

1 Capital gains tax charge on certain high value disposals by companies etc

Schedule 1 contains provision for a new capital gains tax charge on gains accruing to companies etc on certain high value disposals.

SCHEDULE 1

Section 1

CAPITAL GAINS TAX CHARGE ON CERTAIN HIGH VALUE DISPOSALS BY COMPANIES ETC

PART 1

TAXATION OF CHARGEABLE GAINS ACT 1992

- 1 TCGA 1992 is amended as follows.
- 2 (1) Section 1 (the charge to tax) is amended as follows.
 - (2) In subsection (2), after “Acts” insert “, subject to the exception in subsection (2A)”.
 - (3) After subsection (2) insert –
 - “(2A) But companies are chargeable to capital gains tax, and not corporation tax, in respect of chargeable gains accruing to them to the extent that those gains are ARPT-related gains in respect of which the companies are chargeable to capital gains tax under section 2B.”
 - (4) In subsection (3) for “subsection (2)” substitute “subsections (2) and (2A)”.
- 3 In section 2 (persons and gains chargeable to capital gains tax, and allowable losses), after subsection (7) insert –
 - “(7A) Nothing in this section applies in relation to an ARPT-related gain chargeable to, or an ARPT-related loss allowable for the purposes of, capital gains tax by virtue of section 2B.”
- 4 After section 2 insert –

“2B Persons chargeable to capital gains tax on ARPT-related gains

 - (1) A person (other than an excluded person) (“P”) is chargeable to capital gains tax in respect of any ARPT-related chargeable gain accruing to P in a tax year on a relevant high value disposal.
 - (2) Capital gains tax is charged on the total amount of ARPT-related chargeable gains accruing to P in the tax year on relevant high value disposals, after deducting ring-fenced ARPT-related allowable losses in relation to that year.
 - (3) Subsections (4) to (6) apply in relation to an ARPT-related allowable loss accruing to P in a tax year on a relevant high value disposal.
 - (4) The loss is not allowable as a deduction from ARPT-related chargeable gains accruing in any earlier tax year on relevant high value disposals.
 - (5) Relief is not to be given under this Act more than once in respect of the loss or any part of the loss.

- (6) Relief is not to be given under this Act in respect of the loss if, and so far as, relief has been or may be given in respect of it under the Tax Acts.
- (7) The only deductions which can be made from ARPT-related chargeable gains are those permitted by this section.
- (8) See section 57A and Schedule 4ZZA for how to compute –
 - (a) the ARPT-related chargeable gain or allowable loss accruing on a relevant high value disposal, and
 - (b) the chargeable gain or allowable loss accruing on a relevant high value disposal which is not ARPT-related.
- (9) In this section –
 - “excluded person” means –
 - (a) an individual,
 - (b) where the gain accrues on the disposal of any partnership assets and the trustees of a settlement are a member of the partnership, those trustees, or
 - (c) where the gain accrues on the disposal of any partnership assets and the personal representatives of a deceased person are a member of the partnership, those personal representatives;
 - “relevant high value disposal” has the meaning given by section 2C;
 - “ring-fenced ARPT-related allowable losses”, in relation to a tax year, means –
 - (a) any ARPT-related allowable losses accruing to P in the tax year on relevant high value disposals, and
 - (b) so far as they have not been allowed as a deduction from ARPT-related chargeable gains accruing in any previous tax year on relevant high value disposals, any ARPT-related allowable losses accruing to P in any previous tax year (not earlier than the tax year 2013-14) on such disposals.

2C “Relevant high value disposal”

- (1) A disposal on which a gain or loss accrues to P is a “relevant high value disposal” if conditions A to D are met.
- (2) Condition A is that the disposal is of the whole or part of a chargeable interest (“the disposed of interest”).
- (3) Condition B is that the disposed of interest has, at any time during the relevant ownership period, been or formed part of a single-dwelling interest.
- (4) Condition C is that P has, or (if the disposed of interest is a partnership asset) the responsible partners have, been within the charge to annual residential property tax with respect to that single-dwelling interest on one or more days in the relevant ownership period which are not relievable days in relation to the interest.
- (5) Condition D is that the amount or value of the consideration for the disposal exceeds the threshold amount (see section 2D).

