

Annual residential property tax

Who is likely to be affected?

Certain companies, partnerships with company members and collective investment schemes (non-natural persons (NNPs)) who own residential dwellings valued over £2 million.

General description of the measure

Companies, partnerships with at least one company member and collective investment schemes (including unit trusts) who own residential dwellings with a value on relevant dates of over £2 million will be liable to an annual tax (to be called annual residential property tax (ARPT)). The tax charge will be based on the band into which the property value falls. Genuine property rental businesses, properties held for charitable purposes and properties run as a commercial business will be eligible to claim a relief from the tax on an annual basis.

Policy objective

The tax was introduced as part of a package of measures to ensure that NNPs holding high value dwellings pay their fair share and to tackle tax avoidance.

Background to the measure

The Government announced at Budget 2012 the introduction, following consultation, of an annual charge for NNPs who own residential dwellings worth over £2 million on 1 April 2012 or on acquisition, construction or conversion if later.

The Government conducted the consultation *Ensuring the fair taxation of high value residential property* between May and August 2012 covering both the annual charge and extensions to capital gains tax.

Detailed proposal

Operative date

The measure will have affect for properties under the ownership of an NNP on or after 1 April 2013.

Current law

Stamp duty land tax (SDLT) is charged under Finance Act 2003 (FA 2003) on the acquisition of a chargeable interest in land. This includes acquisition of residential property. The rate of SDLT depends on the chargeable consideration for the land and increases above various thresholds.

Dwellings which individuals acquire using corporate envelopes can later be disposed of by selling the shares in the company. The purchaser will not be liable to SDLT on the share purchase.

Certain NNPs where the chargeable consideration for their acquisition of the property is greater than £2 million are, since April 2012, charged at a higher rate of 15 per cent under section 55A and Schedule 4A of FA 2003. The only exclusion to this is dwellings acquired by property development companies with a track record of more than two years of development activity.

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to further discourage acquisitions of residential dwellings for future SDLT avoidance reasons, and to deal with existing enveloping structures of high value property. ARPT will be payable at different rates according to whether the dwelling is valued at more than £2 million, £5 million, £10 million or £20 million.

The rates will be increased according to the consumer prices index each year.

ARPT will apply to certain NNPs, including companies, who own interests in dwellings which are valued at more than £2 million at a valuation date.

There will be a range of reliefs from ARPT. Dwellings relieved from the tax will include those held by property development companies (whether or not the company has a two year track record) or as trading stock; dwellings held for a property rental business where they are let out to third parties on a commercial basis; dwellings that are conditionally exempt from inheritance tax, regularly opened to the public or used to provide accommodation or other services to the general public on a commercial basis; farmhouses occupied by working farmers; dwellings held by trading companies for the use of employees in the trade; dwellings owned by a charity and held for charitable purposes; and dwellings owned by public or government bodies or for social housing.

The charge will apply if the dwelling is owned on or is acquired after 1 April 2013 or if it is built, or converted from a non-residential property after that date. If the NNP owns the interest in the dwelling for part-only of a tax year, the charge is proportionately reduced.

Joint owners will be jointly and severally liable for the tax.

Whether the dwelling is within the tax, and what rate the tax will be, depends on the band its value fell within at 1 April 2012 if it was owned on that date by the NNP, or its value on acquisition or completion of construction or conversion if afterwards.

The first self assessment return of ARPT for 2013-14 must in most cases be made by 1 October 2013 and payment made by 31 October 2013. Thereafter returns and payments must be made by 30 April each year.

When dwellings are acquired, the NNP will be required to make an ARPT return and payment within 30 days. If the dwelling otherwise newly comes within the charge (for instance because it has been newly constructed or it has had a change of use) the return must be made within 90 days of the relevant date.

An NNP must make a nil-charge return to claim relief from ARPT.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17
		negligible	+65	+65	+65
	These figures were set out in Table 2.1 of the Budget 2012 as part of the wider package on SDLT enveloping on residential property and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the Budget 2012. In addition, further policy changes made as a result of consultation will be expected to decrease receipts for the annual charge portion of the package by approximately £30 million per annum. This part of the costing is certified by the Office for Budget Responsibility and will be set out in Budget 2013.				

Economic impact	This measure is not expected to have any significant economic impacts.
Impact on individuals and households	No individuals are directly affected as ARPT only applies to NNPs. A small number of beneficiaries of trusts investing via companies, investors in collective investment schemes or owners of shares in some companies (or partners in partnerships) that are purchasing expensive property for non-business purposes will see the value of their interest reduced by ARPT.
Equalities impacts	This measure is not anticipated to impact on groups with protected characteristics any more than on those without such characteristics.
Impact on business including civil society organisations	<p>The number of businesses affected by ARPT will be small because there are relatively few residential properties owned by NNPs over £2 million. As far as possible, genuine property businesses will be excluded from the charge through targeted reliefs.</p> <p>NNPs owning a residential property potentially worth over £2 million will be required to submit a return each year and carry out a valuation once every five years. The total administrative burden of this is expected to be negligible.</p> <p>The measure should not impact on charities who can claim relief from the charge providing the property is used for charitable purposes.</p>
Operational impact (£m) (HMRC or other)	Provisional estimates suggest the IT set up costs are in the region of £770,000, Valuation Office Agency costs up to September 2013 are £500,000 (including a service to check, on request, a taxpayer's view of which band the dwelling falls into) and annual staff costs to be £700,000 - 800,000 (to include enquiry work).
Other impacts	<p><u>Small firms impact test:</u> many of the companies used to hold residential property worth more than £2 million are special purpose vehicles which will own a single property. These will have no employees. Larger, genuine businesses will where possible be excluded from the charge by claiming a relief.</p> <p>Other impacts have been considered and none have been identified.</p>

Monitoring and evaluation

The measure will be monitored and assessed alongside the other measures in the residential property package.

Further advice

If you have any questions about this change, please contact the residential property tax team at budget2013.ARPT@hmrc.gsi.gov.uk

Stamp duty land tax: 15 per cent rate reliefs

Who is likely to be affected?

Certain types of companies, partnerships with company members and collective investment schemes acquiring residential property in the UK for more than £2 million who currently will pay a higher 15 per cent rate of stamp duty land tax (SDLT) on such acquisitions.

General description of the measure

The measure primarily introduces a series of reliefs from the 15 per cent SDLT rate for genuine property businesses purchasing residential property for over £2 million.

Policy objective

The 15 per cent SDLT rate forms part of a package designed to ensure that individuals and companies pay a fair share of tax on residential property transactions and to tackle avoidance through enveloping a property in a corporate wrapper.

This measure aims to ensure that genuine property businesses are relieved from the charge, whilst ensuring that those who acquire and hold property through companies for personal or family occupation will pay their fair share of tax.

Background to the measure

The higher 15 per cent rate was announced at Budget 2012 and was effective from 21 March 2012. The consultation *Ensuring the fair taxation of residential property transactions*, which covered other measures in the residential property package, has informed the introduction of reliefs from the 15 per cent SDLT rate.

Detailed proposal

Operative date

The measure will affect purchases of residential property costing more than £2 million where the effective date of the transaction is on or after the date that Finance Bill 2013 receives Royal Assent and the person or persons acquiring the property are among the companies, partnerships and collective investment schemes to whom the measure applies.

Current law

The current law in Section 55A and Schedule 4A to Finance Act 2003 provides for the higher rate of SDLT to be charged on purchases of residential property costing more than £2 million when purchased by certain companies, partnerships with company members or collective investment schemes, either jointly or solely.

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to provide for a number of reliefs (so that SDLT is charged at 7 per cent); and also amend the rules for the existing relief from the 15 per cent rate provided to property developers. The most significant new relief will provide for relief from the higher rate of SDLT to persons running property rental businesses. The two year trading condition in the current property developer rules is also to be removed.

There will be other reliefs to cover other situations where the property acquired is to be used within certain businesses.

A 'clawback' provision is also to be introduced to ensure that if, within three years of the effective date of the transaction, the property is no longer held for a purpose to which the relief was claimed or is kept for personal or family occupation, additional SDLT will be payable as though the acquisition was taxable at 15 per cent.

There will also be other changes to ensure that, where appropriate and possible, the 15 per cent SDLT rules match those for the annual residential property tax so that a transaction to which the 15 per cent rate of SDLT is charged is also liable to the annual charge.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	This measure is expected to reduce receipts by approximately £5 million per annum from 2014-15. The final costing will be subject to scrutiny by the Office for Budget Responsibility, and will be set out at Budget 2013.					
Economic impact	The changes to the 15 per cent rate rules (which narrow the coverage of an existing tax) are likely to have a small marginal positive impact on demand for the high value property market with knock on positive impacts for property businesses.					
Impact on individuals and households	No individuals (other than where they are joint purchasers and one of the other parties is a defined non-natural person (NNP)) are directly affected as the higher rate charge only applies to NNPs (companies, partnerships with company members and collective investment schemes).					
Equalities impacts	The measure is not anticipated to impact on groups with protected characteristics any more than on those without such characteristics.					
Impact on business including civil society organisations	<p>The number of businesses affected by the higher SDLT rate is small because there are relatively few acquisitions by NNPs of residential property costing more than £2 million each year.</p> <p>Businesses purchasing residential properties costing more than £2 million are already within the scope of SDLT and the reliefs will be administered through the current SDLT regime. The measure should thus give rise to negligible additional administrative burden or compliance costs.</p>					
Operational impact (£m) (HMRC or other)	The impacts on cost and operational resources by these changes will be negligible.					
Other impacts	<p><u>Small firms impact test:</u> many of the companies used to hold residential property costing more than £2 million are special purpose vehicles which will own a single property. These will have no employees and the measure aims to discourage such companies, subject to those carrying on a business, from purchasing such properties. These companies will also face negligible additional administrative burdens or compliance costs from the measure.</p> <p>Other impacts have been considered and none have been identified.</p>					

Monitoring and evaluation

The measure will be monitored and assessed alongside the other measures in the residential property package.

Further advice

If you have any questions about this change, please contact the stamp taxes team at budget2013.stamptaxes@hmrc.gsi.gov.uk.

Consultation draft

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PART 1

ANNUAL RESIDENTIAL PROPERTY TAX

The charge to tax

1 Charge to tax

- (1) A tax (called “annual residential property tax”) is to be charged in accordance with this Part.
- (2) Tax is charged in respect of a chargeable interest if on one or more days in a chargeable period –
 - (a) the interest is a single-dwelling interest and has a taxable value of more than £2 million, and
 - (b) a company, partnership or collective investment scheme meets the ownership condition with respect to the interest.
- (3) The tax is charged for the chargeable period concerned.
- (4) A company meets the ownership condition with respect to a single-dwelling interest on a day if on that day the company is beneficially entitled to the interest (otherwise than as a member of a partnership).
- (5) A partnership meets the ownership condition with respect to a single-dwelling interest on a day if on that day a member of the partnership that is a company is beneficially entitled to the interest (as a member of the partnership).
- (6) A collective investment scheme meets the ownership condition with respect to a single-dwelling interest on a day if the interest is held for the purposes of the scheme on that day.
- (7) References in this section to being beneficially entitled to an interest are to being beneficially entitled to it either solely or jointly with another person.
- (8) If a company is jointly beneficially entitled to a chargeable interest (as a member of a partnership or otherwise), then regardless of whether the company is entitled as a joint tenant or tenant in common (or, in Scotland, as a joint owner or owner in common) the ownership condition is regarded as met in relation to the whole chargeable interest.
- (9) The chargeable periods are –
 - (a) the period beginning with 1 April 2013 and ending with 31 March 2014, and
 - (b) each subsequent period of 12 months beginning with 1 April.

2 Person liable

- (1) The chargeable person is liable to pay tax charged under this Part.
- (2) “The chargeable person” means—
 - (a) in the case of tax charged for a chargeable period by virtue of section 1(4), the company;
 - (b) in the case of tax charged for a chargeable period by virtue of section 1(5), the responsible partners.
- (3) In the case of tax charged for a chargeable period by virtue of section 1(6) “the chargeable person” means—
 - (a) if the collective investment scheme is a unit trust scheme, the trustee of the scheme;
 - (b) if the collective investment scheme is an open-ended investment company, the body corporate referred to in section 236(2) of the Financial Services and Markets Act 2000;
 - (c) in relation to an EEA UCITS which is not an open-ended investment company or unit trust scheme, the management company for that UCITS;
 - (d) in any other case, means the person who has day-to-day control of the management of the property to which the scheme relates.
- (4) The liability of the responsible partners to pay tax charged on them under this Part is joint and several.
- (5) The reference in subsection (2)(b) to “the responsible partners” is to all the persons who are members of the partnership concerned on the first day in the chargeable period on which the partnership meets the ownership condition with respect to the single-dwelling interest.
- (6) Tax charged under this Part is said to be “charged on” the chargeable person (and that person is said to be “chargeable to” the tax).

