

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 8

CAPITAL GAINS TAX REFORM

Rate: consequential

- 1 TCGA 1992 is amended as follows.
- 2 In section 2(7)(a) (chargeable gains and allowable losses), omit “77 or”.
- 3 Omit section 6 (rates: special cases).
- 4 In section 13(7A) (attribution of gains to members of non-resident companies: ordering rules), omit paragraphs (b) to (d).
- 5 Omit sections 77 to 79 (charge on settlor with interest in settlement).
- 6 Omit section 88(6) (gains of dual resident settlements: sections 77 to 79 to be ignored).
- 7 (1) Schedule 4A (disposal of interest in settled property: deemed disposal of underlying assets) is amended as follows.
 - (2) In paragraph 7—
 - (a) in sub-paragraph (4), for “77(2) to (5) and (8)” substitute “ 169F(2) to (6)”, and
 - (b) in sub-paragraph (5)(c), for “77(2A)(a) or (b)” substitute “ 169F(3A)(a) or (b) ”.
 - (3) In paragraph 12—
 - (a) for “section 79(1) and (3) to (5A)” substitute “ paragraphs 7 and 8(1), (3), (6) and (7) of Schedule 5 ”, and
 - (b) for “sections 77 and 78” substitute “ section 86 ”.
- 8 (1) Schedule 4B (transfers of value by trustees linked with trustee borrowing) is amended as follows.
 - (2) In paragraph 1(1), omit “77,”.
 - (3) In paragraph 3, omit—
 - (a) in sub-paragraph (1), “77,”, and
 - (b) sub-paragraph (2),and in the heading before it omit “77,”.
- 9 Omit paragraph 6(3) of Schedule 4C (attribution of gains to beneficiaries: sections 77 to 79 to be ignored).
- 10 In paragraph 1(1) of Schedule 5 (construction of section 86(1)(e)), for “sections 3 and 77 to 79” substitute “ section 3 ”.

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 11 Chapter 4 of Part 2 of FA 2005 (trusts with vulnerable beneficiary) is amended as follows.
- 12 In section 23(4) (introduction), for “33” substitute “ 32 ”.
- 13 In section 26(1) (income tax: amount of relief), in the definition of VQTI, after “extra” insert “ income ”.
- 14 (1) Section 28 (vulnerable person's liability: VQTI) is amended as follows.
- (2) In subsection (1), after “total” (in both cases) insert “ income ”.
- (3) In subsection (2), omit “and capital gains tax”.
- (4) In subsection (4), omit paragraph (b) and the “and” before it.
- (5) In subsection (7), omit paragraph (b) and the “and” before it.
- 15 In section 30 (qualifying trust gains: special capital gains tax treatment), omit subsections (1A) and (3A).
- 16 (1) Section 31 (UK resident vulnerable persons: section 77 treatment) is amended as follows.
- (2) For subsections (2) and (3) substitute—
- “(2) The trustees' liability to capital gains tax for the tax year is to be reduced by an amount equal to—

TQTG – VQTG

where—

TQTG is the amount of capital gains tax to which the trustees would (apart from this Chapter) be liable for the tax year in respect of the qualifying trust gains, and

VQTG is the amount arrived at under subsection (3).

- (3) That amount is—

TLVA – TLVB

where—

TLVB is the total amount of capital gains tax to which the vulnerable person is liable for the tax year, and

TLVA is what TLVB would be if the qualifying trust gains accrued to the vulnerable person (instead of to the trustees) and no allowable losses were deducted from the qualifying trust gains.”

- (3) In the heading, for “**section 77 treatment**” substitute “ **amount of relief** ”.
- 17 (1) Section 32 (non-UK resident vulnerable persons: amount of relief) is amended as follows
- (2) In subsection (2), for the definition of VQTG substitute— “ VQTG is the amount arrived at under subsection (3). ”
- (3) After that subsection insert—
- “(3) That amount is—

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

TLVA – TLVB

where—

TLVB is the total amount of capital gains tax to which the vulnerable person would be liable for the tax year if the vulnerable person's taxable amount for the tax year for the purposes of section 3 of TCGA 1992 were equal to the vulnerable person's deemed CGT taxable amount for the tax year (if any), and

TLVA is what TLVB would be if the vulnerable person's taxable amount for the tax year for the purposes of section 3 of TCGA 1992 were equal to the aggregate of the vulnerable person's deemed CGT taxable amount for the tax year (if any) and the amount of the qualifying trust gains.