- (6) In this section and section 2D –
- “chargeable interest” has the same meaning as in Part [annual residential property tax] of FA 2013 (see section [chargeable interests] of that Act);
 - “dwelling” has the same meaning as in that Part;
 - “the relevant ownership period” means the period which begins –
 - (a) if an election has been made under paragraph 5 of Schedule 4ZZA, with the day on which P acquired the chargeable interest or, if later, 31 March 1982, and
 - (b) in any other case, with the day on which P acquired the chargeable interest or, if later, 6 April 2013,
 and ends with the day before the day on which the disposal occurs;
 - “relievable day” means a day which is “relievable” by virtue of any of the provisions mentioned in section [effect of reliefs] of FA 2013 (APRT: effect of reliefs);
 - “the responsible partners” has the same meaning as in section [person liable] of that Act;
 - “single-dwelling interest” has the same meaning as in Part [annual residential property tax] of that Act.
- (7) For the purposes of Condition C in subsection (4), Part [annual residential property tax] of FA 2013 applies, in relation to any part of the relevant ownership period falling before 1 April 2013, as if section [charge to tax](8)(a) of that Act (first chargeable period for ARPT) read “the period beginning with 31 March 1982 and ending with 31 March 1983”.

2D “The threshold amount”

- (1) This section applies to determine “the threshold amount” in relation to a disposal which meets Conditions A to C in section 2C (“the current disposal”).
- (2) If –
- (a) the current disposal is not a part disposal of an asset, and
 - (b) P has not made any relevant related disposals,
- the threshold amount is £2 million, subject to subsection (5) (joint interests).
- (3) If paragraphs (a) and (b) of subsection (2) do not both apply, the threshold amount is the relevant fraction of £2 million, subject to subsection (5) (joint interests).
- (4) “The relevant fraction” is –

$$\frac{C}{TMV}$$

Where –

“C” is the amount or value of consideration for the current disposal;

- “TMV” is what would be the market value, at the time of the current disposal, of a notional asset comprising –
- (a) the disposed of interest (see section 2C(2)),
 - (b) if the current disposal is a part disposal, any part of the chargeable interest held by P that remains undisposed of immediately following that part disposal,
 - (c) any chargeable interest (or part of a chargeable interest) which was the subject of a relevant related disposal, and
 - (d) any chargeable interest (or part of a chargeable interest) held by P at the time of the current disposal which, if P had disposed of it at that time, would have been the subject of a relevant related disposal.
- (5) If the disposed of interest is a share of –
- (a) the whole of a chargeable interest, or
 - (b) the whole of a part of a chargeable interest,
- subsections (2) and (3) have effect as if the references to “£2 million” were to the joint share fraction of that amount.
- (6) The joint share fraction is the fraction of the whole of the chargeable interest or the whole of the part (as the case may be) represented by the disposed of interest.
- (7) “Relevant related disposal”, in relation to the current disposal, means any disposal by P which –
- (a) meets Conditions A to C in section 2C in circumstances where the single-dwelling interest referred to in Condition C is –
 - (i) the single-dwelling interest by virtue of which Condition C is met in relation to the current disposal, or
 - (ii) another single-dwelling interest in the same dwelling as that interest, and
 - (b) was made in the period of 6 years ending with the day on which the current disposal occurs, but not before 6 April 2013.

2E Restriction of losses

- (1) This section applies where (ignoring this section) a loss would accrue to a person (other than an excluded person) in a tax year in circumstances where –
- (a) conditions A, B and C in section 2C are met in relation to the disposal,
 - (b) the amount or value of the consideration for the disposal does not exceed the threshold amount in relation to the disposal, and
 - (c) the total of the sums allowable as a deduction under section 38 in relation to the disposal exceeds that threshold amount.
- (2) For the purposes of this Act the consideration for the disposal is treated as if it were £1 greater than the threshold amount in relation to the disposal.

- (3) In a case where paragraph 2 of Schedule 4ZZA applies (calculation of gains or losses on disposals of assets held on 5 April 2013), the reference in subsection (1)(c) to the disposal is to be read as a reference to the notional disposal referred to in paragraph 3(2) of that Schedule (disposal on which notional post-April 2013 gain or loss accrues).
- (4) In this section –
 “excluded person” has the meaning given by section 2B(9);
 “the threshold amount” has the meaning given by section 2D.”
- 5 In section 4 (rates of capital gains tax), after subsection (3) insert –
 “(3A) The rate of capital gains tax in respect of gains chargeable under section 2B accruing to a person in a tax year is 28%.”
- 6 In section 8 (company’s total profits to include chargeable gains), after subsection (4) insert –
 “(4A) Nothing in this section applies in relation to an ARPT-related gain chargeable to, or an ARPT-related loss allowable for the purposes of, capital gains tax by virtue of section 2B.”
- 7 In section 13 (attribution of gains to members of non-resident companies), after subsection (1) insert –
 “(1A) But this section does not apply if the gain is an ARPT-related gain chargeable to capital gains tax by virtue of section 2B (capital gains tax on ARPT-related gains).”
- 8 In section 16 (computation of losses), in subsection (3) after “section” insert “2B,”.
- 9 In Part 2, after section 57 insert –

