10% or more of the company’s gross trading receipts from all businesses carried on by it in the accounting period in question, taken together, are receipts other than interest and are directly or indirectly derived from persons—
- (i)* which are companies resident in the United Kingdom,
- (ii)* which are companies not resident in the United Kingdom but which carry on business through a branch or agency in the United Kingdom, or
- (iii)* who are individuals habitually resident in the United Kingdom,
- but for this purpose a company’s gross trading receipts shall be regarded as directly or indirectly derived from a person falling within sub-paragraph *(ii)* above only to the extent that they are derived directly or indirectly from contracts or other arrangements relating to that person’s branch or agency in the United Kingdom.”.

#### *Interpretation of paragraph 6(2B)*

- 4 After paragraph 11 insert—
- “11A(1) This paragraph has effect for the interpretation of paragraph 6(2B) above.
- (2) “Contract of long-term insurance” means any contract falling within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.



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- (3) “Protection business” means contracts of long-term insurance where—
- (a) either—
    - (i) the contract has no surrender value; or
    - (ii) the consideration consists of a single premium and the surrender value does not exceed the amount of that premium; and
  - (b) the contract makes no provision for its conversion or extension in a manner which would result in its ceasing to fall within paragraph (a) above;
- and references to protection business include a reference to reinsurance of protection business.
- (4) “Insurance group” shall be construed in accordance with section 255A(5) of the Companies Act 1985 (meaning of “insurance group” in Part 7) but reading Part 7 of that Act—
- (a) as if it extended to Northern Ireland, and
  - (b) as if any reference to a company (within the meaning of that Act) included a reference to a company as defined in Article 3 of the Companies (Northern Ireland) Order 1986,
- but does not include such an insurance group if it falls within sub-paragraph (5) below.
- (5) Such an insurance group falls within this sub-paragraph if (within the meaning of that Part as so read) the parent company is a subsidiary undertaking of a parent company which is neither—
- (a) the parent company of an insurance group; nor
  - (b) a subsidiary undertaking of the parent company of an insurance group.
- (6) A controlled foreign company is, in accordance with sub-paragraphs (4) and (5) above, a “member of an insurance group” if (within the meaning of that Part as so read) it is the parent company, or a subsidiary undertaking of the parent company, of an insurance group which is by virtue of sub-paragraph (4) above an insurance group for the purposes of paragraph 6(2B) above.
- (7) A company’s main business is “insuring or reinsuring large risks” if (and only if)—
- (a) the company’s main business is the effecting or carrying out of contracts of insurance; and
  - (b) 50% or more of its gross trading receipts from that business are derived from insuring or reinsuring large risks.
- “Large risks” is defined in paragraph 11B below.
- (8) In this paragraph—
- “contract of insurance” has the meaning given by article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
  - “contract of long-term insurance” has the meaning given by sub-paragraph (2) above.