(4) For the purposes of this section the vulnerable person's deemed CGT taxable amount for the tax year is to be determined in accordance with Schedule 1.”

- 18 Omit section 33 (non-UK resident vulnerable person's liability: VQTG).
- 19 In section 41(3) (interpretation), for “33” substitute “ 32 ”.
- 20 (1) Schedule 1 (non-UK resident vulnerable persons: interpretation) is amended as follows.
- (2) Omit paragraphs 1 and 2.
- (3) Omit paragraph 4.
- (4) In paragraph 7(1), for “paragraphs 4 and 6” substitute “ paragraph 6 ”.
- 21 In consequence of section 8 and paragraphs 1 to 20, omit—
- (a) paragraphs 27 to 29 of Schedule 17 to FA 1995,
 - (b) paragraphs 24 and 25 of Schedule 4 to F(No.2)A 1997,
 - (c) in FA 1998—
 - (i) section 120, and
 - (ii) paragraph 6(1) of Schedule 21,
 - (d) section 26 of FA 1999,
 - (e) section 37 of FA 2000,
 - (f) paragraph 3 of Schedule 11 to FA 2002,
 - (g) paragraph 2 of Schedule 21 to FA 2004,
 - (h) paragraphs 427 and 428 of Schedule 1 to ITTOIA 2005,
 - (i) section 44(2) of FA 2005,
 - (j) paragraphs 3, 13, 29, 31 and 48(1) of Schedule 12 to FA 2006, and
 - (k) paragraphs 295, 296 and 301 of Schedule 1 to ITA 2007.
- 22 The amendments made by paragraphs 1 to 21 have effect for the tax year 2008-09 and subsequent tax years.

Abolition of taper relief

- 23 TCGA 1992 is amended as follows.
- 24 (1) Section 2 (chargeable gains and allowable losses) is amended as follows.
- (2) For subsections (4) to (6) substitute—

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- “(4) If chargeable gains are treated by virtue of section 87 or 89(2) as accruing to a person in a tax year (“the relevant deemed gains”)—
- (a) subsection (2) has effect as if the relevant deemed gains had not accrued, and
 - (b) the amount on which the person is charged to capital gains tax for that year is the sum of—
 - (i) the amount given by subsection (2) as it has effect by virtue of paragraph (a), and
 - (ii) the amount of the relevant deemed gains.
- (5) In subsection (4) the reference to section 87 or 89(2) is to that section read, where appropriate, with section 10A.”
- (3) In subsection (7), omit—
- (a) in paragraph (b) of the first sentence, sub-paragraph (ii) and the “and” before it,
 - (b) in paragraph (c) of the first sentence, “(“the equal tapered amounts”)”, and
 - (c) in the words following paragraph (c) in the first sentence, and in the second sentence (in both places), “equal-tapered”.
- (4) Omit subsection (8).
- 25 Omit section 2A (taper relief).
- 26 (1) Section 3 (annual exempt amount) is amended as follows.
- (2) In subsection (5), for the words from “which, after” to the end of paragraph (c) substitute “ which ”.
- (3) In subsection (5C)(c)—
- (a) for “in a year in which any amount falls to be brought into account by virtue of section 2(5)(b)” substitute “ if section 2(4) applies for that year, ”, and
 - (b) for “falling to be so brought into account” substitute “ mentioned in section 2(4)(b)(ii) ”.
- 27 In section 3A(2) (reporting limits)—
- (a) omit paragraph (a), and
 - (b) in paragraph (b), for “such a deduction does fall to be made is the amount before deduction of losses or any reduction for taper relief” substitute “ a deduction falls to be made in respect of allowable losses is the amount before the deduction ”.
- 28 Omit section 13(10A) (attribution of gains to members of non-resident companies).
- 29 (1) Section 62 (death) is amended as follows
- (2) In subsection (2A), for “brought into account for that year by virtue of section 2(5)(b)” substitute “ treated as accruing by virtue of section 87 or 89(2) (read, where appropriate, with section 10A) ”.
- (3) Omit subsection (2B).
- 30 In section 86(1)(e) (attribution of gains to settlors with interest in non-resident or dual resident settlements), for the words after “under section 2(2)” substitute “ if the assumption as to residence specified in subsection (3) below were made; ”.

