



# Finance Act 2022

## 2022 CHAPTER 3

### PART 2

#### RESIDENTIAL PROPERTY DEVELOPER TAX

##### *Introduction*

### **32 Introduction**

This Part provides for a tax (to be known as “residential property developer tax” or “RPDT”) to be charged on residential property developer profits of a residential property developer arising in an accounting period.

##### *Charge to tax*

### **33 Charge to RPDT**

- (1) A sum equal to 4% of the residential property developer profits for an accounting period of a residential property developer, so far as exceeding the developer’s allowance for the period, is to be charged on the developer as if it were an amount of corporation tax chargeable on it.
- (2) The allowance for the period is to be determined in accordance with section 43.
- (3) In accordance with section 45, the charging of RPDT as if it were an amount of corporation tax is to be taken as applying all enactments applying generally to corporation tax.

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### *Key concepts*

#### **34 Meaning of “residential property developer”**

- (1) A company is a residential property developer (“RP developer”) for the purposes of this Part if—
  - (a) the company carries on residential property development activities, or
  - (b) the company, or the company together with any other company which is a member of the same group as it, has or have a substantial interest in a relevant joint venture company.
- (2) See section 40 for the meaning of “relevant joint venture company” and the meaning of “substantial interest” in a relevant joint venture company.
- (3) A non-profit housing company is not an RP developer.
- (4) A company is a “non-profit housing company” for the purposes of this Part if it is—
  - (a) a non-profit registered provider of social housing;
  - (b) a registered social landlord under Part 1 of the Housing Act 1996 (registered social landlords in Wales);
  - (c) a registered social landlord under Part 2 of the Housing (Scotland) Act 2010 ([asp 17](#));
  - (d) a registered housing association under Chapter 2 of Part 2 of the Housing (Northern Ireland) Order 1992 ([S.I. 1992/1725 \(N.I.\)](#));
  - (e) a wholly owned subsidiary of a company within paragraphs (a) to (d).
- (5) The Treasury may by regulations make provision amending the definition of a non-profit housing company; and the regulations may make consequential provision amending this Part.

#### **35 Meaning of “residential property development activities”**

- (1) Activities are residential property development activities (“RPD activities”) for the purposes of this Part if they are carried on by a company—
  - (a) on, or in connection with, land in the United Kingdom in which the company has, or, where subsection (3) applies, had, an interest, and
  - (b) for the purposes of, or in connection with, the development of residential property.
- (2) For the purposes of this Part activities that are carried on for the purposes of, or in connection with, the development of residential property include—
  - (a) dealing in residential property;
  - (b) designing it;
  - (c) seeking planning permission in relation to it;
  - (d) constructing or adapting it;
  - (e) marketing it;
  - (f) managing it;
  - (g) any activities ancillary to any of these other activities.
- (3) This subsection applies where—

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- (a) a company carries on activities within subsection (2)(b), (c) or (d), or within subsection (2)(g) so far as relating to those activities, in relation to land after ceasing to have an interest in the land,
- (b) the activities were planned or anticipated at the time the company ceased to have the interest in the land, and
- (c) the activities are not carried on solely in connection with areas of the land that do not constitute residential property.

### **36 Residential property development activities: “interest in land”**

- (1) A company has an interest in land for the purposes of this Part if—
  - (a) the company or a related company has—
    - (i) an estate, interest, right or power in or over the land, or
    - (ii) the benefit of an obligation, restriction or condition affecting the value of an estate, interest, right or power in or over the land, other than an excluded interest, and
  - (b) that estate, interest, right or power forms part of the company’s, or the related company’s, trading stock of a trade which includes the carrying on of activities for the purposes of, or in connection with, the development of residential property.
- (2) The following interests are “excluded interests”—
  - (a) any interest or right held for securing the payment of money or the performance of any other obligation, and
  - (b) a licence to use or occupy land.
- (3) But where a company (C) has an interest within subsection (2)(b), that interest is not an excluded interest if it is granted as a result of arrangements to which C or a related company is party and under which an estate in the land in question is to be conveyed by another party to the arrangements at the direction or request of C or a related company to any of—
  - (a) a person who is not party to the arrangements,
  - (b) C, or
  - (c) a company related to C.
- (4) For the purposes of subsection (3)—
  - (a) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
  - (b) a conveyance by a person as nominee or bare trustee is to be treated as also being a conveyance by the person or persons for whom they are the nominee or trustee.
- (5) For the purposes of this section, a company (A) is related to another company (B) if—
  - (a) A is a member of a group of which B is a member;
  - (b) A is a relevant joint venture company and B, or B together with any other company which is a member of a group of which B is a member, has or have a substantial interest in A.
- (6) In this section “trading stock”, in relation to a trade, means an estate, interest, right or power in or over land—
  - (a) which is disposed of in the ordinary course of the trade, or