11B (1) In paragraph 11A above “large risks” means—

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- (a) risks falling within classes 4, 5, 6, 7, 11 and 12 of Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
  - (b) risks falling within classes 14 and 15 of that Part which relate to a business carried on by the policy holder;
  - (c) risks falling within classes 3, 8, 9, 10, 13 and 16 of that Part where the policy holder carries on a business in respect of which the condition specified in sub-paragraph (2) below is satisfied.
- (2) The condition referred to in sub-paragraph (1)(c) above is that, in the case of that business of the policy holder, at least two of the three following criteria were exceeded in the most recent financial year beginning on or after 1st January 1999 for which the information is available—
- (a) balance sheet total: 6.2 million euros;
  - (b) net turnover: 12.8 million euros;
  - (c) number of employees: 250.
- (3) For the purposes of sub-paragraph (2) above as it applies where the policy holder is a company, within the meaning of section 735(1) of the Companies Act 1985 or Article 3 of the Companies (Northern Ireland) Order 1986,—
- (a) “balance sheet total” has the meaning given by section 247(5) of that Act or Article 255(5) of that Order;
  - (b) “net turnover” has the meaning given to “turnover” by section 262(1) of that Act or Article 270(1) of that Order; and
  - (c) “number of employees” has the meaning given by section 247(6) of that Act or Article 255(6) of that Order;
- and for a financial year which is a company’s financial year but not in fact a year, the net turnover of the company shall be proportionately reduced.
- (4) Where the policy holder is a member of a group for which consolidated accounts (within the meaning of Directive [83/349/EEC](#)) are drawn up, the question whether the condition in sub-paragraph (2) above is met shall be determined by reference to those accounts.
- (5) For the purposes of sub-paragraph (1)(c) above as it applies where the policy holder is a professional association, joint venture or temporary grouping, the question whether the condition in sub-paragraph (2) above is met shall be determined by reference to the aggregate of the figures of the description in question for all the members of the professional association, joint venture or temporary grouping.
- (6) In sub-paragraphs (1) to (5) above “business” includes a trade or profession and, for the purposes of sub-paragraph (1)(c) above, any activity of a professional association, joint venture or temporary grouping.
- (7) For the purposes of this paragraph, where an amount is denominated in any accounts in a currency other than the euro, it shall be converted into its equivalent in euros using the London closing exchange rate for that currency and the euro for the last day of the period to which the accounts relate.
- (8) In this paragraph—

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“euro” means the single currency adopted or proposed to be adopted as its currency by a member State in accordance with the Treaty establishing the European Community;

“financial year”, in relation to any person, means the period (not exceeding 12 months) for which that person makes up accounts.”.

## SCHEDULE 43

Section 216

### REPEALS

#### PART 1

##### EXCISE DUTIES

###### (1) GENERAL BETTING DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Betting and Gaming Duties Act 1981 (c. 63)	Section 5A. In section 5C, subsections (2) and (3) and, in subsection (4), the words “In the case of a bet which is excluded from subsection (2) by virtue of subsection (3),”.
1	The repeal of section 5A has effect in accordance with section 6(6) of this Act.
2	The repeals in section 5C have effect in accordance with section 7(5) and (6) of this Act.

###### (2) BINGO DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Betting and Gaming Duties Act 1981 (c. 63)	In Schedule 3— (a) paragraphs 11, 12 and 15; (b) paragraph 16(2)(b) and the word “or” preceding it.

These repeals have effect in accordance with section 9 of this Act.

###### (3) AMUSEMENT MACHINE LICENCE DUTY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Betting and Gaming Duties Act 1981 (c. 63)	In section 26— (a) the definition of “coin” in subsection (2); (b) subsection (4).

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These repeals have effect in accordance with section 11(3) of this Act.

(4) VEHICLE EXCISE DUTY

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Vehicle Excise and Registration Act 1994 (c. 22)	Section 16.

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This repeal has effect in accordance with section 16 of this Act.

**PART 2**

VALUE ADDED TAX

FACE-VALUE VOUCHERS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Value Added Tax Act 1994 (c. 23)	In Schedule 6, paragraph 5.

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This repeal has effect in accordance with paragraph 4 of Schedule 1 to this Act.

**PART 3**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) PROVISION OF SERVICES THROUGH INTERMEDIARY

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	Section 49(2). In section 56(7), paragraph (c) and the word “and” preceding it.

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These repeals have effect in accordance with section 136(4) of this Act.

(2) TAXABLE BENEFITS: CARS: CO<sub>2</sub> EMISSIONS

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In the table in section 139(4), in the entry for 2004-05 and subsequent tax years, the words “and subsequent tax years”.

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### (3) APPROVED SHARE PLANS AND SCHEMES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In section 701(2)(c)(i), the words “or 4 (approved CSOP schemes)”. In Schedule 2, paragraphs 18(1)(a) and 47(3). In Schedule 3, in paragraph 34(5), the words following paragraph (b).