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 31 (1) Section 86A (attribution of gains to settlor in section 10A cases) is amended as follows.
- (2) In subsection (2)—
- (a) for “the tapered section 86(1)(e) amount” substitute “ the amount falling within section 86(1)(e) ”, and
- (b) for “the tapered section 86(1)(e) amounts” substitute “ the amounts falling within section 86(1)(e) ”.
- (3) Omit subsection (2A).
- (4) Omit subsection (2B).
- (5) In subsection (7), for “the tapered section 10A amount” substitute “ the amount (or aggregate amount) falling in accordance with that section to be so attributed ”.
- (6) Omit subsection (7A).
- 32 Omit section 150D (enterprise investment scheme: application of taper relief).
- 33 In subsection (8) of section 165 (relief for gifts of business assets), for paragraph (aa) substitute—
- “(aa) “holding company”, “trading company” and “trading group” have the meaning given by section 165A; and”.
- 34 After that section insert—

“165A Meaning of “holding company”, “trading company” and “trading group”

- (1) This section has effect for the interpretation of section 165 (and this section).
- (2) “Holding company” means a company that has one or more 51% subsidiaries.
- (3) “Trading company” means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.
- (4) For the purposes of subsection (3) above “trading activities” means activities carried on by the company—
- (a) in the course of, or for the purposes of, a trade being carried on by it,
- (b) for the purposes of a trade that it is preparing to carry on,
- (c) with a view to its acquiring or starting to carry on a trade, or
- (d) with a view to its acquiring a significant interest in the share capital of another company that—
- (i) is a trading company or the holding company of a trading group, and
- (ii) if the acquiring company is a member of a group of companies, is not a member of that group.
- (5) Activities do not qualify as trading activities under subsection (4)(c) or (d) above unless the acquisition is made, or the company starts to carry on the trade, as soon as is reasonably practicable in the circumstances.

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) The reference in subsection (4)(d) above to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
- (a) such as would make that company a 51% subsidiary of the acquiring company, or
 - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the two companies members of the same group of companies.
- (7) For the purpose of determining whether a company which has a qualifying shareholding in a joint venture company is a trading company—
- (a) any holding by it of shares in the joint venture company is to be disregarded, and
 - (b) it is to be treated as carrying on an appropriate proportion of the activities of the joint venture company or, where the joint venture company is the holding company of a trading group, of the activities of that group;
- and in paragraph (b) above “appropriate proportion” means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the company.
- (8) “Trading group” means a group of companies—
- (a) one or more of whose members carry on trading activities, and
 - (b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading activities.
- (9) For the purposes of subsection (8) above “trading activities” means activities carried on by a member of the group—
- (a) in the course of, or for the purposes of, a trade being carried on by any member of the group,
 - (b) for the purposes of a trade that any member of the group is preparing to carry on,
 - (c) with a view to any member of the group acquiring or starting to carry on a trade, or
 - (d) with a view to any member of the group acquiring a significant interest in the share capital of another company that—
 - (i) is a trading company or the holding company of a trading group, and
 - (ii) is not a member of the same group of companies as the acquiring company.
- (10) Activities do not qualify as trading activities under subsection (9)(c) or (d) above unless the acquisition is made, or the group member in question starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (11) The reference in subsection (9)(d) above to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company—
- (a) such as would make that company a member of the same group of companies as the acquiring company, or