“CHAPTER 5

COMPUTATION OF GAINS AND LOSSES: RELEVANT HIGH VALUE DISPOSALS

57A Gains and losses on relevant high value disposals

- (1) Schedule 4ZZA makes provision about the computation of chargeable gains and allowable losses on relevant high value disposals, including provision about whether a gain or loss is ARPT-related or not.
- (2) But if the effect of Schedule 4ZZA applying in relation to a disposal would be that no ARPT-related chargeable gain or allowable loss accrues on the disposal, for the purposes of this Act the chargeable gain or allowable loss on the disposal is to be computed ignoring that Schedule (and is not ARPT-related).”
- 10 In section 171 (transfers within a group: general provisions), in subsection (2), after paragraph (b) insert –
 “(ba) a relevant high value disposal on which (ignoring subsection (1)) there accrues to company A an ARPT-related gain chargeable to, or an ARPT-related loss allowable for the purposes of, capital gains tax by virtue of section 2B; or”.

11 After section 187 insert –

“187A Deemed disposal under section 185: ARPT-related gains and losses

- (1) This section applies if –
 - (a) (ignoring subsections (2) and (3)) a gain or loss would accrue to a company on a disposal of an asset deemed to have been made by virtue of section 185(2), and
 - (b) that gain or loss is an ARPT-related gain chargeable to, or an ARPT-related loss allowable for the purposes of, capital gains tax by virtue of section 2B.
- (2) That gain or loss does not accrue to the company on that disposal.
- (3) But, on a subsequent disposal of the whole or part of the asset, the whole or a corresponding part of the gain or loss is deemed to accrue to the company (in addition to any gain or loss that actually accrues on that subsequent disposal).”

12 After section 226B insert –

“Single-dwelling interests

226C Single-dwelling interest: tapering relief for gains

- (1) This section applies to an ARPT-related gain which accrues on a relevant high value disposal and is chargeable to capital gains tax by virtue of section 2B.
- (2) There is excluded from the gain so much of it as exceeds five-thirds of the difference between –
 - (a) the amount or value of the consideration, and
 - (b) the threshold amount (within the meaning of section 2D) in relation to the disposal.
- (3) But where the relevant fraction is less than 1, subsection (2) has effect as if the amount determined under that subsection were the relevant fraction of that amount.
- (4) “The relevant fraction” –
 - (a) in a case where the ARPT-related gain is determined in accordance with paragraph 3 of Schedule 4ZZA, has the meaning given by paragraph 3(4) of that Schedule, and
 - (b) in a case where the ARPT-related gain is determined in accordance with paragraph 6 of that Schedule, has the meaning given by paragraph 6(5) of that Schedule.
- (5) Nothing in this section affects the amount of an allowable loss accruing on the disposal of an asset.”

13 In section 288 (interpretation), in subsection (1), at the appropriate places insert –

- ““ARPT-related”, in relation to a gain or loss, is to be construed in accordance with section 57A and Schedule 4ZZA;”
- ““relevant high value disposal” has the meaning given by section 2C;”.

14 After Schedule 4 insert –

“SCHEDULE 4ZZA

RELEVANT HIGH VALUE DISPOSALS: GAINS AND LOSSES

Introductory

- 1 This Schedule applies for the purposes of determining in relation to a relevant high value disposal made by a person (“P”) –
- (a) whether a chargeable gain or allowable loss which is ARPT-related accrues to P on the disposal, and
 - (b) whether a chargeable gain or allowable loss which is not ARPT-related accrues to P on the disposal.

Assets held on 5 April 2013: no paragraph 5 election

- 2 If the interest disposed of was held by P on 5 April 2013 –
- (a) paragraph 3 applies for the purposes of computing the chargeable gain or allowable loss accruing to P which is ARPT-related, and
 - (b) paragraph 4 applies for the purposes of computing the chargeable gain or allowable loss accruing to P which is not ARPT-related.
- 3
- (1) An amount equal to the relevant fraction of the notional post-April 2013 gain or loss is the ARPT-related chargeable gain or allowable loss (as the case may be).
 - (2) “Notional post-April 2013 gain or loss” means the chargeable gain or allowable loss which (in the absence of section 2B and this Schedule) would have accrued on the relevant high value disposal had P acquired the interest on 5 April 2013 for a consideration equal to its market value on that date.
 - (3) For the purposes of sub-paragraph (2), the amount of the gain or loss accruing to P is to be computed (whether or not that would otherwise be the case) as if P were within the charge to capital gains tax (but not within the charge to corporation tax on chargeable gains).
 - (4) “The relevant fraction” is –

$$\frac{CD}{TD}$$

Where –

“CD” is the number of days in the relevant ownership period which are ARPT chargeable days;

“TD” is the total number of days in the relevant ownership period.