3 Liability of persons jointly entitled

- (1) Subsection (2) applies if on the first day in a chargeable period on which a person (“P”) is within the charge with respect to a single-dwelling interest, P and another person or persons are jointly entitled to the interest.
- (2) P and the other person or persons are jointly and severally liable for the tax charged for that period with respect to the single-dwelling interest (whether or not those other persons are also within the charge with respect to the interest on the day in question).

4 Amount of tax chargeable

- (1) The amount of tax charged for a chargeable period with respect to a single-dwelling interest is stated in subsection (2) or (3).
- (2) If the chargeable person is within the charge with respect to the single-dwelling interest on the first day of the chargeable period, the amount of tax charged is equal to the annual chargeable amount, as determined by reference to the taxable value of the interest on the relevant day.

- (3) Otherwise, the amount of tax charged is equal to the relevant fraction of the annual chargeable amount, as determined by reference to the taxable value of the interest on the relevant day.
- (4) The “relevant day” is –
- (a) for the purposes of subsection (2), the first day of the chargeable period;
 - (b) for the purposes of subsection (3), the first day in the chargeable period on which the chargeable person is within the charge with respect to the interest.
- (5) The following table gives the annual chargeable amount for a single-dwelling interest (based on the taxable value the interest has on the day mentioned in subsection (2) or (3)).

<i>Annual chargeable amount</i>	<i>Taxable value of the interest on the relevant day</i>
£15,000	Greater than £2 million but not greater than £5 million.
£35,000	Greater than £5 million but not greater than £10 million.
£70,000	Greater than £10 million but not greater than £20 million.
£140,000	Greater than £20 million.

- (6) The relevant fraction is –

$$\frac{N}{Y}$$

where –

“N” is the number of days from (and including) the relevant day to the end of the chargeable period;

“Y” is the number of days in the chargeable period.

5 Indexation of annual chargeable amounts

- (1) If the consumer prices index for September in 2013 or any later year (“the later year”) is higher than it was for the previous September, section 4(5) applies in relation to chargeable periods beginning on or after the 1 April in the year after the later year with the following amendments.
- (2) For each of the annual chargeable amounts stated in the table in section 4(5) (as it applies in relation to chargeable periods beginning in the previous 12 months) there is substituted the indexed amount.
- (3) “The indexed amount” is found by –
 - (a) increasing the previous amount by the same percentage increase as the percentage increase in the consumer prices index, and

- (b) rounding down the result to the nearest multiple of £50.
- (4) In this section “consumer prices index” means the all items consumer prices index published by the Statistics Board.
- (5) The Treasury must, before 1 April 2014 and before each subsequent 1 April, make an order stating the amounts that by virtue of this section are to be the annual chargeable amounts for chargeable periods beginning on or after that date.

6 Taxable value

- (1) The taxable value of a single-dwelling interest on any day (“the relevant day”) is equal to its market value at the end of the latest day that –
 - (a) falls on or before that day, and
 - (b) is a valuation date in the case of that interest.
- (2) Each of the following is a valuation date in the case of any single-dwelling interest –
 - (a) 1 April 2012;
 - (b) each 1 April falling 5 years, or a multiple of 5 years, after 1 April 2012.
- (3) The following are also valuation dates in the case of any single-dwelling interest to which a company is beneficially entitled on the relevant day (otherwise than as a member of a partnership) –
 - (a) the effective date of any acquisition by the company of a chargeable interest in or over the dwelling concerned;
 - (b) the effective date of any disposal of part (but not the whole) of the single-dwelling interest.
- (4) The following are also valuation dates in the case of any single-dwelling interest to which a company is beneficially entitled on the relevant day as a member of a partnership –
 - (a) the effective date of any acquisition as a result of which a chargeable interest in or over the dwelling concerned became partnership property of the partnership,
 - (b) the effective date of any disposal of part (but not the whole) of the single-dwelling interest.
- (5) The following are also valuation dates in the case of any single-dwelling interest that is on the relevant day held for the purposes of a collective investment scheme –
 - (a) the effective date of any acquisition, made for the purposes of the scheme, of a chargeable interest in or over the dwelling concerned;
 - (b) the effective date of any disposal of part (but not the whole) of the single-dwelling interest.
- (6) In this section references to a disposal of part of a single-dwelling interest include the grant of a chargeable interest out of the single-dwelling interest.
- (7) The grant of an option does not count as the grant of a chargeable interest for the purposes of subsection (6).
- (8) For the purposes of this Part “market value” is to be determined as for the purposes of the Taxation of Chargeable Gains Act 1992 (see sections 272 to 274 of that Act).

7 No double charge

Tax in respect of a given single-dwelling interest is charged only once for any chargeable day even if more than one person is “the chargeable person” with respect to the tax charged.

Adjustment of amount charged

8 Adjustment of amount chargeable

- (1) Relief may be claimed if the amount of tax charged on a person for a chargeable period with respect to a single-dwelling interest is greater than the adjusted chargeable amount for that interest and that period.
- (2) On the making of a claim under this section, the amount of tax charged for the period with respect to the interest is reduced to the adjusted chargeable amount.
- (3) The adjusted chargeable amount is the total of the daily amounts for all the days in the period on which the chargeable person is within the charge with respect to the interest.
- (4) The daily amount for any such day (“the included day”) is –

$$\frac{1}{Y} \times A$$

where –

“Y” is the number of days in the chargeable period;

“A” is the annual chargeable amount, determined by reference to the taxable value of the interest on the included day.

- (5) Relief under this section is to be claimed –
 - (a) in an annual residential property tax return, or
 - (b) by amending an annual residential property tax return.
- (6) A claim for relief must be delivered by the end of the chargeable period following the one to which the claim relates.
- (7) Relief under this section may be given by repayment of tax or otherwise.

Chargeable interests and “single-dwelling interest”

9 Chargeable interests

- (1) In this Part “chargeable interest” means –
 - (a) an estate, interest, right or power in or over land in the United Kingdom, or
 - (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.
- (2) Where two or more persons are jointly entitled to a chargeable interest the chargeable interest is not regarded, for the purposes of this Part, as consisting

of separate interests corresponding to the shares (if any) that those persons have by virtue of their joint entitlement.

- (3) An exempt interest is not a chargeable interest for the purposes of this Part.
- (4) The following are exempt interests –
 - (a) any security interest;
 - (b) a licence to use or occupy land;
 - (c) in England and Wales or Northern Ireland, a tenancy at will.
- (5) In subsection (4) “security interest” means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any other obligation.
- (6) In the application of this Part in Scotland the reference in subsection (5) to a rentcharge is to be read as a reference to a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000 (asp 5).
- (7) The Treasury may by regulations provide that any other description of interest or right in or over a dwelling is an exempt interest.

10 Meaning of “single-dwelling interest”

- (1) References in this Part to a “single-dwelling interest” are to be read in accordance with this section.
- (2) A chargeable interest that is exclusively in or over land consisting (on any day) of a single dwelling is a single-dwelling interest (on that day).
- (3) Where a person is entitled to a chargeable interest that is exclusively in or over land consisting (on any day) of two or more single dwellings –
 - (a) provisions referring to a “single-dwelling interest” operate as if the person had (on that day) a separate chargeable interest in or over each dwelling, and
 - (b) the chargeable interest in or over each dwelling is therefore a single-dwelling interest.
- (4) Where a person is entitled to a chargeable interest in or over land that on any day consists of one or more single dwellings and non-residential land –
 - (a) provisions referring to a “single-dwelling interest” operate as if the person had (on that day) a separate chargeable interest in or over each dwelling and a further separate chargeable interest in or over the non-residential land, and
 - (b) the chargeable interest in or over each dwelling is therefore a single-dwelling interest.
- (5) A single dwelling interest is referred to as a single-dwelling interest “in” the dwelling concerned.
- (6) A single-dwelling interest in one dwelling is distinct from any single-dwelling interest in another dwelling, even if the dwellings stand successively on the same land.
- (7) In this section –
 - (a) “non-residential land” means land that is not a dwelling or part of a dwelling;
 - (b) references to a dwelling include a part of a dwelling.

11 Different interests held in the same dwelling

- (1) Subsection (2) applies if on one or more days in a chargeable period –
 - (a) a company is beneficially entitled to two or more single-dwelling interests in the same dwelling, or
 - (b) two or more single-dwelling interests in the same dwelling are held for the purposes of the same collective investment scheme.
- (2) This Part has effect with respect to that chargeable period as if those separate interests constituted just one single-dwelling interest, the taxable value of which on any day is the sum of the taxable values of the separate interests.
- (3) For the purposes of subsection (1)(a) it does not matter whether a company beneficially entitled to a single-dwelling interest is beneficially entitled to it –
 - (a) solely or jointly with another person, or
 - (b) as a member of a partnership or otherwise.

12 Interests held by connected persons

- (1) If on any day a company (“A”) is beneficially entitled to a single-dwelling interest in a dwelling and another person (“B”) who is connected with A is beneficially entitled to a different single-dwelling interest in the same dwelling, this Part has effect –
 - (a) in relation to A as if A were on that day beneficially entitled to B’s single-dwelling interest as well as A’s single dwelling interest, and
 - (b) (if B is a company) in relation to B as if B were on that day beneficially entitled to A’s single-dwelling interest as well as B’s single-dwelling interest.
- (2) If on any day a single-dwelling interest (“the scheme interest”) is held for the purposes of a unit trust scheme and a person (“B”) who is connected with the unit trust scheme is beneficially entitled to a different single-dwelling interest in the same dwelling, this Part has effect –
 - (a) in relation to the unit trust scheme, as if those separate interests constituted (on that day) just one single-dwelling interest held for the purposes of the scheme, the taxable value of which is the sum of the taxable values of the separate interests, and
 - (b) (if B is a company) in relation to B as if B were (on that day) beneficially entitled to the scheme interest as well as B’s single-dwelling interest.
- (3) If on any day a single-dwelling interest in a dwelling (“the first scheme interest”) is held for the purposes of a unit trust scheme and another interest in the same dwelling (“the second scheme interest”) is held for the purposes of another unit trust scheme that is connected with the first-mentioned unit trust scheme, this Part has effect in relation to each scheme as if those separate interests constituted (on that day) just one single-dwelling interest held for the purposes of that scheme, the taxable value of which is the sum of the taxable values of the separate interests.
- (4) For the purposes of subsections (1) and (2) it does not matter whether a person is beneficially entitled to an interest –
 - (a) solely or jointly with another person, or
 - (b) as a member of a partnership or otherwise.

- (5) In accordance with section 7, tax is not charged more than once for any day with respect to the interest treated under this section (read with section 11(2)) as just one single-dwelling interest.
- (6) Where tax is charged for a day in a chargeable period with respect to an interest that on that day is treated as mentioned in subsection (5), each of the persons who is, by virtue of this section, the chargeable person in relation to that tax is jointly and severally liable with the other chargeable persons to pay the tax referable to that day.

Meaning of “dwelling”

13 Meaning of “dwelling”

- (1) A building or part of a building counts as a dwelling at any time when –
 - (a) it is used or suitable for use as a single dwelling, or
 - (b) it is in the process of being constructed or adapted for such use.
- (2) Land that is, or is at any time intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling at that time.
- (3) Land that subsists, or is at any time intended to subsist, for the benefit of a dwelling is taken to be part of the dwelling at that time.
- (4) A building, or part of a building, used for a purpose specified in section 116(2) or (3) of FA 2003 is not used as a dwelling for the purposes of subsection (1).
- (5) Where a building, or part of a building, is used for a purpose mentioned in subsection (4), no account is to be taken for the purposes of subsection (1) of its suitability for any other use.
- (6) If a building or part of a building becomes temporarily unsuitable for use as a dwelling for any reason (including accidental damage, repairs or any other physical change to the building or its environment), that temporary unsuitability is ignored in determining whether or not the building or part of a building is, during the period in question, a dwelling for the purposes of this Part.

This subsection does not affect any of the provisions in sections 28 to 33.

