

SCHEDULES

SCHEDULE 7

DISPOSALS OF UK RESIDENTIAL PROPERTY INTERESTS BY NON-RESIDENTS ETC

PART 2

OTHER AMENDMENTS

47 After section 29 insert—

“29A Non-resident CGT disposals: determination of amount which should have been assessed

- (1) Subsection (2) applies if HMRC discover, as regards a non-resident CGT disposal made by a person (“P”) (or two or more such disposals in a case falling within section 12ZC) and a tax year (“the relevant tax year”) that—
 - (a) an amount that ought to have been assessed as the amount notionally chargeable in an advance self-assessment under section 12ZE(1) has not been so assessed by the filing date, or
 - (b) an assessment of the amount notionally chargeable for the purposes of section 12ZF(1) contained in an NRCGT return made and delivered by P has become insufficient.
- (2) HMRC may determine that the amount or further amount which in its opinion ought to be assessed under section 12ZE to remedy the failure mentioned in subsection (1)(a) or the insufficiency mentioned in subsection (1)(b) is to be treated for the purposes of this Act as if it were so assessed in—
 - (a) an NRCGT return made by P in respect of the disposal, or
 - (b) (if P has made and delivered an NRCGT return in respect of the disposal) that return.

But see subsections (3) to (5).

- (3) Where P has made and delivered in respect of the disposal an NRCGT return containing an advance self-assessment, HMRC may not make a determination under subsection (2) in respect of the disposal unless one of the two conditions mentioned below is met.
- (4) The first condition is that the situation mentioned in subsection (1) was brought about carelessly or deliberately by P or a person acting on P’s behalf.
- (5) The second condition is that at the time when an officer of Revenue and Customs—
 - (a) ceased to be entitled to give notice of the officer’s intention to enquire into the NRCGT return, or

Status: This is the original version (as it was originally enacted).

- (b) informed P of the completion of the officer’s enquiries into the return,
the officer could not reasonably have been expected, on the basis of the information made available to the officer before that time, to be aware of the situation mentioned in subsection (1).
- (6) For the purposes of subsection (5), information is made available to an officer of Revenue and Customs if—
- (a) it is contained in an NRCGT return made and delivered by P which relates to the relevant tax year or either or the two immediately preceding tax years,
 - (b) it is contained in any return under section 8 or 8A made and delivered by P in respect of either of the two tax years immediately preceding the relevant tax year,
 - (c) it is contained in any claim made by P which relates to P’s capital gains tax position with respect to the relevant tax year or either of the two immediately preceding tax years,
 - (d) it is contained in any accounts, statements or documents accompanying a return falling within paragraph (a) or (b) or a claim falling within paragraph (c),
 - (e) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries by an officer of Revenue and Customs into a return falling within paragraph (a) or (b) or a claim falling within paragraph (c) are produced or provided by P to the officer, or
 - (f) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1)—
 - (i) could be reasonably expected to be inferred by an officer of Revenue and Customs from information falling within paragraphs (a) to (e), or
 - (ii) are notified in writing by the taxpayer to an officer of Revenue and Customs.
- (7) In subsection (6)—
- (a) any reference to a return made and delivered by P under section 8 in respect of a tax year includes, if P carries on a trade, profession or business in partnership, a reference to any partnership return with respect to the partnership for that tax year, and
 - (b) any reference to P includes a person acting on P’s behalf.
- (8) An objection to the making of a determination under subsection (2) on the ground that neither of the two conditions mentioned above is fulfilled may not be made otherwise than on an appeal against the assessment.
- (9) In this section—
- “advance self-assessment” has the meaning given by section 12ZE(1);
 - “amount notionally chargeable” is to be interpreted in accordance with section 12ZF(1);
 - “filing date”, in relation to an NRCGT return, has the meaning given by section 12ZB(8).

(10) For the meaning in this section of “non-resident CGT disposal” see section 14B of the 1992 Act.”