- (5) “The relevant ownership period” means the period beginning with 6 April 2013 and ending with the day before the day on which the relevant high value disposal occurs.

- (6) “ARPT chargeable day” means any day by virtue of which condition C in section 2C(4) would be met in relation to the relevant high value disposal.
- 4 (1) The gain or loss accruing on the relevant high value disposal which is not ARPT-related is computed as follows.

Step 1

Determine the amount of the notional pre-April 2013 gain or loss.

Step 2

In a case where there is a notional post-April 2013 gain—

- (a) determine the amount of that gain remaining after the deduction of the ARPT-related chargeable gain determined under paragraph 3, and
- (b) adjust that remaining gain by reducing it by the notional indexation allowance.

Step 3

In a case where there is a notional post-April 2013 loss, determine the amount of that loss remaining after deduction of the ARPT-related allowable loss determined under paragraph 3.

Step 4

Add—

- (a) the amount of any gain or loss determined under Step 1, and
- (b) the amount of any adjusted gain determined under Step 2 or (as the case may be) any loss determined under Step 3, (treating any amount which is a loss as a negative amount).

If the result is a positive amount, that amount is the chargeable gain on the relevant high value disposal which is not ARPT-related.

If the result is a negative amount, that amount (expressed as a positive number) is the allowable loss on the relevant high value disposal which is not ARPT-related.

- (2) “The notional pre-April 2013 gain or loss” means the chargeable gain or allowable loss which would have accrued on 5 April 2013 had the interest been disposed of for a consideration equal to its market value on that date.
- (3) For the purposes of sub-paragraph (2), the amount of the gain or loss accruing to P is to be computed (whether or not that would otherwise be the case) as if P were within the charge to corporation tax on chargeable gains (but not within the charge to capital gains tax).
- (4) Paragraph 3(2) and (3) (meaning of “notional post-April 2013 gain or loss”) also applies for the purposes of this paragraph.
- (5) “Notional indexation allowance” means the relevant fraction of an amount equal to the difference between—
 - (a) the indexation allowance which (in the absence of section 2B and this Schedule) would be made under Chapter 4 of Part 2 in determining the chargeable gain accruing on the

- relevant high value disposal were that gain being computed for corporation tax purposes, and
- (b) the indexation allowance which is made under Chapter 4 of Part 2 in determining the notional pre-April 2013 gain.
- (6) “The relevant fraction” is –

$$\frac{TD - CD}{TD}$$

Where “CD” and “TD” have the same meaning as in paragraph 3(4).

Election for paragraph 2 to 4 not to apply to a chargeable interest

- 5 (1) A person may make an election under this paragraph for paragraphs 2 to 4 not to apply in relation to a chargeable interest held by (or any part of which is held by) the person on 5 April 2013.
- (2) An election is irrevocable.
- (3) An election must be made by being included in a tax return under the Management Act for the tax year in which the first relevant high value disposal by the person of the chargeable interest (or any part of it) on or after 6 April 2013 occurs.
- (4) The reference in sub-paragraph (3) to an election being included in a return includes an election being included by virtue of an amendment of the return.
- (5) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election.
- (6) In this paragraph “chargeable interest” has the same meaning as in Part [annual residential property tax] of FA 2013 (see section [chargeable interests] of that Act).

Cases where election made or assets acquired after 5 April 2013

- 6 (1) This paragraph applies if –
- (a) an election is made by P under paragraph 5 in respect of the chargeable interest which (or a part of which) is the subject of the relevant high value disposal, or
- (b) the interest disposed of by the high value disposal was not held by P throughout the period beginning with 5 April 2013 and ending with the disposal.
- (2) The ARPT-related chargeable gain or allowable loss accruing on the relevant high value disposal is computed as follows.

Step 1

Determine the amount of the chargeable gain or allowable loss which would accrue to P, ignoring section 2B and this Schedule (but not the remainder of this Step).

For this purpose, the amount of the gain or loss is to be computed (whether or not that would otherwise be the case) as if P were within the charge to capital gains tax (but not within the charge to corporation tax on chargeable gains).

Step 2

An amount equal to the relevant fraction of the gain or loss determined under Step 1 is the ARPT-related gain or loss (as the case may be).

- (3) The chargeable gain or allowable loss accruing on the relevant high value disposal which is not ARPT-related is to be computed as follows.

Step 1

In a case where there is a chargeable gain under Step 1 of subparagraph (2) –

- (a) determine the amount of the gain remaining after the deduction of the ARPT-related chargeable gain, and
- (b) adjust the remaining gain by reducing it by an amount equal to the notional indexation allowance.