14 Substantial performance of “off plan” purchase

- (1) Subsection (2) applies where –
 - (a) a contract is entered into for the acquisition of a chargeable interest in or over land that consists of or includes a building, or part of a building, that is to be constructed or adapted for use as a single dwelling,
 - (b) substantial performance is treated as constituting the acquisition of the chargeable interest (under section 24), and
 - (c) construction or adaptation of the building, or the part of a building, has not begun by the time the contract is substantially performed.
- (2) The chargeable interest deemed to be acquired as mentioned in subsection (1)(b) is taken to be in or over land that consists of or (as appropriate) includes a dwelling.

- (3) If at any time after the substantial performance of the contract the obligation under the contract to carry out the construction or adaptation ceases to have effect without the construction or adaptation having been begun, subsection (2) ceases to apply at that time.
- (4) A building or part of a building used for a purpose specified in section 116(2) or (3) of FA 2003 is not used as a dwelling for the purposes of subsection (1).
- (5) In this section –
 - “contract” includes any agreement (including, in the case of Scotland, missives of let not constituting a lease);
 - “substantially performed” has the same meaning as in section 44 of FA 2003.

15 Power to widen references to “use as a dwelling”

- (1) The Treasury may by order amend this Part so as to specify cases where use of a building is to be use of a building as a dwelling for the purposes of section 14(2) or 13(1).
- (2) The reference in section 116(8)(a) of FA 2003 (power to amend section 116(2) and (3)) to “the purposes of subsection (1)” includes a reference to the purposes of sections 13(1) and 14(2).

16 Parts of a greater whole

- (1) The fact that a part of a building is suitable for use as a dwelling does not prevent that part from forming part of a larger single dwelling.
- (2) The fact that a building or structure that is –
 - (a) in the garden or grounds of a dwelling, and
 - (b) occupied or enjoyed with the dwelling,is itself suitable for use as a single dwelling does not prevent it from being treated (in accordance with section 13(3)) as part of the dwelling.

17 Dwelling in grounds of another dwelling

- (1) Subsection (4) applies where the conditions in subsection (2) are met in relation to two dwellings (the “main dwelling” and the “associated dwelling”) at the end of a day (“the day in question”) in a chargeable period.
- (2) The conditions are that –
 - (a) the main dwelling has a garden or grounds,
 - (b) the associated dwelling stands within the garden or grounds of the main dwelling, but is not occupied or enjoyed with that dwelling,
 - (c) the associated dwelling does not have separate access, and is not part of the same building as the main building, and
 - (d) the common ownership condition is met.
- (3) The common ownership condition is that –
 - (a) a company is beneficially entitled to a chargeable interest in the main dwelling, and the company or a person connected with the company is beneficially entitled to a chargeable interest in the associated dwelling, or

- (b) a chargeable interest in the main dwelling is held for the purposes of a collective investment scheme, and a chargeable interest in the associated dwelling is held for the purposes of the same collective investment scheme.

(It does not matter whether or not the interest in the main dwelling and the interest in the associated dwelling are held for the same title.)

- (4) This Part has effect in relation to the interests mentioned in paragraph (a) or (as the case may be) (b) of subsection (3) as if the main dwelling and the associated dwelling were, on the day in question, suitable for use as a single dwelling.
- (5) Subsection (4) does not apply if the day in question is, in relation to the interest in the main dwelling or the interest in the associated dwelling, a relievable day by virtue of a provision mentioned in subsection (6).
- (6) Those provisions are –
 - (a) section 34 (property rental businesses);
 - (b) section 41 (property developers);
 - (c) section 40 (property developers: exchange of dwellings);
 - (d) section 42 (property traders);
 - (e) section 44 (occupation by certain employees or partners);
 - (f) section 47 (farmhouses).
- (7) If the collective investment scheme first mentioned in paragraph (b) of subsection (3) is a unit trust scheme, the reference in that paragraph to a chargeable interest being held for the purposes of the same collective investment scheme includes a reference to a person connected with the scheme being beneficially entitled to the interest.
- (8) The associated dwelling has “separate access” only if –
 - (a) there is access to the associated dwelling directly from a highway (in Scotland, a road) that the dwelling adjoins, or
 - (b) the person entitled to possession of the associated dwelling has access to that dwelling from a highway (in Scotland, a road), exclusively by passing over land that the person is entitled to pass over by reason of one or more rights of way or other interests in land to which the person is separately entitled.
- (9) In this section –
 - references to beneficial entitlement are to beneficial entitlement, whether solely or jointly with another person, and whether as a member of a partnership or otherwise;
 - in relation to a dwelling or dwellings, references to the “garden or grounds” are to land occupied or enjoyed with the dwelling or dwellings as a garden or grounds;
 - references to the person entitled to possession of a dwelling are to the person entitled to possession of the dwelling by reason of an estate or interest held by that person;
 - “separately entitled” means entitled otherwise than by reason of a chargeable interest in or over the main dwelling.

18 Amalgamation of dwellings in the same building

- (1) Two parts of a building are “linked dwellings” if –
 - (a) each of them counts as a dwelling,

- (b) there is private access between the two dwellings,
 - (c) the two parts of the building are not (together) used or suitable for use as a single dwelling, and
 - (d) the common ownership condition and the use condition are met.
- (2) The common ownership condition is that –
- (a) a company is beneficially entitled to a chargeable interest in one of the dwellings, and the company or a person connected with the company is beneficially entitled to a chargeable interest in the other dwelling, or
 - (b) a chargeable interest in one of the dwellings is held for the purposes of a collective investment scheme, and a chargeable interest in the other dwelling is held for the purposes of the same collective investment scheme.
- (It does not matter whether or not the interests are held for the same title.)
- (3) If at the end of a day in a chargeable period (“the day in question”) two parts of a building constitute linked dwellings, this Part has effect in relation to the interests mentioned in paragraph (a) or (as the case may be) (b) of subsection (2) as if the two parts were, on the day in question, suitable for use as a single dwelling.
- (4) Subsection (3) does not apply if the day in question is, in relation to a chargeable interest mentioned in subsection (2)(a) or (as the case may be) (2)(b), a relievable day by virtue of a provision mentioned in subsection (5).
- (5) Those provisions are –
- (a) section 34 (property rental businesses);
 - (b) section 36 (trades involving the exploitation of an interest in a dwelling);
 - (c) section 38 (property developers);
 - (d) section 40 (property developers: exchange of dwellings);
 - (e) section 42 (property traders);
 - (f) section 44 (occupation by certain employees or partners);
 - (g) section 47 (farmhouses).
- (6) If two dwellings in a building (dwelling A and dwelling B) are treated under this section as suitable for use as a single dwelling, and dwelling B and a third dwelling in the building (“dwelling C”) are treated under this section as suitable for use as a single dwelling, all three are treated as suitable for use as a single dwelling (and so on).

19 Section 18: supplementary

- (1) If the collective investment scheme first mentioned in paragraph (b) of section 18(2) is a unit trust scheme, the reference in that paragraph to a chargeable interest being held for the purposes of the same collective investment scheme includes a reference to a person connected with the scheme being beneficially entitled to the interest.
- (2) For the purposes of section 18, there is private access between two dwellings if the person entitled to possession of each dwelling is entitled, by reason of a right of way or other interest in land, to have access to that person’s dwelling from the other dwelling, without passing over any part of the building (or any other land) in which a third party has an interest entitling that third party to enter it.

- (3) In subsection (2) “third party” means a person other than –
 - (a) the persons entitled to possession of the dwellings mentioned in subsection (1), and
 - (b) persons connected with any of them.
- (4) The use condition mentioned in section 18(1)(d) is that each of the two dwellings –
 - (a) is occupied (or usually occupied) by a relevant person,
 - (b) is intended to be so occupied (or usually so occupied), or
 - (c) is not occupied.
- (5) In subsection (4) “relevant person” means –
 - (a) an individual connected with the company mentioned in section 18(2)(a),
 - (b) if the collective investment scheme mentioned in section 18(2)(b) is a unit trust scheme, an individual connected with that scheme,
 - (c) an individual who occupies (or is to occupy) the dwelling concerned otherwise than on commercial terms, or
 - (d) an individual employed wholly or partly in connection with the occupation, by a person falling within any of paragraphs (a) to (c), of a dwelling in the building, or providing services in connection with such a person’s occupation of a dwelling in the building.
- (6) In this section and section 18 –
 - (a) references to beneficial entitlement are to beneficial entitlement, whether solely or jointly with another person, and whether as a member of a partnership or otherwise;
 - (b) references to the person entitled to possession of a dwelling are to the person entitled to possession of the dwelling by reason of an estate or interest held by that person.

20 Terraces etc

Any structure (such as a terrace of houses or a pair of semi-detached houses) that is composed of or includes dwellings is regarded as a building for the purposes of sections 18 and 19.

Acquisitions and disposals

21 Acquisitions and disposals of chargeable interests

- (1) References in this Part to the acquisition of a chargeable interest include any acquisition however effected (including an acquisition effected by the act of parties to a transaction, by order of a court or other authority, by or under any statutory provision or by operation of law).
- (2) The surrender or release of a chargeable interest is –
 - (a) an acquisition of that interest by any person whose interest or right is benefited or enlarged by the transaction, and
 - (b) a disposal by the person ceasing to be entitled to that interest.
- (3) The variation of a chargeable interest is –
 - (a) an acquisition of a chargeable interest by the person benefiting from the variation, and

- (b) a disposal of a chargeable interest by the person whose interest is subject to or limited by the variation.

22 Date of acquisition

- (1) A person who acquires a chargeable interest in or over land that consists of or includes a dwelling is treated for the purposes of this Part as acquiring the interest at the beginning of the effective date of the acquisition.
- (2) The effective date of an acquisition is –
 - (a) the date on which the acquisition is completed, or
 - (b) any alternative date the Commissioners for Her Majesty’s Revenue and Customs may specify by regulations.

23 Date of disposal

- (1) A person who disposes of a chargeable interest in or over land that consists of or includes a dwelling is treated for the purposes of this Part as ceasing to be entitled to the interest at the end of the day preceding the effective date of the disposal.
- (2) The effective date of a disposal is –
 - (a) the date on which the disposal is completed, or
 - (b) any alternative date the Commissioners for Her Majesty’s Revenue and Customs may prescribe by regulations.

24 Contract and conveyance: the purchaser

- (1) This section applies where a person (“P”) enters into a contract under which –
 - (a) P is to acquire a relevant chargeable interest, and
 - (b) the acquisition is to be completed by a conveyance.
- (2) P is not regarded as acquiring any chargeable interest by reason of entering into the contract.
- (3) If the contract is substantially performed without having been completed, this Part has effect as if the substantial performance of the contract were the completion of the acquisition provided for by the contract.
- (4) Accordingly, where subsection (3) applies and the contract is subsequently completed by a conveyance, that completion is not treated for the purposes of section 6 as effecting the acquisition of a chargeable interest.
- (5) Where subsection (3) applies and –
 - (a) the contract is afterwards rescinded or annulled, or
 - (b) performance of the contract is for any other reason terminated before the contract has been carried fully into effect,this Part has effect as if P had at the relevant time disposed of the chargeable interest referred to in subsection (1)(a).
- (6) In subsection (5) “the relevant time” means –
 - (a) the time when the rescission or annulment takes effect, or
 - (b) (as the case requires) the time when performance of the contract ceases.

- (7) Where subsection (3) applies and the contract is afterwards varied (or partially rescinded) so that the chargeable interest to be acquired under the contract is not the same as the chargeable interest to which the contract originally related, this Part (including subsection (3)) has effect as if the variation of the contract effected –
 - (a) the disposal by P of the chargeable interest referred to in subsection (1)(a), and
 - (b) the substantial performance of the contract, as varied.
- (8) If the parties to the contract proceed as if they had varied the contract in the way mentioned in subsection (7) (without actually doing so), subsection (7) applies as if they had actually made the corresponding variation in the terms of the contract.
- (9) In this section –
 - (a) references to completion are to the completion of the acquisition proposed, whether or not between the original parties;
 - (b) “contract” includes any agreement;
 - (c) “conveyance” includes any instrument;
 - (d) “relevant chargeable interest” means a chargeable interest in or over land that consists of or includes a dwelling;
 - (e) “substantially performed” has the same meaning as in section 44 of FA 2003.