### (4) EMPLOYEE SECURITIES AND OPTIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In section 19(2), the entries relating to Chapters 8 and 9 of Part 3. In section 32(2), the entries relating to Chapters 8 and 9 of Part 3. In section 63(1), the entries relating to Chapters 8 and 9 of Part 3. Section 64(5) and (6). Chapters 8 and 9 of Part 3. In section 216— (a) in subsection (4), the entries relating to Chapters 8 and 9 of Part 3; (b) in subsection (6), the entries relating to sections 195(3) and 199(4). Section 227(4)(d), (f) and (h). Section 491. Sections 494 and 495. Section 518. Section 519(4). Section 520. Section 523. Section 524(4). Section 525. Section 528. In section 701(2)(b), the words “subject to section 700(6),”. In Part 2 of Schedule 1, the entries listed in paragraph 42(2) of Schedule 22 to this Act. In Schedule 7, paragraphs 30, 31, 47, 48, 50 to 53, 55(2)(a), 59 to 62, 66 and 67.
Finance Act 2003	In Schedule 23, in paragraph 31, the entry relating to “subject to forfeiture”.

These repeals have effect in accordance with Schedule 22 to this Act.

### (5) DEDUCTIONS FOR EMPLOYEE BENEFIT CONTRIBUTIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
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Finance Act 2002 (c. 23)	In Schedule 29, in paragraph 113(3)(a) the words “or benefits” and “, or held by an intermediary,”.
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These repeals have effect in accordance with paragraph 11(1) of Schedule 24 to this Act.

(6) REFERENCES TO BRANCH OR AGENCY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxes Management Act 1970 (c. 9)	In section 118(1), the definitions of “branch or agency” and “branch or agent”.
Income and Corporation Taxes Act 1988 (c. 1)	Section 95(1A)(e).
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 10— (a) subsection (3); (b) in subsection (4), the words “or corporation tax”.
Finance Act 1994 (c. 9)	In section 219(4A), the words “11(2)(a) or”.
Finance Act 1995 (c. 4)	In section 126— (a) in subsection (1), the words “, corporation tax”; (b) in subsection (2)(c), the words from “or fall” to “non-resident”; (c) in subsection (2), paragraph (d) and the word “and” preceding it; (d) in subsection (9), paragraph (b) and the word “and” preceding it. In section 127— (a) in subsection (5)(b), the words “or 129”; (b) in subsection (19), paragraph (b) and the word “and” preceding it. Section 129.
Finance (No. 2) Act 1997 (c. 58)	Section 24(3)(e).

These repeals have effect in relation to accounting periods beginning on or after 1st January 2003.

(7) CAPITAL GAINS TAX: REPORTING LIMITS AND ANNUAL EXEMPT AMOUNT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	Section 3(6). In Schedule 1, paragraph 2(3).

These repeals have effect in accordance with paragraph 7 of Schedule 28 to this Act.

*Status: Point in time view as at 31/12/2020.*

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#### (8) CHARGEABLE GAINS: EARN-OUT RIGHTS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 138A— (a) in subsection (2), paragraph (c) and the word “and” preceding it; (b) in subsection (4), paragraph (e) and the word “and” preceding it.

These repeals have effect in accordance with section 161 of this Act.

#### (9) FIRST-YEAR ALLOWANCES FOR EXPENDITURE ON ECO-FRIENDLY PLANT OR MACHINERY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Capital Allowances Act 2001 (c. 2)	In section 39, the word “or” at the end of the entry relating to section 45E. In section 46(1), the word “or” at the end of the entry relating to section 45E. In Part 2 of Schedule 1, in the first column of the entry relating to the expression “long life asset expenditure”, the words “Chapter 10 of”.

These repeals have effect in accordance with section 167 of this Act.

