
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 5AAA to the Taxation of Chargeable Gains Act 1992 (c. 12) (TCGA 1992). Schedule 5AAA (the Schedule) was inserted in TCGA 1992 by Schedule 1 to the Finance Act 2019 (c. 1) which concerns the capital gains tax treatment of disposals of interests in UK land by non-UK residents and contains provisions relating to UK property rich collective investment vehicles (CIVs) and their investors.

Regulation 1 sets out when these Regulations come into force and specifies the date on which individual regulations will take effect.

Regulation 2 introduces the amendments to the Schedule.

Regulation 3 amends paragraph 1 of the Schedule and specifies how a company within paragraph 1(1)(f) meets the property income condition in paragraph 1(2A). It contains the requirements relating to derivation and distribution of income and profits at the level of the sub-group comprising the company and its subsidiaries, rather than at the level of the group of which that company is itself a member.

Regulation 4 contains amendments to paragraph 6 of the Schedule, which treats investors in UK property rich CIVs as having a substantial indirect interest in UK land. Regulation 6 inserts new paragraphs 7A and 7B which contain specific exclusions from paragraph 6 for certain non-UK resident life insurance companies and non-UK resident, non-UK property rich CIVs.

Regulations 5 and 7 contain minor amendments to paragraphs 7 and 12 of the Schedule respectively.

Regulation 8 amends paragraph 21 of the Schedule. Paragraph 21 deems an investor to have disposed of its interest in a fund or company (which is subject to an exemption from tax election made under paragraph 12) where the investor is entitled to an amount that represents value derived from a direct or indirect disposal of UK land. The regulation amends paragraph 21 in order to clarify that it applies where neither the amount to which the investor is entitled nor the disposal value which that amount represents has been brought into account for tax.

Regulations 8(4) and 9 provide for an adjustment, consequent upon the amendment to paragraph 21, of the amount of the receipt in paragraph 21(1) and of the market value in paragraph 21(2)(a) or (3)(a).

Regulation 10 preserves the effect of an election under paragraph 12 of the Schedule where a company is brought within the definition of a CIV solely as a result of the amendment in regulation 3.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.