25 Contract and conveyance: the vendor

- (1) Subsections (3) and (4) apply where a person (“V”) enters into a contract under which –
 - (a) V is to dispose of a relevant chargeable interest, and
 - (b) the disposal is to be completed by a conveyance.
- (2) V is not regarded as disposing of a chargeable interest by reason of entering into the contract.
- (3) If the contract is substantially performed without having been completed, this Part has effect as if the substantial performance of the contract were the completion of the disposal provided for by the contract.
- (4) Accordingly, where subsection (3) applies and the contract is subsequently completed by a conveyance, that completion is not treated for the purposes of section 6 as effecting the disposal of a chargeable interest.
- (5) Where subsection (3) applies and –
 - (a) the contract is afterwards rescinded or annulled, or
 - (b) performance of the contract is for any other reason terminated before the contract has been carried fully into effect,this Part has effect as if V had at the relevant time re-acquired the chargeable interest referred to in subsection (1)(a).
- (6) In subsection (5) “the relevant time” means –
 - (a) the time when the rescission or annulment takes effect, or
 - (b) (as the case requires) the time when performance of the contract ceases.
- (7) Where subsection (3) applies and the contract is afterwards varied (or partially rescinded) so that the chargeable interest to be disposed of under the contract

is not the same as the chargeable interest to which the contract originally related, this Part (including subsection (3)) has effect as if the variation of the contract effected –

- (a) the re-acquisition by V of the chargeable interest referred to in subsection (1)(a), and
 - (b) the substantial performance of the contract, as varied.
- (8) If the parties to the contract proceed as if they had varied the contract in the way mentioned in subsection (7) (without actually doing so), subsection (7) applies as if they had actually made the corresponding variation in the terms of the contract.
- (9) In this section –
- (a) references to completion are to the completion of the disposal proposed, between the same parties, in substantial conformity with the contract;
 - (b) “contract” includes any agreement;
 - (c) “conveyance” includes any instrument;
 - (d) “relevant chargeable interest” means a chargeable interest in or over land that consists of or includes a dwelling;
 - (e) “substantially performed” has the same meaning as in section 44 of FA 2003.

New dwellings, conversions, demolition etc

26 New dwellings

- (1) Where a new dwelling is being or has been constructed (whether or not as part of a larger building) the earlier of the following days is a valuation date in the case of a single-dwelling interest in that dwelling –
- (a) the completion day;
 - (b) the day on which the dwelling is first occupied.
- (2) The reference in subsection (1) to the construction of a new dwelling –
- (a) includes the production of a new dwelling by the alteration (whether structural or otherwise) of an existing building, but
 - (b) does not include a case to which section 27 (dwellings produced from other dwellings) or section 30 (demolition and replacement: new dwellings) applies.
- (3) The reference in subsection (1) to the “completion day” is to the day on which the new dwelling is treated as having come into existence for the purposes of –
- (a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or
 - (b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or
 - (c) the Rates (Northern Ireland) Order 1977 (N.I. 28) (see Article 25B of that Order).
- (4) In this section “building” includes a part of a building.

27 Dwellings produced from other dwellings

- (1) This section applies where an existing building that is a dwelling or dwellings (“the old dwelling” or “the old dwellings”) becomes a different dwelling or dwellings (“new” dwellings) as a result of structural alteration.
- (2) Any question as to whether or not a person has a single-dwelling interest at any time either in the old dwelling (or dwellings) or in a new dwelling is determined on the assumption that the old dwelling (or dwellings) cease to exist, and any new dwelling come into existence, only when the conversion is completed.
- (3) The day after the conversion is completed is a valuation date in the case of any single-dwelling interest in a new dwelling.
- (4) References to when the conversion is completed are to the end of the day on which the new dwelling is treated as having come into existence (or the first day on which all the new dwellings are treated as having come into existence) for the purposes of—
 - (a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or
 - (b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or
 - (c) the Rates (Northern Ireland) Order 1977 (N.I. 28) (see Article 25B of that Order).
- (5) In this section “building” includes a part of a building.

28 Demolition of a dwelling

- (1) This section and sections 29 to 31 apply where a building that is a dwelling (“the old dwelling”) is demolished after 1 April 2013.
- (2) Except so far as express provision to the contrary is made in sections 29 to 31, any question as to whether a person has a single-dwelling interest in the dwelling, and any question as to the taxable value of such an interest, is determined as if the dwelling had not been demolished.
- (3) For the purposes of subsection (1) the demolition of a building is treated as having occurred after 1 April 2013 if a day after 1 April 2013 is the first day on which—
 - (a) the demolition has begun, and
 - (b) as a result, the building is no longer suitable for use as a dwelling.
- (4) In this section “building” includes a part of a building.

29 Demolition without replacement

- (1) Subsection (2) applies if a person entitled to a single-dwelling interest in the old dwelling notifies an officer of Revenue and Customs that to the best of the person’s knowledge there is no proposal to construct any dwelling or dwellings on the site of the old dwelling.
- (2) Any question as to whether a person has a single-dwelling interest in the old dwelling is determined on the assumption that the old dwelling ceases (or ceased) to exist with effect from the end of the day mentioned in subsection (3).
- (3) That day is the first day on which—

- (a) the demolition has begun, and
 - (b) as a result, the building in question is no longer suitable for use as a dwelling.
- (4) A notification under subsection (1) must be in writing.
- (5) In this section –
 - (a) “building” includes part of a building;
 - (b) “the site of the old dwelling” means the land on which the dwelling stood and that counted as part of the dwelling;
 - (c) the reference to the construction of a dwelling or dwellings on that site is to the construction of a dwelling or dwellings wholly or partly on the site.

30 Demolition and replacement: new dwellings

- (1) Subsection (2) applies if one or more dwellings (referred to below as “new dwellings”) are constructed on the site of the old dwelling after the demolition.
- (2) Any question as to whether or not a person has a single-dwelling interest at any time either in the old dwelling or in a new dwelling is determined on the assumption that the old dwelling ceases to exist, and the new dwellings come into existence, only when the rebuilding is completed.
- (3) The day after the rebuilding is completed is a valuation date in the case of any single-dwelling interest in a new dwelling.
- (4) In subsection (1) –
 - (a) “the site of the old dwelling” means the land on which the dwelling stood and that counted as part of the dwelling;
 - (b) the reference to the construction of a dwelling on that site is to the construction of a dwelling wholly or partly on the site.
- (5) References to when the rebuilding is completed are to the end of whichever of the following days is earlier –
 - (a) the completion day;
 - (b) the day on which the last of the new dwellings to be occupied is first occupied.
- (6) The reference in subsection (5) to the “completion day” is to the day on which the new dwelling is treated as having come into existence (or the first day on which all the new dwellings are treated as having come into existence) for the purposes of –
 - (a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or
 - (b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or
 - (c) the Rates (Northern Ireland) Order 1977 (N.I. 28) (see Article 25B of that Order).
- (7) In this section “building” includes part of a building.

31 Demolition and replacement: other cases

- (1) This section applies if –

- (a) a building is constructed on the site of the old dwelling after the demolition, and
 - (b) section 30 does not apply.
- (2) Any question as to whether a person has a single-dwelling interest in the old dwelling is determined on the assumption that the old dwelling ceases to exist at the end of –
 - (a) the day on which the change of use is approved, or
 - (b) if later, the day on which the old dwelling ceased to be occupied.
- (3) In subsection (1) –
 - (a) “the site of the old dwelling” means the land on which the dwelling stood and that counted as part of the dwelling;
 - (b) the reference to the construction of a dwelling on that site is to the construction of a dwelling wholly or partly on the site.

32 Conversion of dwelling for non-residential use

- (1) This section applies where a building or part of a building –
 - (a) has been suitable for use as a dwelling, and
 - (b) is altered for the purpose of making it suitable for use otherwise than as a dwelling.
- (2) The question whether or not the alterations make the building or part unsuitable for use as a dwelling is one of fact (but see subsection (3)).
- (3) The building or part will not be regarded as having become unsuitable for use as a dwelling as a result of the alterations at any time unless by that time any planning permission or development consent required for the alterations has been granted (and the alterations have been made in accordance with any such permission or consent).
- (4) In this section “planning permission” has the meaning given by the relevant planning enactment.
- (5) “The relevant planning enactment” means –
 - (a) in relation to land in England and Wales, section 336(1) of the Town and Country Planning Act 1990,
 - (b) in relation to land in Scotland, section 277(1) of the Town and Country Planning (Scotland) Act 1997;
 - (c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1991.
- (6) In this section “development consent” means development consent under the Planning Act 2008.

33 Damage to a dwelling

- (1) Subsections (2) and (3) apply if on a day on which a person is within the charge with respect to a single-dwelling interest (“the relevant day”) –
 - (a) the dwelling in question suffers substantial damage that is accidental, or otherwise caused by events outside the control of the relevant person, and
 - (b) as a result of the damage the dwelling becomes temporarily unsuitable for occupation for a period of at least 90 days.

- (2) The day on which the period mentioned in subsection (1)(b) begins is a valuation date in the case of the single-dwelling interest.
- (3) Subsection (2) does not apply if the damage destroys the dwelling (so that it ceases to be a dwelling).
- (4) Damage done to a dwelling is disregarded for the purposes of subsection (1) if it occurs in the course of work done on the relevant person's behalf for the purpose of demolishing part of the dwelling, or part of a building that contains the dwelling.
- (5) "The relevant person" means a person who is beneficially entitled to the single dwelling interest (whether solely or jointly, and whether or not as a member of a partnership).

Reliefs

34 Property rental businesses

- (1) A day in a chargeable period is "relievable" in relation to a single-dwelling interest if at the end of that day the interest –
 - (a) is being exploited as a source of rents or other receipts (other than excluded rents) in the course of a qualifying property rental business carried on by a person beneficially entitled to the interest, or
 - (b) is held with the intention that it will be so exploited in the course of a qualifying property rental business that is being carried on, or is to be carried on, by a person beneficially entitled to the interest.
- (2) Subsection (3) applies where tax is charged, in respect of a single-dwelling interest, for a chargeable period that includes one or more days that are relievable as a result of subsection (1) (or for more than one such period).
- (3) For any such period, the adjusted chargeable amount is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day.
- (4) A single-dwelling interest is not regarded as being "exploited in the course of a qualifying property rental business" at any time when –
 - (a) a non-qualifying individual is permitted to occupy the dwelling, or
 - (b) it is intended that the dwelling will (or will if certain circumstances arise) be made available for occupation by a non-qualifying individual.
- (5) "Non-qualifying individual" means any of the following –
 - (a) an individual who is beneficially entitled to the interest,
 - (b) an individual who is connected with a person beneficially entitled to the interest ("a connected person"),
 - (c) a relevant settlor,
 - (d) the spouse or civil partner of a connected person or of a relevant settlor,
 - (e) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor,
 - (f) a relative of the spouse or civil partner of a connected person or of a relevant settlor, or
 - (g) the spouse or civil partner of a person falling within paragraph (f).

- (6) If a non-qualifying individual has occupied, or had permission to occupy, a dwelling or part of a dwelling, no subsequent day is a relievable day in relation to a single-dwelling interest in the dwelling unless that day is, or is preceded by, a day at the end of which the interest is being exploited as mentioned in subsection (1)(a).
- (7) If at any time in a chargeable period a person (“the firm”) who is beneficially entitled to a single-dwelling interest and carries on a property rental business permits a non-qualifying individual to occupy the dwelling (or part of it), this section has effect as if there had been an intention such as is mentioned in subsection (4)(b) throughout the period ending with the giving of that permission to occupy and beginning –
 - (a) with the first day of the chargeable period preceding the one mentioned above, or
 - (b) (if later) with the first day on which the firm was beneficially entitled to the single-dwelling interest (and carried on the business).
- (8) But subsection (7) does not treat a person as having had the intention in question during any period in which a qualifying individual was permitted, in the course of the business, to occupy the dwelling (provided that no non-qualifying individual occupies the dwelling at any time during the period of the qualifying individual’s occupation).
- (9) A single-dwelling interest is not regarded as being “held with the intention that” it will be exploited as mentioned in subsection (1)(b) unless steps are being taken to secure that the interest will be so exploited as soon as is reasonably practicable.
- (10) In this section –
 - “relative” means brother, sister, ancestor or lineal descendant;
 - “relevant settlor”, in a case where a person, in the capacity of trustee of a settlement, is connected with the person mentioned in subsection (1)(a), means any individual who is a settlor in relation to the settlement;
 - “qualifying individual” means an individual other than a non-qualifying individual;
 - “settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act);
 - “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected persons”: supplementary).

35 Meaning of “property rental business” and related expressions

- (1) The following definitions are for section 34.
- (2) “Property rental business” means a business that is a property business for the purposes of the CTA 2009 (but see subsection (3)).
- (3) For that purpose, the “rents or other receipts” referred to in section 207(1) of CTA 2009 (generating income from land) are taken not to include excluded rents.
- (4) “Excluded rents” means rents within any of classes 2 to 6 in the table in section 605(2) of CTA 2010.
- (5) “Qualifying property rental business” means a property rental business that is carried on –

- (a) on a commercial basis, and
- (b) with a view to the realisation of profits.