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- (b) which would be so disposed of on the completion of activities that are carried on for the purposes of, or in connection with, the development of residential property.
- (7) For the purposes of subsection (6), a licence falling within subsection (3) to use or occupy land is to be treated as being disposed of when an estate in the land is, or would be, conveyed under the arrangements as a result of which the licence is granted.
- (8) In this section, references to a disposal have the same meaning as in TCGA 1992 (see section 21 of that Act (assets and disposals)).
- (9) If a relevant joint venture company is related to a company and is a member of a group, the relevant joint venture company is treated for the purposes of this section—
  - (a) as having any asset which any other member of the group has, and
  - (b) as if anything done by or in relation to any other member of the group were done by or in relation to it.

### **37 Residential property development activities: “residential property”**

- (1) For the purposes of this Part “residential property” means—
  - (a) a building or part of a building that is designed or adapted, or is in the process of being constructed or adapted, for use as a dwelling,
  - (b) land that is or forms part of the garden or grounds of a building or part within paragraph (a) (including any building or structure on such land),
  - (c) an interest in or right over land that subsists for the benefit of a building or part within paragraph (a) or of land within paragraph (b), or
  - (d) land in respect of which planning permission is being sought or has been granted so that it, or a building or part of a building on, interest in or right over it, will fall within any of paragraphs (a) to (c).
- (2) A building is not within subsection (1)(a) if it is designed or adapted, or in the process of being constructed or adapted, for use primarily as—
  - (a) a home or other institution providing residential accommodation for children;
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care because of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (c) residential accommodation for members of the armed forces;
  - (d) residential accommodation for members of the emergency services or persons working in a hospital;
  - (e) a hospital or hospice;
  - (f) temporary sheltered accommodation;
  - (g) a prison or similar establishment;
  - (h) a hotel or inn or similar establishment;
  - (i) a monastery, nunnery or similar establishment;
  - (j) student accommodation.
- (3) For the purposes of subsection (2)(j) use primarily as “student accommodation” means use by persons who will occupy the building wholly or mainly for undertaking a course of education (including school pupils) where it is reasonable to expect that the building will be occupied by such persons on at least 165 days a year.

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### **38 Meaning of “residential property developer profits or losses”**

An RP developer’s residential property developer profits or losses (“RPD profits” or “RPD losses”) for an accounting period are calculated as follows (with a positive figure being RPD profits and a negative figure being RPD losses)—

$$A + B - C - D - E$$

where—

“A” is the amount of the RP developer’s adjusted trading profits, or as the case may be, adjusted trading losses (expressed as a negative figure) for the accounting period (see section 39);

“B” is the amount of any joint venture profits, or as the case may be, losses (expressed as a negative figure) that are attributable to the RP developer for the accounting period (see section 40);

“C” is the amount of allowable RPDT loss relief which the RP developer is given for the accounting period (see Part 1 of Schedule 7);

“D” is the amount of allowable RPDT group relief claimed by the RP developer for the accounting period (see Part 2 of Schedule 7);

“E” is the amount of allowable RPDT group relief for carried-forward losses claimed by the RP developer for the accounting period (see Part 3 of Schedule 7).

