
Changes to legislation: Finance Act 2014, Paragraph 29 is up to date with all changes known to be in force on or before 12 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 17

PARTNERSHIPS

PART 4

DISPOSALS OF ASSETS THROUGH PARTNERSHIPS

Corporation tax

29 (1) After Chapter 3 insert—

“CHAPTER 4

DISPOSALS OF ASSETS THROUGH PARTNERSHIPS

Application of Chapter

779A(1) This Chapter applies if conditions A and B are met.

- (2) Condition A is that directly or indirectly in consequence of, or otherwise in connection with, arrangements involving a company within the charge to corporation tax (“the transferor”) and another person (“the transferee”)—
- (a) there is, or is in substance, a disposal of an asset (“the transferred asset”) by the transferor to the transferee,
 - (b) the disposal is effected (wholly or partly) by or through a partnership (“the relevant partnership”),
 - (c) at any time—
 - (i) the transferor is a member of the relevant partnership or of a partnership associated with the relevant partnership, and
 - (ii) the transferee is a member of the relevant partnership or of a partnership associated with the relevant partnership, and
 - (d) the main purpose, or one of the main purposes, of one or more steps taken in effecting the disposal is the obtaining of a tax advantage for any person.
- (3) In subsection (2)(a) the reference to a disposal of an asset includes anything constituting a disposal of an asset for the purposes of TCGA 1992.
- (4) For the purposes of subsection (2)(b) the disposal might, in particular, be effected by an acquisition or disposal of, or an increase or decrease in, an interest in the relevant partnership (including a share of the profits or assets of the relevant partnership or an interest in such a share).

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- (5) For the purposes of subsection (2)(c) it does not matter if the transferor and the transferee are not members of a partnership as mentioned at the same time.
- (6) For the purposes of subsection (2)(c) a partnership is “associated” with the relevant partnership if—
- (a) it is a member of the relevant partnership, or
 - (b) it is a member of a partnership which is associated with the relevant partnership (whether by virtue of paragraph (a) or this paragraph).
- (7) In subsections (2)(c) and (5) references to the transferor include a person connected with the transferor and references to the transferee include a person connected with the transferee.
- (8) Condition B is that it is reasonable to assume that, had the transferred asset instead been disposed of directly by the transferor to the transferee, the relevant amount (or any part of it)—
- (a) would have been chargeable to corporation tax as income of the transferor, or
 - (b) would have been brought into account as income in calculating profits of the transferor for corporation tax purposes.
- (9) In this Chapter “the relevant amount” means the amount of the consideration received by the transferor for the disposal.
- (10) If the transferor receives—
- (a) no consideration for the disposal, or
 - (b) consideration which is substantially less than the market value of the transferred asset,
- assume for the purposes of subsection (9) that the transferor receives consideration of an amount equal to the market value of the transferred asset.
- (11) In subsection (10) references to the market value of the transferred asset are to that value at the time of the disposal.
- (12) In this Chapter—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
- “partnership” includes a limited liability partnership whether or not section 1273(1) of CTA 2009 applies in relation to it, and
- “tax advantage” means a tax advantage, as defined in section 1139, in relation to income tax or the charge to corporation tax on income.

Relevant amount to be treated as income

- 779B) The relevant amount is to be treated as income of the transferor chargeable to corporation tax in the same way and to the same extent as that in which it—
- (a) would have been chargeable to corporation tax as income of the transferor, or

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- (b) would have been brought into account as income in calculating profits of the transferor for corporation tax purposes, as mentioned in section 779A(8).
- (2) Section 753(3) and (4) applies for the purpose of determining when income under subsection (1) is treated as arising (reading references to the transfer of the right as references to the disposal of the transferred asset).
- (3) If, apart from this subsection and section 757B(4)—
 - (a) both this Chapter and Chapter 1A would apply in relation to the disposal, and
 - (b) Chapter 1A would give the same amount, or a greater amount, of income of the transferor chargeable to corporation tax, this Chapter is not to apply in relation to the disposal.”
- (2) The amendment made by this paragraph has effect for cases where the arrangements mentioned in section 779A(2) of CTA 2010 are made on or after 1 April 2014.

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

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

- Sch. 31 para. 2(3)(b) inserted by 2017 c. 32 Sch. 14 para. 45(2)(a)(iii)
- Sch. 31 para. 2(4A) inserted by 2017 c. 32 Sch. 14 para. 45(2)(c)
- Sch. 31 para. 3(1A) inserted by 2017 c. 32 Sch. 14 para. 45(3)(b)
- Sch. 31 para. 5(b) inserted by 2017 c. 32 Sch. 14 para. 45(4)(c)
- Sch. 31 para. 2(3)(a) words inserted by 2017 c. 32 Sch. 14 para. 45(2)(a)(ii)
- Sch. 31 para. 5(a) words inserted by 2017 c. 32 Sch. 14 para. 45(4)(b)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by 2017 c. 32 Sch. 14 para. 45(2)(a)(i)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by 2017 c. 32 Sch. 14 para. 45(4)(a)
- Sch. 32 para. 1(2)(b) inserted by 2017 c. 32 Sch. 14 para. 46(2)(a)(iii)
- Sch. 32 para. 1(3A) inserted by 2017 c. 32 Sch. 14 para. 46(2)(c)
- Sch. 32 para. 1(2)(a) words inserted by 2017 c. 32 Sch. 14 para. 46(2)(a)(ii)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by 2017 c. 32 Sch. 14 para. 46(2)(a)(i)