36 Trades involving the exploitation of an interest in a dwelling

- (1) A day in a chargeable period is “relievable” in relation to a single-dwelling interest if at the end of that day the interest—
 - (a) is being exploited as a source of income in the course of a qualifying trade, or
 - (b) is held with intention that it will be exploited as a source of income in the course of a qualifying trade that is being, or is to be, carried on.
- (2) Subsection (3) applies where tax is charged, in respect of a single-dwelling interest, for a chargeable period that includes one or more days that are relievable as a result of subsection (1).
- (3) The adjusted chargeable amount for the chargeable period is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day.
- (4) “Qualifying trade”, in relation to a single-dwelling interest, means a trade that—
 - (a) involves permitting persons to make use of, stay in or otherwise enjoy the dwelling, and
 - (b) meets the conditions in subsection (5).
- (5) The conditions are that—
 - (a) the trade is carried on on a commercial basis and with a view to the realisation of profits;
 - (b) the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade is available to the public for at least 28 days in the chargeable period.
- (6) For the purposes of subsections (4)(a) and (5)(b) persons are not considered to be permitted to make use of, stay in or otherwise enjoy a dwelling unless the areas that they are permitted to make use of, stay in or otherwise enjoy include a significant part of the interior of the dwelling.
- (7) The size (relative to the size of the whole dwelling), nature, and function of the area or areas concerned are taken into account in determining whether they form a significant part of the interior of the dwelling.
- (8) A single-dwelling interest is not regarded as being “held with the intention that” it will be exploited as a source of income in the course of a qualifying trade unless steps are being taken to secure that the interest will be so exploited as soon as is reasonably practicable.

37 Provisional relief under section 36

- (1) Subsection (2) applies if—
 - (a) a person is required to deliver an annual residential property tax return for a chargeable period with respect to a single-dwelling interest,
 - (b) on the first day in the period on which the person is within the charge to tax (“the initial day”) the condition in section 36(5)(b) has not yet been met with respect to the dwelling concerned,

- (c) if that condition is met, the initial day will count as a relievable day by virtue of section 36 (trades involving the exploitation of an interest in a dwelling), and
 - (d) the person states in the return that it is intended that the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade will be available to the public for at least 28 days in the chargeable period.
- (2) Her Majesty's Revenue and Customs may give under section 8 the relief that would be due if the initial day were a relievable day by virtue of section 36.
 - (3) Any relief given under subsection (2) is to be withdrawn if the condition in section 36(5)(b) is not in fact met in the case of the dwelling in the chargeable period.

38 Property developers

- (1) A day in a chargeable period is a “relievable day” in relation to a single-dwelling interest if the interest has been acquired in the course of a property development trade, and at the end of that day –
 - (a) a person carrying on the trade (“the property developer”) is beneficially entitled to the interest, and
 - (b) the interest is held exclusively for a qualifying purpose.
- (2) Subsection (3) applies where tax is charged, in respect of a single-dwelling interest, for a chargeable period that includes one or more days that are relievable as a result of subsection (1).
- (3) For any such chargeable period, the adjusted chargeable amount for the single-dwelling interest is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day.
- (4) For the purposes of subsection (1), a single-dwelling interest is held for a qualifying purpose if it is held –
 - (a) for the purpose of redeveloping and reselling the land in the course of the property development trade,
 - (b) for the purpose of redeveloping the land with a view to exploiting it as a source of rents and other receipts in the course of a qualifying property rental business carried on by the property developer, or
 - (c) for a combination of the purposes in paragraphs (a) and (b).But see subsection (5).
- (5) The fact that a single-dwelling interest is held as mentioned in subsection (4)(b) does not preclude the availability of relief under section 34 (property rental businesses).
- (6) A single-dwelling interest is not regarded as being held for any purpose mentioned in subsection (4)(b) unless steps are being taken to secure that the redevelopment will commence without delay (except so far as delay is justified by commercial considerations).

39 Property developers: occupation of dwelling by non-qualifying individual

- (1) A single-dwelling interest is not regarded as being held for a qualifying purpose at any time when –

- (a) a non-qualifying individual is permitted to occupy the dwelling, or any part of it, or
 - (b) it is intended that the dwelling, or any part of it, will (or will if certain circumstances arise) be made available for occupation by a non-qualifying individual.
- (2) If at any time in a chargeable period a person (“the property developer”) that is beneficially entitled to a single-dwelling interest and carries on a property development trade permits a non-qualifying individual to occupy the dwelling, this section has effect as if the interest had been held otherwise than as mentioned in subsection 38(1)(b) throughout the period ending with the giving of that permission to occupy and beginning—
 - (a) with the first day of the chargeable period preceding the one mentioned above, or
 - (b) (if later) with the first day on which the property developer was beneficially entitled to the single-dwelling interest (and carried on the trade).
- (3) If any period during which a person carrying on a property development trade (“the property developer”) is beneficially entitled to a single-dwelling interest includes an interval between periods of non-qualifying occupation, section 38 has effect as if a non-qualifying individual were permitted to occupy the dwelling—
 - (a) throughout that interval, and
 - (b) from the end of the interval until the property developer disposes of the interest.
- (4) In subsection (3) “interval between periods of non-qualifying occupation” means an interval that is preceded and followed by periods during which a non-qualifying individual (whether or not the same individual) is permitted to occupy the dwelling.

40 Property developers: exchange of dwellings

- (1) A day in a chargeable period is a “relievable day” in relation to a single-dwelling interest if—
 - (a) a person (“the property developer”) is, at the end of that day, beneficially entitled to a single-dwelling interest (“the returned interest”) that was acquired (by the relevant person) in the course of a property development trade, and
 - (b) that acquisition (“the reverse acquisition”) was part of a qualifying exchange.
- (2) Subsection (3) applies where tax is charged, in respect of a single-dwelling interest, for a chargeable period that includes one or more days that are relievable as a result of subsection (1).
- (3) For any such chargeable period, the adjusted chargeable amount for the single-dwelling interest is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day.
- (4) A day is not a relievable day by virtue of this section if at the end of the day a non-qualifying individual occupies or has permission to occupy the dwelling (or any part of it).

- (5) If the conditions in subsection (1)(a) and (b) are met at the end of a day, and at any time between the reverse acquisition and that time a non-qualifying person has occupied, or had permission to occupy, the dwelling (or part of the dwelling), that day is not a relievable day in relation to the single-dwelling interest.
- (6) In this section “the relevant person” means –
 - (a) if the property developer is beneficially entitled to the returned interest as a member of a partnership, the persons who acquired the interest as members of the partnership, or
 - (b) otherwise, the property developer (and any person who acquired the returned interest jointly with the property developer).
- (7) The reverse acquisition is part of a qualifying exchange only if –
 - (a) it was made by way of transfer,
 - (b) the person from whom the reverse acquisition was made itself acquired (by way of grant or transfer) a chargeable interest in or over a new dwelling from the relevant person, and
 - (c) each of those acquisitions was entered into in consideration of the other.
- (8) A building or part of a building is a “new dwelling” if –
 - (a) it has been constructed for use as a single dwelling and has not previously been occupied, or
 - (b) it has been adapted for use as a single dwelling and has not been occupied since its adaptation.

41 Definitions for sections 38 to 40

- (1) “Property development trade” means a trade that –
 - (a) consists of or includes buying and redeveloping for resale residential or non-residential property, and
 - (b) is run on a commercial basis and with a view to the realisation of profits.
- (2) In sections 38 to 40 “non-qualifying individual” means any of the following –
 - (a) an individual who is beneficially entitled to the interest,
 - (b) an individual who is connected with a person beneficially entitled to the interest (“a connected person”),
 - (c) if the company is beneficially entitled to the chargeable interest as a member of a partnership, any person who is connected with a person who is a partner in the partnership,
 - (d) a relevant settlor,
 - (e) the spouse or civil partner of a connected person or of a relevant settlor,
 - (f) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor,
 - (g) a relative of the spouse or civil partner of a connected person or of a relevant settlor, or
 - (h) the spouse or civil partner of a person falling within paragraph (g).
- (3) In sections 38 to 40 –

“relative” means brother, sister, ancestor or lineal descendant;

“relevant settlor”, in a case where a person, in the capacity of trustee of a settlement, is connected with the company mentioned in section 38(1)(a), means any individual who is a settlor in relation to the settlement;

“qualifying individual” means an individual other than a non-qualifying individual;

“settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act);

“trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected persons”: supplementary).

- (4) In this section and sections 38 to 40 “beneficially entitled” means beneficially entitled –
 - (a) whether solely or jointly with another person, and
 - (b) whether as a member of a partnership or otherwise.
- (5) Section 35 applies for the purposes of section 38 as for the purposes of section 34.

42 Property traders

- (1) A day in a chargeable period is “relievable” in relation to a single-dwelling interest if at the end of that day –
 - (a) a person carrying on property trading business (a “property trader”) is beneficially entitled to the interest, and
 - (b) the interest is held as stock of the business and for the sole purpose of resale in the course of the business.
- (2) Subsection (3) applies where tax is charged, in respect of a single-dwelling interest, for a chargeable period that includes one or more days that are relievable as a result of subsection (1) (or for more than one such period).
- (3) For any such chargeable period, the adjusted chargeable amount for the single-dwelling interest is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day.
- (4) A single-dwelling interest in a dwelling is taken not to be held for the sole purpose of resale in the course of a property trading business at any time when –
 - (a) a non-qualifying individual is permitted to occupy the dwelling, or
 - (b) it is intended that the dwelling will (or will if certain circumstances arise) be made available for occupation by a non-qualifying individual.
- (5) “Property trading business” means a business that consists of or includes activities in the nature of a trade of buying and selling dwellings.

43 Property traders: supplementary

- (1) If at any time in a chargeable period a property trader who is beneficially entitled to a single-dwelling interest permits a non-qualifying individual to occupy the dwelling, section 42 has effect as if there had been an intention such as is mentioned in section 42(4)(b) throughout the period ending with the giving of that permission to occupy and beginning –
 - (a) with the first day of the chargeable period preceding the one mentioned above, or

- (b) (if later) with the first day on which the property trader was beneficially entitled to the single-dwelling interest (and carried on the business).
- (2) If any period during which a property trader is beneficially entitled to a single-dwelling interest includes an interval between periods of non-qualifying occupation, section 42 has effect as if a non-qualifying individual were permitted to occupy the dwelling –
 - (a) throughout that interval, and
 - (b) from the end of the interval until the property trader disposes of the interest.
- (3) In subsection (2) “interval between periods of non-qualifying occupation” means an interval that is preceded and followed by periods during which a non-qualifying individual (whether or not the same individual) is permitted to occupy the dwelling.
- (4) In this section and section 42, “non-qualifying individual”, in relation to a property trader, means any of the following –
 - (a) an individual who is beneficially entitled to the interest,
 - (b) an individual who is connected with a person beneficially entitled to the interest (“a connected person”),
 - (c) a relevant settlor,
 - (d) the spouse or civil partner of a connected person or of a relevant settlor,
 - (e) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor,
 - (f) a relative of the spouse or civil partner of a connected person or of a relevant settlor, or
 - (g) the spouse or civil partner of a person falling within paragraph (f).
- (5) In subsection (4) –
 - “relative” means brother, sister, ancestor or lineal descendant;
 - “relevant settlor”, in a case where a person, in the capacity of trustee of a settlement, is connected with the property trader, means any individual who is a settlor in relation to the settlement;
 - “settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act);
 - “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected persons”: supplementary).
- (6) For the purposes of this section and section 42, occupation of any part of a dwelling is regarded as occupation of the dwelling.
- (7) In this section and section 42 “beneficially entitled” means beneficially entitled –
 - (a) whether solely or jointly with another person, and
 - (b) whether as a member of a partnership or otherwise.