#### *Profits and losses*

### **39 Adjusted trading profits and losses**

- (1) For the purposes of this Part “adjusted trading profits” and “adjusted trading losses” mean the amounts that would be the RP developer’s trading profits or trading losses (as the case may be) for corporation tax purposes for an accounting period if the matters mentioned in subsection (2) were ignored.
- (2) The matters referred to in subsection (1) are—
  - (a) so far as they are derived from or related to activities other than RPD activities—
    - (i) profits and losses, and
    - (ii) allowances or charges under CAA 2001;
  - (b) profits of a charitable trade carried on by a charitable company (within the meanings of Part 11 of CTA 2010) so far as they are applied to the purposes of the charitable company only;
  - (c) any amounts of loss relief, group relief or group relief for carried forward losses under Parts 4 to 5A of CTA 2010 that would otherwise be available to the RP developer;
  - (d) any credits or debits that would otherwise be brought into account in relation to loan relationships as a result of Part 5 of CTA 2009;
  - (e) any credits or debits that would otherwise be brought into account in accordance with Part 7 of CTA 2009 (derivative contracts).
- (3) For the purposes of subsection (2)(a) an RP developer may apportion profits and losses, or amounts of allowances or charges, derived from or related to RPD activities and other activities on a just and reasonable basis.

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#### **40 Attributable joint venture profits and losses**

- (1) For the purposes of section 38, the amount of any joint venture profits or losses attributable to an RP developer for an accounting period is determined in accordance with this section and—
- (a) joint venture profits means the RPD profits of a relevant joint venture company so far as they fall below the joint venture company’s allowance for that period (and, accordingly, the joint venture company is not charged to the tax in respect of them), and
  - (b) joint venture losses means the RPD losses of a relevant joint venture company.
- (2) A company (“C”) is a relevant joint venture company for the purposes of this Part if—
- (a) C is an RP developer or a company which is a member of the same group as C is an RP developer,
  - (b) C is not a 75% subsidiary of another company, and
  - (c) there are five or fewer persons who between them—
    - (i) hold 75% or more of C’s ordinary share capital, or
    - (ii) in a case where C does not have ordinary share capital, are beneficially entitled to 75% or more of C’s profits available for distribution to equity holders of C.
- (3) In determining whether there are five or fewer such persons as are mentioned in subsection (2)(c), members of a group are treated as if they were a single person.
- (4) Joint venture profits or losses are attributable to an RP developer if the RP developer, or the RP developer together with any other company which is member of the same group as the RP developer, has or have a substantial interest in the relevant joint venture company; but, in relation to the attribution of joint venture losses, this is subject to subsection (5).
- (5) Joint venture losses are attributable to an RP developer only if the RP developer and the relevant joint venture company both so elect by notice to an officer of Revenue and Customs no later than the end of the period of 2 years beginning with the last day of the accounting period of the RP developer for which the losses are to be attributed.
- Any payment made in consequence of the election is (so far as not exceeding the amount attributed) not to be taken into account in determining the profits or losses of either company under section 39 (adjusted trading profits and losses).
- (6) The amount that is attributable to the RP developer is an amount equal to the percentage of the joint venture company’s profits that are available for distribution to equity holders and to which the RP developer is entitled.
- (7) If a relevant joint venture company’s accounting period does not coincide with the RP developer’s accounting period—
- (a) for the purposes of subsection (1)(a), the joint venture company’s allowance for a period, and
  - (b) the amount of joint venture profits or losses allocated to the RP developer under subsection (6),
- are to be apportioned on a time basis according to the lengths of the periods falling in different accounting periods of the RP developer.

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- (8) Where a relevant joint venture company is a member of a group, the references in subsection (1) to the RPD profits or losses of the relevant joint venture company are to the net amounts of RPD profits or losses of the members of the group.
- (9) For the purposes of subsection (8), if the accounting period of a member of the group does not coincide with the relevant joint venture company's accounting period, the net amount of its RPD profits or losses is to be apportioned on a time basis according to the lengths of the periods falling in different accounting periods of the relevant joint venture company.
- (10) Subsection (11) applies where joint venture company losses of a relevant joint venture company are attributed to an RP developer under this section.
- (11) For the purposes of this Part—
- (a) the amount that is available to be carried forward or surrendered by the relevant joint venture company under Schedule 7 is reduced by the amount that is attributed to the RP developer;
  - (b) the amount that is available to be carried forward or surrendered by any other member of the same group under Schedule 7 is reduced by so much of the amount within paragraph (a) as is derived from the losses of that member.
- (12) For the purposes of this Part a company or companies has or have “a substantial interest” in a relevant joint venture company (“the JV”) if—
- (a) the company or companies hold at least 10% of the ordinary share capital of the JV, or
  - (b) in a case where the JV does not have ordinary share capital, the company or companies are beneficially entitled to at least 10% of the profits of the JV that are available for distribution to equity holders of the JV.