#### (10) RELIEF FOR RESEARCH AND DEVELOPMENT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2000 (c. 17)	In Schedule 20, in paragraph 5(3)— (a) the words “the following rules apply”; (b) paragraphs (a) and (b); (c) in paragraph (c), the words “in any other case”.
Finance Act 2002 (c. 23)	In Schedule 12— (a) in paragraph 7(2), the word “and” preceding paragraph (b); (b) in paragraph 11(3), the word “and” preceding paragraph (b); (c) in paragraph 15(1), the word “or” preceding paragraph (c); (d) in paragraph 17, the word “and” preceding paragraph (c). In Schedule 13, in paragraph 5(3), the word “and” preceding paragraph (d).

These repeals have effect in accordance with section 168 of this Act.

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(11) TONNAGE TAX: CAPITAL ALLOWANCES FOR LESSORS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2000 (c. 17)	<p>In Schedule 22—</p> <ul style="list-style-type: none"> <li>(a) the word “finance” in the first sentence of paragraph 41(4), in paragraphs 89(1), 90(1), 92(1), 94(1), 98(1)(a) and 99(1) (a) and in the heading to paragraph 93;</li> <li>(b) in paragraph 93(1), the words “finance” and “either”;</li> <li>(c) in paragraph 147, the entry for “finance lease (and lessor and lessee) (in Part X)”.</li> </ul>

These repeals have effect in relation to any lease (within the meaning given by paragraph 5 of Schedule 32 to this Act) entered into on or after 19th December 2002.

(12) INSURANCE COMPANIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	<p>Section 432A(9B).            In section 432E(2), paragraph (a) and, in paragraph (b), the words “in any other case,”.            In section 436(3)(a), the words after “modifications”.            In section 438B(5), paragraph (b) and the word “and” before it.            In section 439B(3)(a), the words “and in particular with the omission of the words “and any amounts of tax which are expended on behalf of” in section 82(1)(a)”.</p> <p>In section 441—</p> <ul style="list-style-type: none"> <li>(a) in subsections (1) and (2), the words “and section 441A”;</li> <li>(b) in subsection (4)(a), the words “and in particular with the omission of the words “and any amounts of tax which are expended on behalf of” in section 82(1)(a)”.</li> </ul> <p>In section 442A(4), the words “to the company”.            In Schedule 28AA, in paragraph 5(6)(b), the words “or 88A”.</p>
Finance Act 1989 (c. 26)	<p>In section 83—</p> <ul style="list-style-type: none"> <li>(a) in subsection (5), paragraph (b) and the word “but” before it;</li> <li>(b) subsection (6A);</li> <li>(c) in subsection (8), in the definition of “total reinsurance”, the words “before the making of the contract</li> </ul>



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of reinsurance (or, in a case where there are two or more contracts of reinsurance, the last of them)”.

In section 83AA—

- (a) subsections (3) to (5) and (6)(a);
- (b) in subsection (7), paragraph (b) and the word “and” before it;
- (c) in subsection (10), the definitions of “the relevant accounting period” and “the transferor company”.

Section 83AB(1)(c)(i).

In section 83A(2), the second sentence.

Section 84(1).

In section 87(6)(b), the words “, disregarding section 76(1)(e) of that Act (as set out in subsection (2) above),”.

In section 88(1), the words “and section 88A”.

Section 88A.

In section 89—

- (a) in subsection (1), the words “or, as the case may be, basic life assurance and general annuity business”;
- (b) in subsection (7), the definition of “the Prudential Sourcebook (Insurers)”.

Finance Act 1990 (c. 29)

Section 43.

Section 45(5).

Finance Act 1991 (c. 31)

In Schedule 7—

- (a) in paragraph 1(a), the words “and (e)”;
- (b) paragraph 11.

Taxation of Chargeable Gains Act 1992  
(c. 12)

In section 204(4), the words from “and in subsection (3)” onwards.

Section 211(1A).

In section 212(7), the words following paragraph (b).

Section 213(3A) and (3B).

In Schedule 7AD, in paragraph 10(1), the definitions of “insurance company”, “long-term business” and “long-term insurance fund”.

In Schedule 7B, in paragraph 1, the words “(as defined in section 431(2) of the Taxes Act)”.