That adjusted gain is the chargeable gain accruing on the relevant high value disposal which is not ARPT-related.

Step 2

In a case where there is a allowable loss under Step 1 of subparagraph (2), determine the amount of the loss remaining after deduction of the ARPT-related allowable loss.

That remaining loss is the allowable loss accruing on the relevant high value disposal which is not ARPT-related.

- (4) “Notional indexation allowance” means the relevant fraction of the indexation allowance which would have been made under Chapter 4 of Part 2 in determining the gain under Step 1 in subparagraph (2) were that gain being computed for corporation tax purposes.
- (5) “The relevant fraction” has the same meaning as in paragraph 3(4), except that –
- (a) for the purposes of this paragraph, paragraph 3(5) has effect as if the relevant ownership period began on the day on which P acquired the interest or, if later, 31 March 1982, and
 - (b) in relation to any part of the relevant ownership period falling before 1 April 2013, Part [*annual residential property tax*] of FA 2013 applies for the purposes of determining whether days falling before 1 April 2013 are “ARPT chargeable days” as if section [*charge to tax*](8)(a) of that Act (first chargeable period for ARPT) read “the period beginning with 31 March 1982 and ending with 31 March 1983”.

PART 2

OTHER AMENDMENTS

Corporation Tax Act 2009

- 15 In section 2 of CTA 2009 (charge to corporation tax), after subsection (2) insert—
- “(2A) But in subsection (2) “chargeable gains” does not include gains chargeable to capital gains tax under section 2B of TCGA 1992 (companies etc chargeable to capital gains tax on ARPT-related gains on relevant high value disposals).”

Corporation Tax Act 2010

- 16 (1) Section 32 of CTA 2010 (meaning of “augmented profits”) is amended as follows.
- (2) In subsection (1), in paragraph (a) after “company’s” insert “adjusted”.
- (3) After that subsection insert—
- “(1A) A company’s “adjusted taxable total profits” of a period are what would have been the company’s taxable total profits of the period in the absence of sections 1(2A), 2B and 8(4A) of TCGA 1992 and section 2(2A) of CTA 2009 (certain gains on relevant high value disposals by companies etc chargeable to capital gains tax not corporation tax).”

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISION

- 17 The amendments made by this Schedule have effect in relation to disposals occurring on or after 6 April 2013.
- 18 Where section 225 of TCGA 1992 (private residence occupied under terms of settlement) applies in relation to a gain to which section 2B of that Act (companies etc chargeable to capital gains tax on disposals of residential property) applies, section 222(5)(a) has effect as if the latest time for giving a notice under that provision were the time determined under that provision or, if later, 5 April 2015.

EXPLANATORY NOTE

CAPITAL GAINS TAX ON CERTAIN HIGH VALUE DISPOSALS BY COMPANIES ETC.

SUMMARY

1. This clause and schedule introduce a charge to capital gains tax (CGT) on both UK and non-UK resident non-natural persons in respect of gains accruing on the disposal of interests in high value residential property that are the subject of annual residential property tax (ARPT). Broadly, for the purposes of this legislation NNPs will be companies and collective investment schemes. Companies that are within the charge to UK corporation tax will be liable to this CGT charge in respect of such disposals rather than corporation tax. The charge will apply for disposals on or after 6 April 2013. Increases (and decreases) in the value of property before then are outside the new charge but remain subject to the existing corporation tax rules on capital gains. This legislation should be read alongside legislation introducing ARPT.

DETAILS OF THE SCHEDULE

2. Part 1 of the Schedule makes changes to the Taxation of Chargeable Gains Act 1992 (TCGA 1992). Paragraph 1 introduces the changes.
3. Paragraph 2 inserts a new subsection (2A) into section 1 of TCGA 1992 to charge companies to capital gains tax (CGT), and not corporation tax, to the extent that their gains are chargeable under section 2B (see paragraphs 8 to 13 below). Paragraph 2 also makes consequential amendments to section 1(2) and 1(3).
4. Paragraph 3 inserts new subsection (7A) into section 2 of TCGA 1992. Section 2 restricts CGT to persons who are not ‘excluded persons’, and sets out how losses are to be set off against gains in arriving at the amount on which CGT is charged. New subsection (7A) disapplies these rules in relation to gains and losses in the tax year 2013-14 or later that are ‘ARPT-related’ (see paragraph 34 below).
5. Paragraph 4 inserts new sections 2B, 2C, 2D and 2E into TCGA 1992.
6. Subsection (1) of new section 2B provides that a person (“P”) is chargeable to CGT in respect of ‘ARPT-related chargeable gains’ accruing to P in a tax year on a ‘relevant high value disposal’ (as

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defined at new section 2C (see paragraphs 14 to 16 below)). ARPT-related chargeable gains are computed in accordance with new section 57A and Schedule 4ZZA (see paragraphs 27 and 35 to 40 below). Excluded persons (defined at section 2B(9)) are exempt from the charge.