#### **41 RPDT reliefs**

In Schedule 7—

- (a) Part 1 makes provision about RPDT loss relief for adjusted trading losses;
- (b) Part 2 makes provision about RPDT group relief for adjusted trading losses;
- (c) Part 3 makes provision about RPDT group relief for carried-forward adjusted trading losses;
- (d) Part 4 makes supplementary provision in connection with Parts 2 and 3.

#### **42 Restrictions on RPDT reliefs**

- (1) For the purposes of section 38, the amount that may be deducted in respect of C and E for an accounting period may not exceed the relevant maximum.
- (2) In a case where the calculation of A+B in section 38 gives an amount in respect of the RP developer that is less than or equal to the RP developer's allowance, the relevant maximum is the amount that would reduce that amount to £0.
- (3) In a case where the calculation of A+B in section 38 gives an amount in respect of the RP developer that is greater than the RP developer's allowance for the accounting period, the relevant maximum is calculated as follows—

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$$\frac{(A + B - Z)}{2} - D$$

where—

“A”, “B” and “D” have the same meanings as in section 38;

“Z” is the RP developer’s allowance for the accounting period.

(If the formula gives a negative amount, the relevant maximum is £0.)

- (4) Subsection (5) applies where the effect of subsection (3) is to reduce the amount that would otherwise have been available to be deducted in respect of C and E in relation to an accounting period (“the total amount”).
- (5) For the purposes of this Part the amount that is available to be carried forward under Schedule 7 is—
- (a) where the total amount is greater than the RP developer’s allowance for the accounting period, an amount equal to the total amount minus that allowance, or
  - (b) where the total amount is less than or equal to the RP developer’s allowance for the accounting period, £0.

### *Allowance*

## 43 Allowance

- (1) A company within the charge to corporation tax—
- (a) is the allocating member of a group (“group G”) in respect of the allowance for an accounting period (“period A”) if it has been nominated to be the allocating member in accordance with regulations made under subsection (8), and
  - (b) if the company is an RP developer, may allocate some or all of the allowance for that period to itself.
- (2) The allowance for period A to be allocated to members of group G is—
- (a) where that period is 12 months, £25,000,000, and
  - (b) where that period is less than 12 months, £25,000,000 reduced by a pro rata amount.
- (3) Where—
- (a) an RP developer is a member of group G for an accounting period (“period B”),
  - (b) period B ends at the same time as, or during, period A, and
  - (c) the RP developer is a member of group G at the end of period A,
- its allowance for period B is such amount (if any) as the allocating member of group G may allocate to it out of the allocating member’s allowance in respect of period A and as has not been allocated to another RP developer which is a member of group G.
- (4) Where—
- (a) an RP developer is a member of a group at any time in an accounting period, and
  - (b) an allocating member of the group has not been nominated for that period,
- the RP developer’s allowance for that period is the amount determined in accordance with subsection (5).