Finance Act 1996 (c. 8)

In Schedule 6, paragraph 26.

In Schedule 11, in paragraph 4—

- (a) in sub-paragraph (2), the word “net” (in both places);
- (b) in sub-paragraph (16), the definition of “net income and gains”.

Finance Act 1998 (c. 36)

Section 137(4) and (7).

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Finance Act 2000 (c. 17)	In Schedule 30, paragraph 18(3).
Finance Act 2002 (c. 23)	In Schedule 25, paragraph 46.

- 1 The repeals in sections 432A, 436, 439B and 441(4)(a) of the Taxes Act 1988, the repeals in sections 83(5), 83AA and 83AB of the Finance Act 1989, the repeal of section 43 of the Finance Act 1990 and the repeals in the Finance Act 2000 and the Finance Act 2002 have effect for periods of account beginning on or after 1st January 2003.
- 2 The repeals in section 432E of the Taxes Act 1988 have effect in accordance with paragraph 10(5) of Schedule 33 to this Act.
- 3 The repeals in section 438B of, and in Schedule 28AA to, the Taxes Act 1988, the repeal in section 88 of the Finance Act 1989, the repeal of section 88A of that Act, the repeal in section 89(1) of that Act and the repeal in Schedule 6 to the Finance Act 1996 have effect for the financial year 2003 and subsequent financial years.
- 4 The repeal in section 442A of the Taxes Act 1988 has effect in accordance with paragraph 23(5) of Schedule 33 to this Act.
- 5 The repeal in section 83(8) of the Finance Act 1989 has effect in accordance with paragraph 2(11) of that Schedule.
- 6 The repeals in section 87 of the Finance Act 1989, paragraph 1(a) of Schedule 7 to the Finance Act 1991 and Schedule 11 to the Finance Act 1996 have effect in accordance with paragraph 8(4) of that Schedule.
- 7 The repeal of section 45(5) of the Finance Act 1990 has effect in relation to distributions on or after 9th April 2003.
- 8 The repeals in section 213 of the Taxation of Chargeable Gains Act 1992 and the Finance Act 1998 have effect in accordance with paragraph 16(6) of Schedule 33 to this Act.

(13) LIFE INSURANCE POLICIES ETC

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 1A(2), the word “and” at the end of paragraph (b). Section 540(2). In Schedule 15, in paragraph 3(8), the words from “and” preceding paragraph (b)(iii) to the end of paragraph (c).

- 1 The repeal in section 1A of the Taxes Act 1988 has effect in accordance with section 173 of this Act.
- 2 The repeal of section 540(2) of that Act has effect in accordance with section 171 of, and Part 4 of Schedule 34 to, this Act.
- 3 The repeal in Schedule 15 to that Act has effect in accordance with section 172(6) of this Act.

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(14) LOAN RELATIONSHIPS: LATE INTEREST

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1996 (c. 8)	In Schedule 9, in paragraph 2(6), in the definition of “participator”, the word “close”.

This repeal has effect in accordance with paragraph 2(4) of Schedule 37 to this Act.

(15) REPOS ETC

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 737C— (a) in subsection (3)(b), the word “gross”; (b) subsection (4).
Finance Act 1996 (c. 8)	In Schedule 9, in paragraph 15(3)(b), the words “, or a person connected with him,”.

- 1 The repeals in the Taxes Act 1988 have effect in accordance with sub-paragraph (1) of paragraph 21 of Schedule 38 to this Act.
- 2 The repeal in the Finance Act 1996 has effect in accordance with sub-paragraph (2) of that paragraph.

(16) RELEVANT DISCOUNTED SECURITIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1996 (c. 8)	In Schedule 13— (a) in paragraph 1(3)(a), the words “reduced by the amount of any relevant costs”; (b) paragraph 1(4); (c) paragraph 2; (d) paragraph 6(4) to (6); (e) paragraphs 7, 9A and 11; (f) in paragraph 14(2) and (3), the words “gilt-edged”; (g) in paragraph 14(4), the words after paragraph (c).
Finance Act 2002 (c. 23)	Section 104(3).