7. Subsection (2) of section 2B provides that ‘ring-fenced ARPT-related allowable losses’ are deducted in arriving at the gain chargeable to CGT. These are defined at section 2B(9) and are also computed in accordance with new section 57A and Schedule 4ZZA.
8. Subsections (3) to (6) of section 2B ensures that ARPT-related allowable losses can be used only once and must be set off only against ARPT-related chargeable gains in the same tax year or, when the losses exceed the gains for the year, carried forward and set off against ARPT-related chargeable gains in later years.
9. Subsection (7) of section 2B prevents any other deductions from ARPT-related chargeable gains other than ARPT-related allowable losses.
10. Subsection (8) of section 2B says where the rules for computing ARPT-related, and non ARPT-related, gains and losses are to be found.
11. Subsection (9) of section 2B defines certain terms used in section 2B:
 - “excluded person” as an individual, or, where the gain accrues on the disposal of assets of a partnership, any trustees or personal representatives of a deceased person that are members of the partnership;
 - “relevant high value disposal” as having the meaning given by new section 2C (see paragraphs 14 to 16 below);
 - “ring-fenced ARPT-related allowable losses” as allowable ARPT-related losses accruing to P in a tax year and ARPT-related allowable losses from earlier tax years (but not before the year 2013-14) insofar as they have not been allowed as a deduction from ARPT-related chargeable gains in any previous year.
12. Subsection (1) of new section 2C defines a “relevant high value disposal” as one that meets conditions A to D. These conditions are set out in subsections (2) to (5) and particular terms used are defined in subsection (6). The disposal must be of the whole or part of a ‘chargeable interest’ and the interest disposed of must have been, or formed part of, a ‘single-dwelling interest’ during ‘the relevant ownership period’. The chargeable person P or, where the interest was held by a partnership, ‘the responsible partners’, must have been

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liable to annual residential property tax on the property for one or more days in ‘the relevant ownership period’. The consideration for the disposal must exceed ‘the threshold amount’ (as defined by new section 2D (see paragraphs 17 to 21 below)).

13. Subsection (6) defines certain terms used in section 2C:
 - “chargeable interest”, “the responsible partners” and “single-dwelling interest” have the same meaning as for ARPT;
 - “relievable day” is a day for which ARPT is not paid in respect of the chargeable interest because of a relief from that tax;
 - “the relevant ownership period” is the period beginning on:
 - a. 6 April 2013, or
 - b. if later, the date on which P acquired the chargeable interest, or
 - c. where an election is made under paragraph 5 of Schedule 4ZZA (see paragraph 39 below), the date on which P acquired the chargeable interest (or 31 March 1982 if that is later)and ending on the day before the day on which the relevant high value disposal occurs.
14. Subsection (7) imposes a notional test where a period before 1 April 2013 is included in ‘the relevant ownership period’. It allows days in the earlier period to be relievable days to the extent that they would have been relievable days if ARPT had begun on 31 March 1982.
15. New section 2D defines “the threshold amount”.
16. Subsections (1) and (2) of section 2D hold that the threshold amount is £2 million when the disposal is not a part disposal and P has not made any ‘relevant related disposals’ (see subsection (7)). But the £2 million is restricted where subsection (5) applies, see below.
17. Subsections (3) and (4) hold that where subsection (2)(a) and (b) do not both apply, the threshold amount is the fraction C/TMV of £2 million, with C being the consideration for the disposal and TMV the total market value of a notional asset comprising of the disposed of interest, any undisposed part of the chargeable interest and any chargeable interest which was the subject of a ‘relevant related disposal’ (see subsection (7) below) or would have been if P had disposed of it at that time. The amount produced by this formula is also subject to restriction under subsection (5).