44 Occupation by certain employees or partners

- (1) A day in a chargeable period is a “relievable day” if at the end of that day –
 - (a) a person (“P”) is beneficially entitled to a single-dwelling interest,
 - (b) P, or a relevant group member, carries on a qualifying trade,

- (c) the interest is held for the purpose of making the dwelling available to a qualifying individual or qualifying individuals for use as living accommodation, and
 - (d) the dwelling is, or is to be, made available as mentioned in paragraph (c) for purposes that are solely or mainly purposes of the trade.
- (2) Subsection (3) applies where tax is charged, in respect of a single-dwelling interest, for a chargeable period in which one or more days are relievable as a result of subsection (1).
- (3) The adjusted chargeable amount is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day.
- (4) “Qualifying trade” means a trade that –
 - (a) is not a property rental business, a property development trade or a property trading business, and
 - (b) is carried on on a commercial basis and with a view to profit.
- (5) In this section references to making a dwelling available to a qualifying individual include making it available to persons who are to share the accommodation with a qualifying individual as that person’s family.
- (6) Where P is a company, “a relevant group member” means a company which is a member of the same group as P for the purposes mentioned in paragraph 1(2) of Schedule 7 to FA 2003 (stamp duty land tax: group relief).

45 Meaning of “qualifying individual” in section 44

- (1) In a case where the person carrying on the trade mentioned in section 44(1)(b) carries it on in partnership with one or more other persons, the following are “qualifying individuals” –
 - (a) any qualifying member of the partnership;
 - (b) any qualifying employee.
- (2) In any other case, “qualifying individual” means a qualifying employee.
- (3) In the case mentioned in subsection (1), any individual who is a member of the partnership is a “qualifying member of the partnership”, unless that individual is entitled to a 5% or greater share –
 - (a) in the income profits of the partnership, or
 - (b) in any company that is beneficially entitled to the single-dwelling interest mentioned in section 44(1)(a), or
 - (c) in that single-dwelling interest.
- (4) In subsections (1) and (2), “qualifying employee” means any individual employed for the purposes of the qualifying trade, except one who –
 - (a) is entitled to a 5% or greater share –
 - (i) in the income profits of the trade, or
 - (ii) in any company that is beneficially entitled to the single-dwelling interest mentioned in section 44(1)(a), or
 - (iii) in that single-dwelling interest, or
 - (b) provides excluded domestic services.
- (5) The reference in subsection (4)(b) to an individual who provides excluded domestic services is to an individual the duties of whose employment include

the provision of services in connection with the (actual or intended) occupation, by a non-qualifying individual, of the dwelling mentioned in section 44(1)(b) (“the relevant dwelling”), or a linked dwelling.

- (6) In subsection (5) “non-qualifying individual” means an individual connected with a person who is beneficially entitled to the single-dwelling interest.
- (7) The following are “linked” dwellings for the purposes of subsection (5)—
 - (a) if the conditions in section 17(2) are met in relation to the relevant dwelling and another dwelling, that other dwelling;
 - (b) a dwelling that is linked to the relevant dwelling, as described in section 18(1).
- (8) In this section references to employment include the holding of an office.
- (9) For the purposes of subsection (3)(c) persons who are entitled to a chargeable interest as beneficial joint tenants (or, in Scotland, as joint owners) are taken to be entitled to the chargeable interest as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.

46 Meaning of “5% or greater share in a company”

- (1) This section applies for the purposes of section 45.
- (2) An individual (“P”) is taken to be entitled to a 5% or greater share in a company (“C”) if P possesses (directly or indirectly) or is entitled to acquire—
 - (a) 5% or more of the share capital of C,
 - (b) 5% or more of the issued share capital of C,
 - (c) 5% or more of the voting power in C,
 - (d) so much of the issued share capital of C as would, on the assumption that the whole of the income of C were distributed among the participators, entitle P to receive 5% or more of the amount so distributed, or
 - (e) such rights as would entitle P, in the event of the winding up of C or in any other circumstances, to receive 5% or more of the assets of C which would then be available for distribution among the participators.
- (3) Any rights that P or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in subsection (2)(d).
- (4) For the purposes of subsection (2) a person is treated as entitled to acquire anything which the person—
 - (a) is entitled to acquire at a later date, or
 - (b) will at a future date be entitled to acquire.
- (5) If a person—
 - (a) possesses any rights or powers on behalf of another person (“A”), or
 - (b) may be required to exercise any rights or powers on A’s direction or behalf,
 those rights or powers are to be attributed to A.
- (6) The following are also be attributed to a person—
 - (a) the rights and powers of any two or more companies of which the person has, or the person and associates of the person have, control (or of any two or more companies within this paragraph);

- (b) the rights and powers of any associate of the person (or of any two or more associates of the person).
- (7) The rights and powers which are to be attributed under subsection (6) –
 - (a) include those attributed to a company or associate under subsection (5), but
 - (b) do not include those attributed to an associate under subsection (6).
- (8) A person who does not meet the conditions in subsection (2) is nevertheless treated as having a 5% or greater share in a company if the person exercises, is able to exercise or is entitled to acquire, direct or indirect control over the company's affairs.
- (9) In this section –
 - “associate” has the same meaning as in Part 10 of CTA 2010 (see section 448 of that Act); but for this purpose section 448 is to be read as if the words “or partner” were omitted in subsection (1)(a);
 - “control” has the same meaning as in that Part (see section 450 of that Act);
 - “loan creditor” has the same meaning as in that Part (see section 453 of that Act);
 - “participator” has the same meaning as in that Part (see section 454 of that Act).

47 Farmhouses

- (1) A day in a chargeable period is a “relievable day” in relation to a single-dwelling interest in a farmhouse if at the end of the day –
 - (a) a person carrying on a qualifying trade of farming is beneficially entitled to the interest, and
 - (b) the farmhouse is occupied by a qualifying farm worker.
- (2) Subsection (3) applies where tax is charged for a chargeable period in respect of a single-dwelling interest in a farmhouse.
- (3) The adjusted chargeable amount is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day in the period.
- (4) In subsection (1) “farmhouse” means a dwelling that –
 - (a) forms part of land occupied for the purposes of the trade mentioned in that subsection, and
 - (b) is of a character appropriate to a dwelling occupied in connection with the farming of the land concerned, having regard to the size of the farm and to the nature and scale of the trade carried on.
- (5) In subsection (1) “qualifying farm worker” means an individual who –
 - (a) occupies the farmhouse for the purposes of the trade mentioned in that subsection, and
 - (b) has a substantial involvement (as a manager or otherwise) in the day-to-day work of the trade.
- (6) A trade of farming is a “qualifying trade” only if it is carried on –
 - (a) on a commercial basis, and
 - (b) with a view to the realisation of profits.

- (7) A person occupying part of a dwelling is regarded as occupying the dwelling for the purposes of this section.
- (8) In this section “beneficially entitled” means beneficially entitled –
 - (a) whether solely or jointly with another person, and
 - (b) whether as a member of a partnership or otherwise.
- (9) In this section –
 - (a) “farming” has the same meaning as in the Corporation Tax Acts (see section 1125 of CTA 2010), except that in this section “farming” includes market gardening;
 - (b) “market gardening” has the same meaning as in the Corporation Tax Acts (see section 1125(5) of CTA 2010).

Administration and payment of tax

48 Responsibility for collection and management

The Commissioners for Her Majesty’s Revenue and Customs are responsible for the collection and management of annual residential property tax.

49 Duty to make an annual residential property tax return

- (1) Where tax is charged on a person for a chargeable period with respect to a single-dwelling interest the person must deliver a return for the period with respect to the interest.
- (2) A return under subsection (1) must be delivered by the end of the period of 30 days beginning with first day in the period on which the person is within the charge with respect to the interest.
- (3) If the first day in the chargeable period on which the person is within the charge with respect to the interest (“day 1”) is a valuation date only because of section 26 or 27 –
 - (a) subsection (2) does not apply, and
 - (b) the return must be delivered by the end of the period of 90 days beginning with day 1.
- (4) Subsections (5) and (6) apply if –
 - (a) as a result of the acquisition of a chargeable interest in or over a dwelling (“the new interest”), a person is within the charge with respect to a single-dwelling interest on one or more days in a chargeable period, and
 - (b) that person was within the charge with respect to a single-dwelling interest in the same dwelling (“the previously-held interest”) on one or more days in the chargeable period that precede the effective date of the acquisition of the new interest.
- (5) If the person was not within the charge with respect to the previously-held interest on the day before the effective date of the acquisition mentioned in subsection (4)(a), the new interest is, for the purposes of this Part, a different single-dwelling interest from the previously-held interest (and subsection (2) applies accordingly).

- (6) In any other case, the person mentioned in subsection (4) must deliver (in addition to the return required under subsection (2) for the period) a further return with respect to the interests mentioned in subsection (4) (whether or not those interests are, or are treated under section 11 or 12 as being, one single-dwelling interest as a result of the acquisition).
- (7) A return under subsection (6) must be delivered by the end of the period of 30 days beginning with the effective date of the acquisition referred to in subsection (4)(a).
- (8) A return under this section must be delivered to an officer of Revenue and Customs, and is called an “annual residential property tax return”.

50 Amendment of return where conditions for relief cease to be met

- (1) If a person is entitled to, and claims relief for a chargeable period by virtue of any of sections 34 to 47, and circumstances change during the chargeable period, so that one or more subsequent days in the chargeable period are not relievable days by virtue of the relief in question, the person must amend the annual residential property tax return (in which the relief was claimed).
- (2) The return must be amended by the end of the period of 90 days beginning with the first day in the chargeable period that is not a relievable day by virtue of the relief in question.

51 Annual residential property tax return to include self-assessment

- (1) An annual residential property tax return must include a self-assessment.
- (2) A “self-assessment” is –
 - (a) an assessment of the amount of tax to which the person is chargeable for the period in respect of the interest, or
 - (b) in the case of a return under section 49(6), a re-assessment of that amount.
- (3) A self-assessment must include a statement of the amount taken to be the market value of the interest on each valuation date that is relevant for the purposes of the assessment.

52 Returns, enquiries, assessments and other administrative matters

- (1) Schedule 1 contains provision about returns, enquiries and related matters.
- (2) The Treasury may by regulations make any amendments of Schedule 1, and any consequential amendments of any other provisions of this Part, they may at any time think appropriate.

53 Payment of tax

- (1) Tax charged on a person for a chargeable period with respect to a single-dwelling interest must be paid not later than the filing date for the return required to be made with respect to the interest for the period.
- (2) Tax payable as a result of the amendment of an annual residential property tax return must be paid –
 - (a) immediately, or

- (b) if the amendment is made on or before the filing date for the return, not later than that date.

But see subsection (3).

- (3) Where a person is required by section 50(1) (loss of eligibility for relief) to amend a return and complies with subsection (2) of that section (90 day time limit for amendment), tax payable as a result of the amendment must be paid not later than the last day of the period mentioned in that subsection.
- (4) Tax payable in accordance with a determination or assessment by an officer of Revenue and Customs must be paid within the period of 30 days beginning with the day on which the determination or assessment is issued.

54 Interest on repayment of tax overpaid etc

- (1) A repayment by an officer of Revenue and Customs to which this section applies must be made with interest at the rate applicable under section 178 of FA 1989 for the period beginning with the relevant day and ending with the day (if later than the relevant day) on which the order for repayment is issued.
- (2) This section applies to a repayment of tax under section 8 (adjustment of amount chargeable).
- (3) The relevant day is the day after the last day of the chargeable period for which the tax was paid.
- (4) Interest paid to any person under this section is not income of that person for any tax purposes.

Application of provisions

55 Companies

- (1) Everything to be done by a company under this Part must be done by the company acting through—
 - (a) the proper officer of the company, or
 - (b) another person who has the express, implied or apparent authority to act on its behalf for the purpose.
- (2) For the purposes of subsection (1) the proper officer of a company is—
 - (a) the secretary, or a person acting as secretary, of the company, or
 - (b) if the company does not have a proper officer within paragraph (a), the treasurer, or a person acting as treasurer, of the company.
- (3) Service of a document on a company under this Part may be effected by serving the document on the proper officer.
- (4) Tax due from any company that is incorporated under the law of a country or territory outside the United Kingdom may be recovered from the proper officer of the company (as well as by any means available in the absence of this subsection).
- (5) The proper officer—
 - (a) may retain out of any money that may come into the hands of that officer on the company's behalf enough money to pay that tax, and

- (b) is entitled to be fully reimbursed by the company (by that method or another) for amounts recovered from the officer under subsection (4).
- (6) If a liquidator or administrator has been appointed for the company, the following rules apply instead of subsections (1) and (2).

Rule 1

Everything to be done by the company under this Part must be done by the company acting through the proper officer.

Rule 2

The liquidator or administrator is the proper officer.