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the joint venture company a member of the same group of companies as the acquiring company.
- (12) For the purpose of determining whether a group of companies is a trading group in a case where any one or more members of the group has a qualifying shareholding in a joint venture company which is not a member of the group—
 - (a) every holding of shares in the joint venture company by a member of the group having a qualifying shareholding in it is to be disregarded, and
 - (b) each member of the group having such a qualifying shareholding is to be treated as carrying on an appropriate proportion of the activities of the joint venture company or, where the joint venture company is a holding company of a trading group, of the activities of that group; and in paragraph (b) above “appropriate proportion” means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the member of the group.
- (13) For the purposes of this section the activities of the members of a group of companies are to be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities).
- (14) In this section—
 - “51% subsidiary” has the meaning given by section 838 of the Taxes Act,
 - “group of companies” means a company which has one or more 51% subsidiaries together with those subsidiaries,
 - “joint venture company” means a company—
 - (a) which is a trading company or the holding company of a trading group, and
 - (b) 75% or more of the ordinary share capital of which (in aggregate) is held by not more than 5 persons (the shareholdings of members of a group of companies being regarded for the purposes of this paragraph as held by a single company),
 - “ordinary share capital” has the meaning given by section 989 of ITA 2007,
 - “qualifying shareholding”, in relation to a company and a joint venture company, means—
 - (a) the holding by the company of 10% or more of the ordinary share capital of the joint venture company, or
 - (b) (where the company is a member of a group of companies) the holding by the company and the other members of the group (between them) of 10% or more of that ordinary share capital, and
 - “trade” means (subject to section 241(3)) anything which—
 - (a) is a trade, profession or vocation, within the meaning of the Income Tax Acts, and

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) is conducted on a commercial basis and with a view to the realisation of profits.”
- 35 Omit section 214C (re-organisations of mutual business: gains not eligible for taper relief) and the heading before it.
- 36 In section 228(8) (relief for employee share ownership trusts), for “meanings given by paragraph 22 of Schedule A1” substitute “ same meaning as in section 165 (see section 165A) ”.
- 37 In section 241(3A) (furnished holiday lettings), omit “Schedule A1 (taper relief),”.
- 38 In section 253(14)(b) (relief for loans to traders), for “meaning given by paragraph 22 of Schedule A1” substitute “ same meaning as in section 165 (see section 165A) ”.
- 39 Omit section 261C(2)(a) (treating trading loss etc as CGT loss: meaning of “the maximum amount”).
- 40 In section 279(2)(a) (foreign assets: delayed remittances), omit “(before the application of any taper relief)”.
- 41 In section 279A(7)(b) (deferred unascertainable consideration: election for treatment of loss), for “any amounts that fall to be brought into account for that year under section 2(4)(b) by virtue of section 2(5)(b),” substitute “ the total amount of chargeable gains treated as accruing in that year by virtue of section 87 or 89(2) (read, where appropriate, with section 10A), ”.
- 42 In section 279B(1) (provisions supplementary to section 279A), for paragraph (b) substitute—
- “(b) the person would be so chargeable if—
- (i) chargeable gains accrued to the person in the year, and
- (ii) the amount calculated under section 2(2) for the year in relation to the person exceeded the exempt amount for the year (within the meaning of section 3).”
- 43 (1) Section 279C (effect of election under section 279A) is amended as follows.
- (2) For subsections (3) and (4) substitute—
- “(3) The amount of the relevant loss that falls to be deducted (in accordance with section 2(2)(a)) from the chargeable gains of the first eligible year is limited to the first year limit.
- (4) The first year limit is the amount calculated under section 2(2) (read, where appropriate, with section 2(4)(a)) for the first eligible year.
- (4A) For the purpose of making that calculation—
- (a) no account is to be taken of the relevant loss, but
- (b) the effect of any previous election under section 279A is to be taken into account.”
- (3) In subsection (6)(c), for “the provisions specified in subsection (8) below” substitute “ amounts of chargeable gains treated as accruing in that later year by virtue of section 87 or 89(2) (read, where appropriate, with section 10A) ”.
- (4) Omit subsection (8).
- (5) Omit subsection (10).

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 44 Omit section 284B(1) (provisions supplementary to section 284A).
- 45 Omit Schedule A1 (taper relief).
- 46 Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.
- 47 (1) Paragraph 6 (gains attributed to settlor) is amended as follows.
 - (2) In sub-paragraph (1), for “the tapered amount of any chargeable gains” substitute “the amount of any chargeable gains”.
 - (3) Omit sub-paragraph (1A).
- 48 Omit paragraph 11 (taper relief).
- 49 Omit Schedule 5BA (application of taper relief to enterprise investment scheme).
- 50 Omit paragraph 15 of Schedule 7D (enterprise management incentives).
- F151

Textual Amendments

- F1 Sch. 2 para. 51 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)