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18. Subsection (5) and (6) hold that where the disposal is of a person's share of a joint interest, the £2 million amount is reduced by reference to that person's fractional share. For example, if a person has a 75% share in the chargeable interest, the £2 million figure is reduced to £1.5 million.
19. Subsection (7) defines 'relevant related disposal' as any chargeable disposal made in the 6 years ending with the date of the current disposal which was a disposal of part of the same single-dwelling interest as the one that is the subject of the current disposal, or a disposal of the whole or part of a different single-dwelling interest in the same dwelling. Disposals before 6 April 2013 are excluded.
20. New section 2E restricts the amount of a loss that is allowable in some cases where the disposal meets all the conditions for it to be a relevant high value disposal except that the consideration for the disposal is less than the threshold amount (or, where appropriate, the adjusted amount under section 2D(5)). Where the allowable deductions exceed the threshold amount the disposal is treated as if it were a disposal for £1 more than that threshold amount and the loss is restricted accordingly.
21. Paragraph 5 inserts new subsection (3A) into section 4 of TCGA 1992, which sets the rate of CGT on gains chargeable under section 2B at 28%.
22. Paragraph 6 inserts new subsection (4A) into section 8 of TCGA 1992. Section 8 provides certain rules for taxing gains, and relieving losses, of companies chargeable to corporation tax. Section 8(4A) prevents these rules from applying to ARPT-related chargeable gains and allowable losses that are subject to the new CGT charge in the tax year 2013-14 or later.
23. Paragraph 7 inserts new subsection (1A) into section 13 of TCGA 1992. Section 13(1A) prevents charges in relation to ARPT-related chargeable gains being attributed under section 13 (an anti-avoidance provision) to participators in certain types of non-UK resident company.
24. Paragraph 8 amends section 16 of TCGA 1992 to allow a loss that accrues to a person resident outside the UK to be an allowable loss where there would have been a chargeable gain under section 2B if a gain instead of a loss had accrued.
25. Paragraph 9 inserts new section 57A into TCGA 1992. Section 57A(1) introduces new Schedule 4ZZA, which makes provision about the computation of gains and losses on relevant high value disposals, including whether a gain or loss accruing on the disposal is ARPT-

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related (see paragraph 34 below). Section 57A(2) provides that if the computation under Schedule 4ZZA produces no ARPT-related gain or loss then the gain or loss is to be computed ignoring the Schedule.

26. Paragraph 10 inserts new paragraph (ba) into section 171(2) of TCGA 1992. Section 171 provides the general rule that assets transferred between companies that are in the same group of companies are treated as transferring the assets at a 'no gain/no loss' value. The rule is subject to various conditions and exceptions. Paragraph (ba) adds the new exception that 'no gain/no loss' treatment will not apply where (as a result of not applying no gain/no loss treatment) the disposal gives rise to a gain or loss that is ARPT-related.
27. Paragraph 11 inserts new section 187A into TCGA 1992. Section 187A modifies the operation of section 185, which imposes an occasion of charge to tax on chargeable gains at the time when a company ceases to be resident in the UK for tax purposes. Section 185 treats the company as disposing of all its assets immediately before the time of emigration from the UK. Section 187A provides that, where the deemed disposal under section 185 generates a gain chargeable to CGT under section 2B (or a loss allowable under section 2B) that gain is not charged immediately (nor is a loss immediately available for set off). Instead the gain or loss is treated as coming into charge (or allowance) at the later time when the company disposes of the asset.
28. Paragraph 12 inserts new section 226C into TCGA 1992.
29. Subsection (1) applies new section 226C to ARPT-related gains. Subsection (2) provides a tapering relief so that the chargeable amount for ARPT-related chargeable gains is the lower of the full gain and the difference between the consideration for the disposal and the threshold amount for that disposal multiplied by 5/3.
30. Subsection (3) and (4) provides that, where only a proportion of a gain (the 'relevant fraction') is chargeable under section 2B, the amount excluded from charge under section 2B by subsection (2) is reduced by a corresponding proportion.
31. Subsection (5) confirms that subsections (1) to (4) do not affect the amount of an allowable loss accruing on the disposal of an asset.
32. Paragraph 13 inserts into section 288 of TCGA 1992 definitions of the expressions 'ARPT-related', which is to be construed in accordance with section 57A and Schedule 4ZZA, and 'relevant high value disposal', which has the meaning given by section 2C.
33. Paragraph 14 inserts new Schedule 4ZZA into TCGA 1992.