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- (5) The amount is—
- (a) where the accounting period is 12 months, £25,000,000 divided by the number of companies within the charge to corporation tax that are members of the group at the end of the accounting period of the ultimate parent of the group in which the end of the accounting period of the RP developer falls, and
  - (b) where the accounting period is less than 12 months, the sum determined under paragraph (a) reduced by a pro-rata amount.
- (6) In any case not falling within the preceding subsections, an RP developer’s allowance for an accounting period is—
- (a) where the accounting period is 12 months, £25,000,000, and
  - (b) where the accounting period is less than 12 months, £25,000,000 reduced by a pro-rata amount.
- (7) A member of group G is entitled to an allowance in respect of period B only if—
- (a) an allowance allocation statement has been submitted on behalf of the group in accordance with regulations under subsection (8), and
  - (b) the allowance in question is for the amount allocated to it in that statement.
- (8) HMRC Commissioners may by regulations make provision for and about—
- (a) the nomination of a company in a group to be the allocating member of the group;
  - (b) changing the allocating member of a group;
  - (c) the submission by the allocating member to HMRC of an allowance allocation statement specifying how much of its allowance in respect of period A it has allocated to a member of the group in respect of period B.
- (9) Regulations under subsection (8) may, among other things, make provision about—
- (a) the contents of an allowance allocation statement;
  - (b) when an allowance allocation statement is to be submitted;
  - (c) when and how an allowance allocation statement may or must be amended on behalf of a group;
  - (d) when and how an allowance allocation statement may be amended by an officer of Revenue and Customs;
  - (e) the amendment of company tax returns in consequence of an allowance allocation statement or any amendment to such a statement (including provision altering time limits that would otherwise apply);
  - (f) the consequences for any RP developer that is a member of a group of the group not having an allocating member.
- (10) This section is subject to section 44.

#### **44 Allowance: joint venture companies**

- (1) This section applies for the purposes of calculating the allowance of a relevant joint venture company for an accounting period where an excluded body (“B”) has a substantial interest in the relevant joint venture company.
- (2) The relevant joint venture company’s allowance for an accounting period that is the same as or overlaps with a specific financial year (“year X”) is—

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- (a) the amount that would otherwise have been the relevant joint venture company's allowance for that accounting period in accordance with section 43(6), reduced by the relevant percentage, or
  - (b) where B allocates an allowable amount to the relevant joint venture company out of B's notional allowance for year X, the sum of that amount and the amount calculated in accordance with paragraph (a).
- (3) For the purposes of subsection (2)—
- (a) the relevant percentage is the percentage of the relevant joint venture company's profits that are available for distribution to equity holders and to which B is entitled;
  - (b) B's notional allowance for year X is £25,000,000;
  - (c) an amount is allowable if it does not exceed—

$$\frac{A}{365} \times P$$

where—

“A” is the number of days in the relevant joint venture company's accounting period that fall within year X;

“P” is an amount equal to the relevant percentage of B's notional allowance.

- (4) The relevant joint venture company's allowance is determined in accordance with subsection (2)(b) only if—
- (a) B has submitted a notional allowance statement in respect of the relevant joint venture company in accordance with regulations under subsection (5), and
  - (b) the allowance in question is for an amount calculated in accordance with subsection (2)(b), on the basis of that notional allowance statement.
- (5) HMRC Commissioners may by regulations make provision for and about—
- (a) the disapplication of any provision of this section in circumstances set out in the regulations;
  - (b) the submission by B to HMRC of a notional allowance statement specifying how much of its notional allowance in respect of year X it has allocated to a relevant joint venture company in respect of any of the company's accounting periods that end during or at the same time as year X.
- (6) Regulations made in reliance on subsection (5)(b) may, among other things, make provision about—
- (a) the contents of a notional allowance statement;
  - (b) when a notional allowance statement is to be submitted;
  - (c) when and how the notional allowance statement may or must be amended by B;
  - (d) the nomination by B of any other member of a group of which it is a member to carry out obligations imposed by or under this section on B;
  - (e) when and how a notional allowance statement may be amended by an officer of Revenue and Customs;
  - (f) the amendment of company tax returns in consequence of a notional allowance statement or any amendment to such a statement (including provision altering time limits that would otherwise apply).

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- (7) Where B is a member of a group, the references to “B” in the following provisions are to be read as references to the ultimate parent of the group—
- (a) subsection (2)(b);
  - (b) subsection (3)(b);
  - (c) the definition of “P” in subsection (3)(c);
  - (d) subsection (4)(a).
- (8) The power to make regulations under subsection (5) is exercisable in relation to the ultimate parent of a group of which B is a member as it is exercisable in relation to B.
- (9) In this section an “excluded body” means a company that is not liable to RPDT otherwise than as a result of being a non-profit housing company.