- 52 In paragraph 86(2) of Schedule 7 to ITEPA 2003 (transitionals and savings), omit the second sentence.
- 53 Omit section 185G(3)(c) of FA 2004 (disposal by person holding taxable interest directly).
- 54 Omit section 161(5) of ITA 2007 (other tax reliefs relating to EIS).
- 55 In consequence of paragraphs 23 to 54, omit—
 - (a) in FA 1998—
 - (i) section 121(1) and (2),
 - (ii) section 140(5),
 - (iii) Schedule 20, and
 - (iv) paragraphs 2, 4, 6(3) and (4), 7 and 9 of Schedule 21,
 - (b) in FA 1999—
 - (i) section 72, and
 - (ii) Schedule 7,
 - (c) sections 66 and 67 of FA 2000,
 - (d) in FA 2001—
 - (i) section 78, and
 - (ii) Schedule 26,
 - (e) in FA 2002—
 - (i) sections 46 and 47,
 - (ii) paragraph 5(13) of Schedule 9,
 - (iii) Schedule 10, and
 - (iv) paragraphs 2(2) and 4 to 6 of Schedule 11,
 - (f) in FA 2003—
 - (i) section 160, and

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) paragraph 5 of Schedule 29,
 - (g) in Schedule 21 to FA 2004—
 - (i) paragraphs 3(4) and 8, and
 - (ii) in paragraph 10, in sub-paragraph (4), “, 8(2)” and sub-paragraph (6),
 - (h) paragraphs 13 and 27 of Schedule 12 to FA 2006, and
 - (i) paragraphs 313 and 343 of Schedule 1 to ITA 2007.
- 56 (1) The amendments made by paragraph 31(2) and (3) have effect where the intervening year is the tax year 2008-09 or any subsequent tax year.
- (2) The amendments made by paragraphs 41 and 43 have effect where the eligible year is the tax year 2008-09 or any subsequent tax year.
- (3) The other amendments made by paragraphs 23 to 55 have effect in relation to chargeable gains accruing or treated as accruing in the tax year 2008-09 or any subsequent tax year.

Abolition of “kink” test

- 57 TCGA 1992 is amended as follows.
- 58 (1) Section 35 (assets held on 31 March 1982) is amended as follows.
- (2) In subsection (2)—
- (a) for “Subject to the following provisions of this section, in” substitute “ In”, and
 - (b) for “him” substitute “ that person ”.
- (3) After that subsection insert—
- “(2A) For the purposes of corporation tax, subsection (2) above has effect subject to subsections (3) to (8) below (and see also subsections (9) and (10)).”
- (4) In subsection (3)(d), for the words after “any of” substitute “ the no gain/no loss provisions. ”
- (5) In subsection (4), for “him” substitute “ that person ”.
- (6) In subsection (5), for “him” (in both places) substitute “ that person ”.
- (7) In subsection (6), omit—
- (a) paragraph (a),
 - (b) in paragraph (aa), “in the case of an election for the purposes of corporation tax,”, and
 - (c) in paragraph (b), “in either case”.
- (8) In subsection (7), for “him” substitute “ that person ”.
- (9) In subsection (9), after “effect” insert “ for the purposes of corporation tax ”.
- (10) In subsection (10), insert at the end “ for the purposes of capital gains tax and corporation tax ”.
- 59 After that section insert—

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“35A Disposal of asset acquired on no gain/no loss disposal

(1) This section applies for the purposes of capital gains tax in relation to a disposal of an asset if—

- (a) the person making the disposal acquired the asset after 31 March 1982 and before 6 April 2008,
- (b) the disposal by which the person acquired the asset (“the relevant disposal”), and any previous disposal of the asset after 31 March 1982, was a disposal on which, by virtue of any enactment, neither a gain nor a loss accrued to the person making the disposal, and
- (c) section 35(2) did not apply to the relevant disposal.

(2) It is to be assumed that section 35(2) did apply to the relevant disposal (and that section 56(2) applied to the relevant disposal accordingly).”

60 In section 55(5) (indexation allowance: assets acquired on no gain/no loss disposal), for “enactments specified in section 35(3)(d)” substitute “no gain/no loss provisions”.

61 In section 73(1) (death of life tenant: exclusion of chargeable gain), for “6th April 1965” substitute “31 March 1982”.