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34. Paragraph 1 of new Schedule 4ZZA holds that the Schedule applies to determine the amount of the chargeable gain or allowable loss on a relevant high value disposal that is ARPT-related or not ARPT-related.
35. Paragraphs 2 to 4 provide rules for computing the ARPT-related chargeable gain where the chargeable interest disposed of was acquired before 6 April 2013 and disposed of on or after that date and no election has been made under paragraph 5 to Schedule 4ZZA (see below). The computational steps are set out as follows:–
- a. The gains or losses are computed in the first instance as if P, the person making the disposal, were chargeable to capital gains tax, not corporation tax, on chargeable gains.
 - b. A ‘notional pre-April 2013 gain or loss’ and ‘notional post-April 2013 gain or loss’ are determined on the assumption that the interest was disposed of and reacquired at its market value on 5 April 2013. The notional pre-April 2013 gain or loss is computed on the basis that P is chargeable to corporation tax. The effect of this is to include a deduction for indexation allowance (IA) in arriving at the notional pre-April 2013 gain, if IA would have been due under the normal corporation tax rules.
 - c. The ‘notional post-April 2013 gain’ is split into the ARPT-related gain and the non ARPT-related gain. The ARPT-related gain is the fraction CD/TD of the notional post-April 2013 gain, where CD is the total days chargeable to annual residential property tax from 6 April 2013 to the day of disposal and TD is the total days from 6 April 2013 to the day of disposal.
 - d. The remainder of the notional post April 2013 gain that is not ARPT-related is reduced by an amount of ‘notional indexation allowance’. The notional indexation allowance available is the amount of total indexation allowance that would have been due if P were chargeable to corporation tax on the actual disposal and Schedule 4ZZA were not in point, less the amount of IA on the notional pre-April 2013 gain, and excluding part of the net allowance corresponding to the ARPT-related fraction of the post April 2013 gain.
36. The computational steps are essentially the same for losses, but no notional indexation allowance is available to increase the loss (because indexation allowance under the normal rules cannot create or augment a loss).

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37. Paragraph 5 allows P to elect that paragraphs 2 to 4 do not apply to a disposal of a chargeable interest it held on 5 April 2013. The election is irrevocable and must be made in a capital gains tax return (or an amendment to the return) for the tax year in which P disposes of the interest, or for the first tax year (from 2013-14 onwards) in which P makes a part disposal of the interest.
38. Paragraph 6 provides computational rules where the chargeable interest is acquired after 5 April 2013, or where P acquired the interest before then but elects under paragraph 5 for paragraphs 2 to 4 not to apply. The rules are broadly as outlined at paragraph 37(c) and (d) above. Where P has elected under paragraph 5 for paragraph 6 to apply, the days which are chargeable to annual residential property tax are calculated as if that tax were in force throughout the period of ownership, including for periods before 2013-14.
39. Part 2 of the Schedule makes consequential amendments to other Acts.
40. Paragraph 15 inserts new subsection (2A) into section 2 of the Corporation Tax Act 2009. Section 2(2A) excludes ARPT-related gains (chargeable to CGT under section 2B) from the meaning of chargeable gains for corporation tax purposes.
41. Paragraph 16 amends section 32 of the Corporation Tax Act 2010 to provide that, for determining whether a company is chargeable to corporation tax at the small profits rates (or is entitled to marginal relief) for the accounting period in question, its 'adjusted total taxable profits' are taken as the amount they would have been if no part of its chargeable gains and allowable losses for the period were chargeable to (or relievable for) CGT under section 2B of TCGA 1992 instead of corporation tax.
42. Part 3 of the Schedule makes provision on commencement and transition.
43. Paragraph 17 brings the Schedule into effect for disposals on or after 6 April 2013.
44. Paragraph 18 provides that, where a residential property is held in trust and occupied by an individual under the terms of the trust settlement, and an ARPT-related gain arises on disposal of the property, the latest time for giving a notice to determine for the purposes of CGT private residence relief which of 2 or more residences is an individual's main residence for any period is extended to 5 April 2015, if that date is later than the existing 2 year time limit.

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BACKGROUND NOTE

45. In broad terms, capital gains tax (CGT) is charged on chargeable gains accruing to a person on the disposal of an asset, after deducting any allowable losses, if they are resident in the United Kingdom in the tax year in which the disposal takes place.
46. Companies within the charge to corporation tax have been excluded from CGT and are instead charged to corporation tax on their chargeable gains.
47. The Government announced the introduction of the Annual Residential Property Tax (ARPT) at Budget 2012, which introduces an annual tax on high value residential UK property owned by certain non-natural persons (NNPs). Draft ARPT legislation was published on 11 December 2012.
48. This extension of the capital gains legislation supports the ARPT measure by taxing disposals of high value residential UK property by certain non-natural persons, broadly companies and collective investment schemes, those within the scope of the ARPT. The charge applies to both UK and non-UK resident NNPs in respect of disposals made on or after 6 April 2013 and a form of rebasing will apply to ensure that pre 6 April 2013 gains remain outside the scope of the new CGT charge.
49. CGT will be charged at a rate of 28%, the rate applicable to higher rate taxpayers, on disposals of UK residential property where the consideration exceeds £2m. The consideration threshold will be reduced proportionately where the person owns only part of the property or disposes of part of it, to ensure that the charge cannot be avoided through fragmentation.
50. If you have any questions about this change, or comments on the legislation, please contact Adrian Cooper on 020 7147 2347 (email: adrian.cooper@hmrc.gsi.gov.uk).