Rule 3

If two or more persons are appointed to act jointly or concurrently as the administrator of the company, the reference in rule 1 to the administrator is to—

- (a) whichever of them is specified in a notice given by the administrators to an officer of Revenue and Customs, or
- (b) if a notice is not given under sub-paragraph (a), whichever of them is designated by an officer of Revenue and Customs as the administrator for the purposes of rule 1.

56 Partnerships

- (1) In this Part “partnership” means—
 - (a) a partnership within the Partnerships Act 1890,
 - (b) a limited partnership registered under the Limited Partnerships Act 1907,
 - (c) a limited liability partnership formed under the Limited Liability Partnerships Act 2000 or the Limited Liability Partnerships Act (Northern Ireland) 2002, or
 - (d) a firm or entity of a similar character to any of those mentioned in paragraphs (a) to (c) formed under the law of a country or territory outside the United Kingdom.
- (2) This Part has effect as follows in relation to a partnership (for instance, a limited liability partnership formed as mentioned in subsection (1)(c)) that is itself capable of being beneficially entitled to, or of acquiring or disposing of, a chargeable interest—
 - (a) transactions entered into on behalf of the partnership are treated as entered into by or on behalf of the partners;
 - (b) where the partnership is beneficially entitled to a single-dwelling interest, this Part has effect as if the partners were jointly beneficially entitled to the interest (and the partnership had no entitlement to it).
- (3) For the purposes of this Part a partnership is treated as the same partnership notwithstanding a change in membership if any person who was a member before the change remains a member after the change.
- (4) A partnership is not regarded for the purposes of this Part as a collective investment scheme (and more particularly, is not regarded as a unit trust scheme).

- (5) Anything required or authorised by this Part to be done by or in relation to the responsible partners for a partnership may instead be done by or in relation to any representative partner or partners.
- (6) A representative partner means a partner nominated by a majority of the partners to act as the representative of the partnership for the purposes of this Part of this Act.
- (7) Any such nomination, or the revocation of such a nomination, has effect only after notice of the nomination, or revocation, has been given to an officer of Revenue and Customs.

Supplementary provisions

57 Orders and regulations

- (1) An order or regulations under this Part are to be made by statutory instrument.
- (2) A statutory instrument containing regulations or an order made under this Part, other than an order under section 5(5), is subject to annulment in pursuance of a resolution of the House of Commons.
- (3) An order or regulations under this Part –
 - (a) may make different provision for different cases,
 - (b) may include consequential or transitional provisions or savings.

Interpretation

58 Meaning of “chargeable day” and “within the charge”

Where tax is charged for a chargeable period with respect to a single-dwelling interest –

- (a) any day in the chargeable period on which the conditions in section 1(2) are met with respect to the interest is a “chargeable day” for that interest;
- (b) the chargeable person is “within the charge” with respect to the interest on any day on which that person meets the ownership condition with respect to the interest.

59 Connected persons

Section 1122 of the Corporation Tax Act 2010 (connected persons) has effect for the purposes of this Part.

60 General interpretation

- (1) In this Part –
 - “chargeable day” (in relation to a single-dwelling interest) is to be read in accordance with section 58;
 - “the chargeable person” has the meaning given by section 2(2) or (3);
 - “collective investment scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 235 of that Act);

“company” has the same meaning as in Schedule 4A to FA 2003 (see paragraph 9 of that Schedule and paragraph 1 of Schedule 15 to that Act);

“completion”, in Scotland, means –

- (a) in relation to a lease, when it is executed by the parties (that is to say, by signing) or constituted by any means,
- (b) in relation to any other transaction, the settlement of the transaction;

“EEA UCITS” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000;

“filing date”, in relation to an annual residential property tax return or a nil charge return, has the meaning given by paragraph 26 of Schedule 1;

“jointly entitled” means –

- (a) in England and Wales, beneficially entitled as joint tenants or tenants in common,
- (b) in Scotland, entitled as joint owners or owners in common,
- (c) in Northern Ireland, beneficially entitled as joint tenants, tenants in common or coparceners;

“property rental business” has the meaning given by section 35(2);

“market value” has the meaning given by section 6(8);

“open-ended investment company” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236(1) of that Act);

“settlement” has the meaning given by paragraph 1 of Schedule 16 to FA 2003;

“property trading business” has the meaning given by section 42(5);

“qualifying property rental business” has the meaning given by section 35;

“tax” means tax under this Part;

“trade” has the same meaning as in section 35 of CTA 2009 (and cognate expressions are to be read accordingly);

“unit trust scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 237(1) of that Act).

(2) In this Part –

references to an “annual residential property tax return” are to be read in accordance with section 49(8);

references to the “effective date” of an acquisition are to be read in accordance with section 22(2);

references to the “effective date” of a disposal are to be read in accordance with section 23(2);

references to a “major interest” in land are to be read in accordance with section 117 of FA 2003;

references to meeting the “ownership condition” are to be read in accordance with section 1(4) to (6);

references to being “within the charge” with respect to a single-dwelling interest are to be read in accordance with section 58.

SCHEDULES

SCHEDULE 1

Section 52

ANNUAL RESIDENTIAL PROPERTY CHARGE: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 1

RETURNS

Contents of return

- 1 (1) The Commissioners for Her Majesty's Revenue of Customs may by regulations make provision about –
 - (a) the content of an annual residential property tax return;
 - (b) the form of such a return;
 - (c) the method of delivering such a return.
- (2) Regulations under sub-paragraph (1) may make different provision for different purposes.
- (3) Every return must include a declaration by the person making it to the effect that the return is correct and complete to the best of the person's knowledge.
- (4) An annual residential property tax return is treated as containing any information provided by the person making the return for the purpose of completing the return.
- 2 References in this Part of this Act to the delivery of an annual residential property tax return are to the delivery of a return that complies with all requirements imposed by or under section 49 or 51 or paragraph 1.

Amendment of return by taxpayer

- 3 (1) A person who has delivered an annual residential property tax return or a nil charge return may amend the return by notice to an officer of Revenue and Customs.
- (2) An officer of Revenue and Customs may specify –
 - (a) the form in which the return must be made;
 - (b) information that it must contain.
- (3) An amendment under this paragraph must be made by the end of the next chargeable period after the chargeable period to which the return relates (but see the exception that follows).
- (4) If a return is delivered on or after 1 January in the chargeable period next after that to which it relates, the latest time for amending the return under

this paragraph is the end of the period of 3 months after the day on which the return is delivered.

PART 2

ENQUIRY INTO RETURN

Notice of enquiry

- 4 (1) An officer of Revenue and Customs may enquire into an annual residential property tax return or a nil charge return if sub-paragraph (2) has been complied with.
- (2) Notice of the intention to make an enquiry must be given –
- (a) to the person by whom or on whose behalf the return was delivered (“the relevant person”);
 - (b) before the end of the period of 12 months after the relevant date.
- (3) The relevant date is –
- (a) the filing date, if the return was delivered on or before that date;
 - (b) the date on which the return was delivered, if the return was delivered after the filing date;
 - (c) the date on which the amendment was made, if the return is amended under paragraph 3 (amendment by person making the return).
- (4) A return that has been the subject of one notice of enquiry may not be the subject of another, except a notice given in consequence of an amendment (or another amendment) of the return under paragraph 3.

Scope of enquiry

- 5 (1) An enquiry extends to anything contained in the return, or required to be contained in the return, that relates –
- (a) to the question whether the relevant person is chargeable to tax with respect to the interest to which the return relates for the chargeable period concerned, or
 - (b) to the amount of tax chargeable on the relevant person with respect to that interest for that period.
- (2) Sub-paragraph (3) applies if notice of an enquiry is given as a result of the amendment of a return under paragraph 3 (amendment by person making the return) –
- (a) at a time when it is no longer possible to give notice of enquiry under paragraph 4(3)(a) or (b), or
 - (b) after an enquiry into the return has been completed.
- (3) The enquiry is limited to –
- (a) matters to which the amendment relates, and
 - (b) matters affected by the amendment.

Amendment of self-assessment during enquiry to prevent loss of tax

- 6 (1) If at a time when an enquiry is in progress into an annual residential property tax return an officer of Revenue and Customs forms the opinion –

- (a) that the amount stated in the self-assessment contained in the return as the amount of tax payable is insufficient, and
 - (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,
- the officer may by notice in writing to the relevant person amend the assessment to make good the deficiency.
- (2) If the enquiry is one that is limited by paragraph 5(2) and (3) to matters arising from an amendment of the return, sub-paragraph (1) above applies only so far as the deficiency is attributable to the amendment.
 - (3) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period –
 - (a) beginning with the day on which the notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

Referral of questions to tribunal during enquiry

- 7 (1) At any time when an enquiry is in progress into an annual residential property tax return or a nil charge return any question arising in connection with the subject-matter of the return may be referred to the tribunal for determination.
- (2) Notice of the referral must be given to the tribunal jointly by the relevant person and an officer of Revenue and Customs.
- (3) More than one notice of referral may be given under this paragraph in relation to an enquiry.
- (4) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period –
 - (a) beginning with the day on which the notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.
- (5) References in this paragraph to “the tribunal” are to be read as follows.
- (6) Where the question to be referred is of the market value of any single-dwelling interest “the tribunal” means –
 - (a) the Upper Tribunal, if the land is in England and Wales;
 - (b) the Lands Tribunal for Scotland, if the land is in Scotland;
 - (c) the Lands Tribunal for Northern Ireland, if the land is in Northern Ireland.
- (7) In any other case “the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

Withdrawal of notice of enquiry

- 8 An officer of Revenue and Customs or the relevant person may withdraw a notice of referral under paragraph 7.

Effect of referral on enquiry

- 9 (1) While proceedings on a referral under paragraph 7 are in progress in relation to an enquiry –
 - (a) no closure notice may be given in relation to the enquiry, and

- (b) no application may be made for a direction to give a closure notice.
- (2) Proceedings on a referral are “in progress” where –
 - (a) notice of referral has been given and has not been withdrawn, and
 - (b) the questions referred have not been finally determined.
- (3) A question referred has been “finally determined” when –
 - (a) it has been determined by the tribunal, and
 - (b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

Effect of referral on enquiry

- 10 (1) A determination under paragraph 7 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The officer of Revenue and Customs conducting the enquiry must take the determination into account –
 - (a) in reaching conclusions on the enquiry, and
 - (b) in the formulation of any amendments of the return that may be required to give effect to those conclusions.
- (3) The question determined may not be reopened on an appeal, except to the extent that it could be reopened if it had been determined as a preliminary issue in that appeal.

Completion of enquiry

- 11 (1) An enquiry under paragraph 4 is completed when an officer of Revenue and Customs informs the relevant person by a notice (a “closure notice”) that the enquiry is complete and states the conclusions reached in the enquiry.
- (2) A closure notice must either –
 - (a) state that in the officer’s opinion no amendment of the return is required, or
 - (b) make the amendments of the return required to give effect to the officer’s conclusions.
- (3) A closure notice takes effect when it is issued.

Direction to complete enquiry

- 12 (1) The relevant person may apply to the tribunal for a direction that a closure notice is to be given within a specified period.
- (2) The tribunal hearing the application must give a direction unless satisfied that Her Majesty’s Revenue and Customs have reasonable grounds for not giving a closure notice within that period.
- (3) In this paragraph “the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

PART 3

HMRC DETERMINATION WHERE NO RETURN DELIVERED

Determination of tax chargeable if return not delivered

- 13 (1) This paragraph applies where –
- (a) an officer of Revenue and Customs has reason to believe that a person (“P”) is chargeable to tax for a chargeable period in respect of a single-dwelling interest,
 - (b) no return has been made for that period on the basis that P is so chargeable, and
 - (c) the relevant filing date has passed.
- (2) “The relevant filing date” means the date by which the officer believes a return was required to be delivered on that basis.
- (3) The officer may make a determination (an “HMRC determination”) to the best of the officer’s information and belief of the amount of tax to which P is chargeable for that period with respect to the interest.
- (4) Notice of the determination must be given to P, stating the date on which it is issued.
- (5) No HMRC determination may be made more than 4 years after the end of the chargeable period to which it relates.

Determination to have effect as a self-assessment

- 14 (1) A determination under paragraph 13 has effect for enforcement purposes as if it were a self-assessment made by P.
- (2) In sub-paragraph (1) “for enforcement purposes” means for the purposes of the provisions of Schedule 55 to FA 2009 providing for tax-related penalties.
- (3) Nothing in this paragraph affects any liability of a person to a penalty for failure to deliver a return.