*Application of corporation tax provisions, management etc*

#### **45 Application of corporation tax provisions and management of RPDT**

- (1) The provisions of section 33(1) relating to the charging of a sum as if it were an amount of corporation tax is to be taken as applying all enactments applying generally to corporation tax.
- (2) But this is subject to—
- (a) the provisions of the Corporation Tax Acts,
  - (b) any necessary modifications, and
  - (c) subsection (5).
- (3) The enactments mentioned in subsection (1) include—
- (a) those relating to returns of information and the supply of accounts, statements and reports,
  - (b) those relating to the assessing, collecting and receiving of corporation tax,
  - (c) those conferring or regulating a right of appeal, and
  - (d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (4) Accordingly, TMA 1970 is to have effect as if any reference to corporation tax included a sum chargeable under section 33(1) as if it were an amount of corporation tax (but this does not limit subsections (1) to (3)).
- (5) In the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999 (SI 1999/358) or any further regulations made under section 32 of FA 1998 (unrelieved surplus advance corporation tax)—
- (a) references to corporation tax do not include a sum chargeable on a company under section 33(1) as if it were corporation tax, and
  - (b) references to profits charged to corporation tax do not include RPD profits.
- (6) Schedule 8 makes further provision about the management of RPDT.

#### **46 Requirement to provide information about payments**

- (1) This section applies if—

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- (a) a sum is chargeable on an RP developer under section 33, for an accounting period as if it were an amount of corporation tax, and
  - (b) a payment is made (whether or not by the RP developer) that is wholly or partly in respect of that sum.
- (2) The responsible company must give notice to an officer of Revenue and Customs, on or before the date the payment is made, of the amount of the payment that is in respect of that sum.
- (3) The “responsible company” is—
- (a) in a case where the RP developer is party to relevant group payment arrangements, the company that is, under those arrangements, to discharge the liability of the RP developer to pay RPDT for the accounting period;
  - (b) in any other case, the RP developer.
- (4) “Relevant group payment arrangements” means arrangements under section 59F(1) of TMA 1970 (arrangements for paying corporation tax on behalf of group members) that relate to the accounting period.
- (5) The requirement in subsection (2) is to be treated, for the purposes of Part 7 of Schedule 36 to FA 2008 (information and inspection powers: penalties), as a requirement in an information notice.
- (6) This section is subject to any provision to the contrary in regulations under section 59E of TMA 1970 (further provision as to when corporation tax is due and payable).

#### **47 Non-profit housing companies: exit charge**

- (1) This section applies where—
- (a) a company (“A”) ceases to be a non-profit housing company by virtue of any of paragraphs (a) to (d) of section 34(4), and
  - (b) not all of the assets of the company have been distributed to another non-profit housing company or companies before the end of the relevant period.
- (2) For the purposes of subsection (1) the relevant period is the period beginning with the day on which A ceases to be a non-profit housing company and ending on—
- (a) the first anniversary of the last day of the accounting period in which A ceased to be a non-profit housing company, or
  - (b) such later day as an officer of Revenue and Customs may allow.
- (3) This section also applies where—
- (a) a non-profit housing company (“A”) ceases to be a non-profit housing company by virtue of section 34(4)(e) when it ceases to be a wholly owned subsidiary of another non-profit housing company (“B”), and
  - (b) an interest in A is acquired by a company that—
    - (i) controls, or is under the same control as, B, and
    - (ii) is not a non-profit housing company.
- (4) For the purposes of RPDT—
- (a) A is not to be treated as a non-profit housing company for the accounting period (“the exit period”) in which it ceased to be a non-profit housing company or a wholly owned subsidiary of another non-profit housing company,