62 In section 175(2C) (replacement of business assets by member of group), for “enactments specified in section 35(3)(d)” substitute “no gain/no loss provisions”.

63 In section 288 (interpretation), after subsection (3) insert—

“(3A) For the purposes of this Act, the following are “the no gain/no loss provisions”—

- (a) sections 58, 73, 139, 140A, 140E, 171, 211, 215, 216, 217A, 218 to 221, 257(3), 258(4), 264 and 267(2) of this Act;
- (b) section 148 of the 1979 Act;
- (c) section 148 of the Finance Act 1982;
- (d) section 130(3) of the Transport Act 1985;
- (e) section 486(8) of the Taxes Act;
- (f) paragraph 2(1) of Schedule 7 to the Broadcasting Act 1996;
- (g) paragraphs 3 and 9 of Schedule 26 to the Transport Act 2000;
- (h) paragraphs 3, 18, 29 and 32 of Schedule 9 to the Energy Act 2004;
- (i) paragraph 9 of Schedule 4 to the Consumers, Estate Agents and Redress Act 2007.”

64 (1) Schedule 2 (assets held on 6 April 1965) is amended as follows.

(2) Omit paragraph 1(3).

(3) In paragraph 4—

- (a) omit sub-paragraph (6),
- (b) in sub-paragraph (8), for “him” substitute “the person”,
- (c) in sub-paragraph (9)—
 - (i) for “either section 58 or” (in both places) substitute “section”,
 - (ii) omit “the spouse or civil partner of the holder, or”, and
 - (iii) for “him” substitute “the holder”,

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) in sub-paragraph (10)(a), for “he” (in both places) substitute “ the person ”, and
 - (e) in sub-paragraph (11), omit—
 - (i) paragraph (a),
 - (ii) in paragraph (b), “in the case of an election for the purposes of corporation tax,”, and
 - (iii) in paragraph (c), “in either case,”.
- (4) In paragraph 17(3) omit—
- (a) paragraph (a),
 - (b) in paragraph (b), “in the case of an election for the purposes of corporation tax,”, and
 - (c) in paragraph (c), “in either case,”.
- (5) Omit paragraph 22.
- 65 (1) Schedule 3 (assets held on 31 March 1982) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (1)—
 - (i) for “Where—” substitute “ For the purposes of corporation tax, where— ”, and
 - (ii) for “he” (in each place) substitute “ the person ”, and
 - (b) in sub-paragraph (2), for “enactments specified in section 35(3)(d)” substitute “ no gain/no loss provisions ”.
- (3) In paragraph 2(1) and (3), omit “58 or”.
- 66 In paragraph 7 of Schedule 4 (deferred charges on pre-31 March 1982 gains), for “enactments specified in section 35(3)(d)” substitute “ no gain/no loss provisions ”.
- 67 In paragraph 7 of Schedule 4ZA (sub-fund settlements), for “sections 104(1) and 109(2)(a)” substitute “ section 104(1) ”.
- 68 In paragraph 12(b) of Schedule 7A (restriction on set-off or pre-entry losses), for “enactment specified in section 35(3)(d)” substitute “ of the no gain/no loss provisions ”.
- 69 (1) FA 1997 is amended as follows.
- (2) In section 89(8)(a) (earn-out rights), for “enactments specified in section 35(3)(d) of that Act” substitute “ no gain/no loss provisions (within the meaning of that Act: see section 288(3A) of that Act) ”.
- ^{F2}(3)

Textual Amendments

- F2** Sch. 2 para. 69(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. 2 (with Sch. 2) and (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. 8 (with Sch. 9 paras. 1-9, 22)

- 70 In consequence of paragraphs 57 to 69, omit—
- (a) in F(No.2)A 1992—

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) section 46(2),
- (ii) paragraph 21(2) of Schedule 9, and
- (iii) paragraph 5(9) of Schedule 17,
- (b) in FA 1994—
 - (i) paragraph 2(2) of Schedule 24, and
 - (ii) paragraph 4(3) of Schedule 25,
- (c) paragraph 2(3) of Schedule 4 to the Coal Industry Act 1994 (c. 21),
- (d) paragraph 3 of Schedule 7 to the Broadcasting Act 1996 (c. 55),
- (e) in the Transport Act 2000 (c. 38)—
 - (i) paragraph 2(3) of Schedule 7, and
 - (ii) paragraph 37 of Schedule 26,
- (f) paragraph 36 of Schedule 9 to the Energy Act 2004 (c. 20),
- (g) paragraph 33 of Schedule 10 to the Railways Act 2005 (c. 14),
- (h) section 59(2) of F(No.2)A 2005,
- (i) paragraph 14(3) of Schedule 9 to FA 2007, and
- (j) paragraph 11 of Schedule 7 to the Consumers, Estate Agents and Redress Act 2007 (c. 17).