These repeals have effect in accordance with paragraph 6 of Schedule 39 to this Act.

(17) COURT COMMON INVESTMENT FUNDS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In section 469A—

*Status: Point in time view as at 31/12/2020.*

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- (a) in subsection (2), the words “(subject to subsection (3) below)”;
- (b) subsection (3).

These repeals have effect in relation to income arising to a common investment fund (within the meaning of section 183 of this Act) on or after 6th April 2003.

## PART 4

### OTHER TAXES

#### (1) INHERITANCE TAX: AUTHORISED UNIT TRUSTS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Inheritance Tax Act 1984 (c. 51)	In section 178(1), in the definition of “qualifying investments”, the words “(as defined in section 468 of the Taxes Act 1988)”.
Income and Corporation Taxes Act 1988 (c. 1)	In Schedule 29, in the table in paragraph 32, the entry relating to section 178(1) of the Inheritance Tax Act 1984.

These repeals have effect in relation to transfers of value and other events occurring on or after 16th October 2002.

#### (2) CLIMATE CHANGE LEVY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 2000 (c. 17)	In Schedule 6— <ul style="list-style-type: none"> <li>(a) paragraph 15(5);</li> <li>(b) in paragraph 41(1)(c), the words “for any period”;</li> <li>(c) in paragraph 100(1), the words “for an accounting period”;</li> <li>(d) paragraph 148(6);</li> <li>(e) in paragraph 149(1), the words “the percentage that is to be stated in a certificate under paragraph 148 as”.</li> </ul>

These repeals, except the ones in paragraphs 41(1)(c) and 100(1), have effect in accordance with section 189(5) of this Act.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

## PART 5

### MISCELLANEOUS

#### (1) EXCHANGE OF INFORMATION BETWEEN TAX AUTHORITIES OF MEMBER STATES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1978 (c. 42)	Section 77.
Finance Act 1980 (c. 48)	Section 17.
Finance Act 1990 (c. 29)	In section 125, subsection (5) and the words after “appoint” in subsection (6).
Finance Act 1993 (c. 34)	Section 22.

#### (2) CONTROLLED FOREIGN COMPANIES: EXEMPT ACTIVITIES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	In Part 2 of Schedule 25, in paragraph 6(2A), the word “and” preceding paragraph (c).

This repeal has effect in accordance with section 200 of this Act.

#### (3) AUTHORISED UNIT TRUSTS: INTEREST DISTRIBUTIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 468O(2) to (4). In section 468P— (a) subsection (4); (b) in subsection (5), the words “or (4)” and the words “or, as the case may be, resident” (in both places); (c) subsections (8) and (9).
Finance Act 1996 (c. 8)	In Schedule 7, paragraph 17.
Finance Act 2002 (c. 23)	Section 96(3)(a).

These repeals have effect in relation to interest distributions made on or after 16th October 2002.

#### (4) NATIONAL SAVINGS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1980 (c. 48)	In section 120, subsections (4), (5) and (8) and, in subsection (9), the words “and subsection (8) above from the passing of this Act”.

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*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2003 is up to date with all changes known to be in force on or before 20 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)*

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Finance Act 1998 (c. 36)	In section 162, subsection (1)(a), and the word “and” before it, and subsections (2) and (5).
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(5) OTHER FINANCIAL MATTERS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
National Loans Act 1968 (c. 13)	Section 15(3). Section 19(3). Section 21(3). In Schedule 5A— (a) paragraph 8 (and the heading before it); (b) paragraph 13(2).
Finance Act 1982 (c. 39)	Section 152(3).

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The repeal of section 21(3) of the National Loans Act 1968 has effect in accordance with section 212(5) of this Act.

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

Finance Act 2003 is up to date with all changes known to be in force on or before 20 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.