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- (b) A's RPD profits for the exit period are the total of what would have been A's, and (subject to subsection (5)(b)) any of A's wholly owned subsidiaries', chargeable amounts for accounting periods ending in the period ("the exit charge period")—
    - (i) beginning with the day ("the starting day") four years before the day on which A ceased to be a non-profit housing company or a wholly owned subsidiary of another non-profit housing company, and
    - (ii) ending with the last day of the exit period,if, throughout the exit charge period, A had not been a non-profit housing company, and
  - (c) A's allowance in respect of the exit period is £0.
- (5) For the purposes of subsection (4)(b)—
- (a) "chargeable amount" means the amount of RPD profits in excess of what would have been A's, or A's wholly owned subsidiaries', allowance, but
  - (b) RPD profits of any of A's wholly owned subsidiaries ("subsidiary profits") are not to be taken into account for the purposes of calculating A's chargeable amount so far as those subsidiary profits are separately charged to RPD as a result of this section applying by virtue of subsection (3).
- (6) Where A, or any of A's wholly owned subsidiaries, has an accounting period beginning before the starting day and ending on or after that date ("the straddling period"), the following subsections apply for the purposes of subsection (4)(b).
- (7) For the purposes of determining what would have been A's, or A's wholly owned subsidiaries', RPD profits for the straddling period and, if so, in what amount—
- (a) so much of the straddling period as falls before the starting day, and
  - (b) so much of that period as falls on or after that date,
- are to be treated as separate accounting periods.
- (8) If it is necessary to apportion an amount for the straddling period to the two separate accounting periods, see section 1172 of CTA 2010 (which applies as a result of section 45).

### *Miscellaneous*

## **48 Groups**

- (1) In this Part, other than in Schedule 7, "group" means two or more companies which together meet the following condition.
- (2) The condition is that one of the companies is—
  - (a) the ultimate parent of each of the other companies, and
  - (b) is not the ultimate parent of any other company.
- (3) A company ("A") is the "ultimate parent" of another company ("B") if—
  - (a) A is the parent of B, and
  - (b) no company is the parent of both A and B.
- (4) A company ("A") is the "parent" of another company ("B") if—
  - (a) B is a 75% subsidiary of A,

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- (b) A is beneficially entitled to at least 75% of any profits available for distribution to equity holders of B, or
- (c) A would be beneficially entitled to at least 75% of any assets of B available for distribution to its equity holders on a winding up.

#### **49 Miscellaneous provision**

Schedule 9 makes miscellaneous provision in connection with RPDT.

#### **50 Interpretation etc**

(1) In this Part—

“adjusted trading losses” and “adjusted trading profits” have the meaning given by section 39;

“control” has the same meaning as in section 1124 of CTA 2010 (“control”);

“development of residential property”, in relation to any activities, has the meaning given by section 35;

“group”, and terms related to groups, have the meanings given by section 48;

“HMRC” means Her Majesty’s Revenue and Customs;

“HMRC Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“interest in land”, in relation to an RP developer, has the meaning given by section 36;

“non-profit housing company” has the meaning given by section 34;

“relevant joint venture company” has the meaning given by section 40;

“residential property” has the meaning given by section 37;

“residential property developer” or “RP developer” has the meaning given by section 34;

“residential property developer losses” or “RPD losses” has the meaning given by section 38;

“residential property developer profits” or “RPD profits” has the meaning given by section 38;

“residential property development activities” or “RPD activities” has the meaning given by section 35;

“RPDT” has the meaning given by section 32;

“substantial interest”, in relation to a relevant joint venture company, has the meaning given by section 40;

“ultimate parent” has the meaning given by section 48;

“wholly owned subsidiary” has the same meaning as in section 1159 of the Companies Act 2006 (meaning of “subsidiary” etc).

- (2) Chapter 6 of Part 5 of CTA 2010 (equity holders and profits or assets available for distribution), other than sections 169 to 182, applies for the purposes of references in this Part to equity holders and beneficial entitlement to assets or profits of a company available for distribution to its equity holders, subject to subsection (3).