71 The amendments made by paragraphs 57 to 70 have effect in relation to disposals on or after 6 April 2008.

Abolition of “halving relief”

72 TCGA 1992 is amended as follows.

73 In section 36 (reduction of deferred charges where wholly or partly attributable to pre-31 March 1982 increase in value), for “tax” substitute “corporation tax in respect of chargeable gains”.

74 (1) Schedule 4 (deferred charges on pre-31 March 1982 gains) is amended as follows.

(2) Before paragraph 1 insert—

“Application of Schedule

A1 This Schedule applies only for the purposes of corporation tax.”

(3) In paragraph 2(5), omit—

(a) “, 162, 165”, and

(b) “of this Act and section 79 of the Finance Act 1980”.

(4) In paragraph 4(2), omit “168 (as modified by section 67(6))”.

(5) In paragraph 9(1), omit—

(a) in paragraph (b), “in the case of a disposal made by, or a gain treated as accruing to, a person chargeable to corporation tax,”,

(b) paragraph (c), and

(c) “or (as the case may be) on or before such later date”.

75 In consequence of paragraph 74, omit paragraph 43 of Schedule 21 to FA 1996.

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 76 The amendments made by paragraphs 72 to 75 have effect in relation to disposals which occur on or after 6 April 2008 and to which Schedule 4 to TCGA 1992 would otherwise apply.

Abolition of indexation allowance

- 77 TCGA 1992 is amended as follows.
78 At the beginning of Chapter 4 of Part 2 (indexation allowance), insert—

Chapter to apply only for corporation tax purposes

“52A This Chapter applies only for the purposes of corporation tax.”

- 79 In section 53 (indexation allowance), omit—
 (a) subsection (1A), and
 (b) in subsection (4), “, 110A”.
- 80 (1) Section 54 (calculation of indexation allowance) is amended as follows.
 (2) In subsection (1), for “the relevant month” substitute “ the month in which the disposal occurs ”.
 (3) Omit subsection (1A).
- 81 (1) Section 145 (call options: indexation allowance) is amended as follows.
 (2) In subsection (1), omit “(subject to subsection (1A) below)”.
 (3) Omit subsection (1A).
- 82 In consequence of the amendments made by paragraphs 77 to 81, omit section 122(1) to (3) and (5) of FA 1998.
- 83 The amendments made by paragraphs 77 to 82 have effect in computing gains on disposals made on or after 6 April 2008.

Simplification of pooling etc

- 84 TCGA 1992 is amended as follows.
85 (1) Section 104 (share pooling: general interpretative provisions) is amended as follows.
 (2) For subsections (2) and (2A) substitute—
 “(2) For the purposes of corporation tax, subsection (1) does not apply to any securities acquired by a company before 1 April 1982.
 (2A) See also sections 105 to 105B and—
 (a) section 106A in the case of capital gains tax, or
 (b) sections 107 to 114 in the case of corporation tax.”
 (3) In subsection (3), omit “, 110A”.
 (4) After that subsection insert—
 “(3A) For the purposes of capital gains tax section 35(2) applies in relation to a section 104 holding as if the reference to an asset were to any of the securities

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

constituting or forming part of the section 104 holding which were held by the person making the disposal on 31 March 1982.”

(5) In subsection (5), omit “, 110A”.

86 In section 105 (disposal on or before day of acquisition), after subsection (2) insert—

“(3) None of the securities which, by virtue of this section, are identified with other securities shall be regarded as forming part of an existing section 104 holding or as constituting a section 104 holding.”

87 (1) Section 106A (identification of securities: general rules for capital gains tax) is amended as follows.

(2) After subsection (5) insert—

“(5ZA) None of the securities which, by virtue of subsection (5) above, are identified with other securities shall be regarded as forming part of an existing section 104 holding or as constituting a section 104 holding.”

(3) In subsection (6), before “securities” (in each place) insert “ relevant ”.

(4) Omit subsection (7).

(5) Omit subsection (8).

(6) For subsection (10) substitute—

“(10) In this section—

“securities” means any securities within the meaning of section 104 or any relevant securities, and

“relevant securities” means—

- (a) securities within the meaning of Chapter 2 of Part 12 of ITA 2007 (accrued income profits),
- (b) qualifying corporate bonds, and
- (c) securities which are, or have at any time been, material interests in a non-qualifying offshore fund, within the meaning of Chapter 5 of Part 17 of the Taxes Act.”

(7) In the heading, omit “**general rules for**”.

88 In the heading of section 107 (identification of securities etc: general rules), insert at the end “ **for corporation tax** ”.

89 In the heading of section 108 (identification of relevant securities), insert at the end “ **for corporation tax** ”.

90 (1) Section 109 (pre-April 1982 share pools) is amended as follows.

(2) In subsection (1), for “This” substitute “ For the purposes of corporation tax, this ”.

(3) In the heading, for “**Pre-April**” substitute “ **Corporation tax: pre-April** ”.

91 For the heading of section 110 substitute “ **Indexation for section 104 holdings for corporation tax** ”.

92 Omit section 110A (indexation for section 104 holdings: CGT).

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 93 In the heading of section 112 (parallel pooling regulations), insert at the end “ : **corporation tax** ”.
- 94 (1) Section 113 (calls on shares) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) This section has effect for the purposes of corporation tax.”
- (3) In the heading, insert at the end “ : **corporation tax** ”.
- 95 (1) Section 114 (consideration for options) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) This section has effect for the purposes of corporation tax.”
- (3) In the heading, insert at the end “ : **corporation tax** ”.
- 96 In FA 1998, omit—
- (a) section 123(1) and (2), and
- (b) section 125(2) and (3).
- 97 Chapter 6 of Part 4 of ITA 2007 (losses on disposals of shares) is amended as follows.
- 98 (1) Section 147 (limits on share loss relief) is amended as follows.
- (2) In subsection (1)(b)—
- (a) in sub-paragraph (i), omit “or a 1982 holding” and “or” at the end, and
- (b) for sub-paragraph (ii) substitute—
- “(ii) at a time earlier than the time of the disposal but after 5 April 2008 formed part of a section 104 holding, or
- (iii) at a time earlier than that time and than 6 April 2008 formed part of an old section 104 holding or a 1982 holding, and”.
- (3) In subsection (7)—
- (a) in the definition of “section 104 holding”, after “1992” insert “ and “old section 104 holding” is a holding that was a section 104 holding within the meaning of that provision as it applied in relation to disposals before 6 April 2008 ”, and
- (b) in the definition of “1982 holding”, insert at the end “ as it applied in relation to disposals before 6 April 2008 ”.
- 99 (1) Section 148 (disposal of shares forming part of mixed holding) is amended as follows.
- (2) In subsection (3)(a)(ii), omit “or a 1982 holding”.
- (3) In subsection (5), omit “or 1982”.
- (4) In subsection (9), for “and “1982 holding” have” substitute “ has ”.
- 100 The amendments made by paragraphs 84 to 99 have effect in relation to disposals on or after 6 April 2008.

Status: Point in time view as at 24/05/2024.

Changes to legislation: Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Meaning of “tax year”

- 101 (1) Section 288 of TCGA 1992 (interpretation) is amended as follows.
- (2) In subsection (1), for the definition of “year of assessment” substitute—
- ““year of assessment” means tax year;”.
- (3) After that subsection insert—
- “(1ZA) In this Act and other enactments relating to capital gains tax “tax year” means a year beginning on 6 April and ending on the following 5 April; and “the tax year 2008-09” means the tax year beginning on 6 April 2008 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way).”
- 102 In consequence of the amendments made by paragraph 101, omit—
- (a) the definition of “tax year” in section 41(1) of FA 2005, and
 - (b) paragraph 342(2)(i) of Schedule 1 to ITA 2007.

Status:

Point in time view as at 24/05/2024.

Changes to legislation:

Finance Act 2008, SCHEDULE 2 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.