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- (3) In applying Chapter 6 of Part 5 (other than sections 169 to 182) and Chapter 3 of Part 24 of CTA 2010 for the purposes mentioned in subsection (2), they are to be read with all modifications necessary to ensure that—
- (a) they apply to a company which does not have share capital, and to holders of corresponding ordinary holdings in such a company, in a way which corresponds to the way they apply to companies with ordinary share capital and holders of ordinary shares in such companies,
  - (b) they apply to a company which is an unincorporated association in a way which corresponds to the way they apply to companies which are bodies corporate,
  - (c) they apply in relation to ownership through an entity (other than a company), or any trust or other arrangement, in a way which corresponds to the way they apply to ownership through a company, and
  - (d) for the purposes of achieving paragraphs (a) to (c), profits or assets are attributed to holders of corresponding ordinary holdings in unincorporated associations, entities, trusts or other arrangements in a manner which corresponds to the way profits or assets are attributed to holders of ordinary shares in a company which is a body corporate.
- (4) In subsection (3) “corresponding ordinary holding” in an unincorporated association, entity, trust or other arrangement means a holding or interest which provides the holder with economic rights corresponding to those provided by a holding of ordinary shares in a body corporate.
- (5) Chapter 3 of Part 24 of CTA 2010 (subsidiaries) applies for the purposes of references in this Part to subsidiaries, subject to subsection (6).
- (6) In applying Chapter 3 of Part 24 of CTA 2010 for the purposes mentioned in subsection (5)—
- (a) share capital of a registered society is to be treated as if it were ordinary share capital, and
  - (b) a company (“the shareholder”) that directly owns shares in another company is to be treated as not owning those shares if a profit on their sale would be a trading receipt of the shareholder.

### *Commencement and transitional provisions*

## **51 Commencement**

- (1) This Part has effect in relation to accounting periods beginning on or after 1 April 2022.
- (2) If an RP developer has an accounting period beginning before 1 April 2022 and ending on or after that date (“the straddling period”), for the purpose of determining whether RPDT is chargeable on the RP developer for the straddling period and, if so, in what amount—
- (a) so much of the straddling period as falls before 1 April 2022, and
  - (b) so much of that period as falls on or after that date,
- are to be treated as separate accounting periods.

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- (3) If it is necessary to apportion an amount for the straddling period to the two separate accounting periods, see section 1172 of CTA 2010 (which applies as a result of section 45).
- (4) If—
- (a) RPDT is chargeable on an RP developer for the straddling period, and
  - (b) under the Instalment Payment Regulations one or more instalment payments in respect of the total liability of the RP developer for that period are treated as becoming due and payable before 1 April 2022 (“pre-commencement instalments”),
- the RPDT chargeable for that period is to be ignored for the purposes of determining the amount of any pre-commencement instalment.
- (5) The first instalment in respect of that liability which is treated as becoming due and payable on or after 1 April 2022 is to be increased by the following amount, namely the difference between—
- (a) the aggregate amount of the pre-commencement instalments determined in accordance with subsection (4), and
  - (b) the aggregate amount of those instalments determined ignoring that subsection (and so taking into account the tax chargeable on the RP developer for the straddling period).
- (6) In the Instalment Payment Regulations—
- (a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to those Regulations are to be read as including a reference to subsections (4) and (5) (and in regulation 7(2) “the regulation in question”, and in regulation 8(2) “that regulation”, are to be read accordingly), and
  - (b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to those subsections.
- (7) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E of that Act is to be read as including a reference to subsections (4) and (5) of this section.
- (8) In this section “the Instalment Payment Regulations” means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175).

## **52 Anti-forestalling: accelerated profits**

- (1) This section applies if—
- (a) trading profits derived from RPD activities arise to an RP developer in an accounting period ending before 1 April 2022,
  - (b) the profits arise in that accounting period instead of an accounting period ending on or after that date as a result of arrangements entered into on or after 29 April 2021, and
  - (c) the main purpose, or one of the main purposes, of the arrangements is to secure that, but for this section, the profits would not be taken into account for the purposes of section 38.
- (2) The profits are to be taken into account for the purposes of that section as if they arose to the RP developer in the RP developer’s first accounting period ending on or after 1 April 2022.



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- (3) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), but does not include a change in the RP developer’s accounting date for the purposes of section 10 of CTA 2009 (end of accounting period).

**Status:**

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**Changes to legislation:**

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