Determination superseded by actual self-assessment

- 15 (1) If after an HMRC determination has been made P delivers an annual residential property tax return for the chargeable period with respect to the interest in question, the self-assessment included in that return supersedes the determination.
- (2) Sub-paragraph (1) does not apply to a return delivered –
- (a) more than 4 years after the power to make the determination first became exercisable, or
 - (b) more than 12 months after the date of the determination,
- whichever is the later.
- (3) Where –
- (a) proceedings have been begun for the recovery of any tax charged by an HMRC determination, and
 - (b) before the proceedings are concluded the determination is superseded by a self-assessment,

the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not yet been paid.

Nil charge return following determination

- 16 (1) If after an HMRC determination has been made P makes a nil charge return for the chargeable period with respect to the interest in question, that return supersedes the determination.
- (2) Sub-paragraph (1) does not apply to a return delivered –
- (a) more than 4 years after the power to make the determination first became exercisable, or
 - (b) more than 12 months after the date of the determination, whichever is the later.
- (3) A nil charge return is a return that –
- (a) refers to the determination, and
 - (b) states that the person making the return is not liable to tax for the chargeable period with respect to any chargeable interest in or over the dwelling concerned.
- (4) The Commissioners for Her Majesty’s Revenue of Customs may by regulations make provision (or further provision) about –
- (a) the content of a nil charge return;
 - (b) the form of such a return;
 - (c) the method of delivering such a return.
- (5) Regulations under sub-paragraph (4) may make different provision for different purposes.
- (6) Every nil charge return must include a declaration by the person making it to the effect that the return is correct and complete to the best of the person’s knowledge.

PART 4

HMRC ASSESSMENTS

Assessment where loss of tax discovered

- 17 (1) Sub-paragraph (2) applies if an officer of Revenue and Customs discovers, that –
- (a) an amount of tax that ought to have been assessed under this Part as tax chargeable on a person for a chargeable period with respect to a single-dwelling interest has not been assessed,
 - (b) an assessment of the tax chargeable on a person for a chargeable period in respect of a single-dwelling interest is or has become insufficient, or
 - (c) relief has been given that is or has become excessive.
- (2) An officer of Revenue and Customs may make an assessment (a “discovery assessment”) in the amount or further amount that ought in the officer’s opinion to be charged in order to make good to the Crown the loss of tax.

Assessment to recover excessive repayment of tax

- 18 (1) If an amount of tax has been, but ought not to have been, repaid to a person that amount may be assessed and recovered as if it were unpaid tax.
- (2) If the repayment was made with interest, the amount assessed and recovered may include the amount of interest that ought not to have been paid.

References to “the taxpayer”

- 19 In paragraphs 20 to 23 references to “the taxpayer” are to the person mentioned in paragraph 17(1)(a) or (b) or 18(1).

Conditions for making assessment where return has been delivered

- 20 (1) If the taxpayer has delivered an annual residential property tax return or a nil charge return in respect of the interest in question for the chargeable period in question, an assessment under paragraph 17 or 18 may only be made in the two cases specified in sub-paragraphs (2) and (3).
See also the further restriction in sub-paragraph (7).
- (2) The first case is where the situation mentioned in paragraph 17(1) or 18(1) is attributable to fraudulent or negligent conduct on the part of –
- (a) the taxpayer,
 - (b) a person acting on behalf of the taxpayer, or
 - (c) a person who was a partner of the taxpayer at the relevant time.
- (3) The second case is where it could not reasonably have been expected, on the basis the information made available to Her Majesty’s Revenue and Customs before the relevant time, that any officer of Revenue and Customs would be aware at the relevant time of the situation mentioned in paragraph 17(1) or 18(1).
- (4) In sub-paragraph (3) “the relevant time” means the time Her Majesty’s Revenue and Customs –
- (a) ceased to be entitled to give a notice of enquiry into the return, or
 - (b) completed their enquiries into the return.
- (5) For this purpose information is regarded as made available to Her Majesty’s Revenue and Customs if –
- (a) it is contained in an annual residential property tax return or nil charge return delivered by the taxpayer,
 - (b) it is contained in any documents produced or information provided to an officer of Revenue and Customs for the purposes of an enquiry into any such return,
 - (c) it is information the existence and relevance of which officers of Revenue and Customs could reasonably have been expected to infer from information made available as mentioned in paragraph (a) or (b), or
 - (d) it is information the existence and relevance of which was notified to an officer of Revenue and Customs by the taxpayer or a person acting on the taxpayer’s behalf.

- (6) In sub-paragraphs (5)(c) and (d) “relevance” means relevance as regards the situation mentioned in paragraph 17(1) or 18(1).
- (7) No assessment may be made under paragraph 17 or 18 if—
 - (a) the situation mentioned in paragraph 17(1) or 18(1) is attributable to a mistake in the return as to the basis on which the tax liability ought to have been calculated, and
 - (b) the return was in fact made on the basis prevailing, or in accordance with the practice generally prevailing, at the time it was made.

Time limit for assessments

- 21 (1) The general rule is that no assessment may be made more than 4 years after the end of the period of charge to which the assessment relates.
- (2) An assessment of a person to tax in a case involving a loss of tax brought about carelessly by the taxpayer or a related person may be made up to 6 years after the end of the chargeable period to which the assessment relates.
- (3) An assessment to which this sub-paragraph applies may be made up to 20 years after the end of the chargeable period to which the assessment relates.
- (4) Sub-paragraph (3) applies to an assessment of a person in any case involving a loss of tax—
 - (a) brought about deliberately by the taxpayer or a related person,
 - (b) attributable to a failure by the taxpayer to comply with obligations under section 49(1) (duty to make return), or
 - (c) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of FA 2004 (obligation of parties to tax avoidance schemes to provide information to Her Majesty’s Revenue and Customs).
- (5) An assessment under paragraph 18 (assessment to recover excessive repayment of tax) is not out of time if it is made—
 - (a) while an enquiry is in progress into a relevant return, or
 - (b) within the period of one year beginning with the date on which the repayment in question was made.
- (6) In sub-paragraph (5)—
 - “in progress” is to be read in accordance with paragraph 7(4);
 - “relevant return” means an annual residential property tax return or nil charge return delivered by the taxpayer and relating to the chargeable period and the interest in question.
- (7) If the taxpayer has died—
 - (a) any assessment on the personal representatives must be made within 4 years after the death, and
 - (b) an assessment is not to be made by virtue of sub-paragraph (2) in respect of a chargeable period that ended more than six years before the death.
- (8) Any objection to the making of an assessment on the ground that the time limit for making it has expired can only be made on an appeal against the assessment.
- (9) In this paragraph “related person”, in relation to the taxpayer, means—

- (a) a person acting on the taxpayer's behalf, or
- (b) a person who was the partner of the taxpayer at the relevant time.

Losses brought about carelessly or deliberately

- 22 (1) This paragraph applies for the purposes of paragraph 21.
- (2) A loss of tax is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that loss.
- (3) Sub-paragraph (4) applies where –
- (a) information is provided to Her Majesty's Revenue and Customs,
 - (b) the person who provided the information, or the person on whose behalf the information was provided, discovers some time later that the information was inaccurate, and
 - (c) that person fails to take reasonable steps to inform Her Majesty's Revenue and Customs.
- (4) Any loss of tax brought about by the inaccuracy is to be treated as having been brought about carelessly by that person.
- (5) References to a loss of tax brought about deliberately by a person include a loss of tax brought about as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by or on behalf of that person.

Assessment procedure

- 23 (1) Notice of an assessment must be served on the taxpayer.
- (2) The notice must state –
- (a) the tax due,
 - (b) the date on which the notice is issued, and
 - (c) the time within which any appeal against the assessment must be made.
- (3) After notice of the assessment has been served on the taxpayer, the assessment may not be altered except in accordance with the express provisions of this Part of this Act.
- (4) Where an officer of Revenue and Customs has decided to make an assessment to tax, and has taken all other decisions needed for arriving at the amount of the assessment, the officer may entrust to some other officer of Revenue and Customs the responsibility for completing the assessing procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment.

PART 5

SUPPLEMENTARY

Application of Schedule in cases involving joint ownership

- 24 (1) This paragraph applies where –
- (a) tax is charged for a chargeable period with respect to a single-dwelling interest, and

- (b) on one or more chargeable days in that period two or more persons (referred to below as “the owners”) are jointly entitled to the interest.
- (2) If two or more persons are jointly entitled to the interest on the first chargeable day in the period concerned –
- (a) the obligation to deliver the return is a joint obligation of those persons;
 - (b) the declaration required by paragraph 1(3) must be made by all those persons;
 - (c) a single return is required, even if more than one of those persons is chargeable to the tax to which the return relates.

Partnerships

- 25 In relation to an annual residential property tax return or a nil charge return delivered by the responsible partners for a partnership, anything required or authorised under section 49 or this Schedule to be done by the responsible partners is required or authorised to be done by all the responsible partners.

Meaning of “filing date”

- 26 “Filing date”, in relation to an annual residential property tax return or a nil charge return, means the day by the end of which the return is required to be delivered.

SCHEDULE 2

Section [\[ref\]](#)

ANNUAL RESIDENTIAL PROPERTY CHARGE: SPECIAL PROVISION FOR 2013-14

Duty to make returns

- 1 In relation to the chargeable period beginning on 1 April 2013, section 49 has effect as if subsections (2) and (3) of that section provided as follows –
- “(2) A return under subsection (1) must be delivered by the end of 1 October 2013 if the days on which the person is within the charge with respect to the interest include 1 April 2013.
 - (3) If the days on which the person is within the charge with respect to the interest do not include 1 April 2013, the return must be delivered –
 - (a) by the end of 1 October 2013, or
 - (b) by the end of the period of 30 days beginning with the first day in the chargeable period on which the person is within the charge with respect to the interest,whichever is the later.”

EXPLANATORY NOTE

ANNUAL RESIDENTIAL PROPERTY TAX

SUMMARY

1. Clauses 1 to 63 introduce a new tax called the annual residential property tax (ARPT). This is chargeable on companies, collective investment schemes and partnerships with company members who hold UK residential dwellings valued at greater than £2 million on specified valuation dates. The measure takes effect from 1 April 2013. The annual tax is in most cases payable on or before 31 October 2013 for 2013-14, and on or before 30 April each year subsequently. If the payer is not chargeable for the full year, a later repayment claim can be made. The clause provides reliefs against the tax for residential dwellings that are leased out in a property rental business; held for sale in a property development or trading business; exploited in a trade of permitting the public to visit, stay in or otherwise enjoy the property; or provided for employees to use in the owner's trade.

DETAILS OF THE CLAUSE

Clause 1 – Charge to Tax

2. Subsection (1) provides for the new ARPT to be charged.
3. Subsection (2) sets out the two conditions that must apply on any day for the tax to be charged: an interest (a single-dwelling interest) in a UK dwelling exists of taxable value greater than £2 million, and a company, partnership or collective investment scheme meets the ownership condition in relation to that interest.
4. Subsection (3) provides for the tax to be charged for the chargeable period
5. Subsection (4) defines the ownership condition for a company (except where it is a member of a partnership) as beneficial entitlement to the single-dwelling interest.
6. Subsection (5) defines the ownership condition for a single-dwelling interest for a member of a partnership that is a company as beneficial entitlement as a member of the partnership.
7. Subsection (6) defines the ownership condition for a collective investment scheme as holding for the purposes of the scheme.

8. Subsection (7) defines references in this section to beneficial entitlement to an interest as being beneficially entitled to it either solely or jointly with another person.
9. Subsection (8) provides for the ownership condition to be regarded as met in relation to the whole chargeable interest where a company is jointly beneficially entitled to a chargeable interest (as a member of a partnership or otherwise).
10. Subsection (9) defines the chargeable periods.

Clause 2 – Person Liable

11. Subsection (2) defines the chargeable person for section 1(4) as the company and for section 1(5) as the responsible partners.
12. Subsection (3) defines the chargeable person for section 1(6) for the different types of collective investment schemes set out in this subsection.
13. Subsection (4) specifies the liability of the responsible partners to pay tax is joint and several.
14. Subsection (5) defines the responsible partners for subsection 2(b) as all the members of the partnership from the first day of the chargeable period when the partnership meets the ownership condition with respect to the single dwelling interest.

Clause 3 – Liability of persons jointly entitled

15. Subsection (1) sets out the application of subsection 2.
16. Subsection (2) states that a person (P) and other person/persons are jointly and severally liable for the tax charged if they are jointly entitled to the single-dwelling interest..

Clause 4 – Amount of tax chargeable

17. Subsection (1) provides for the amount of tax to be charged as specified under subsections (2) or (3).
18. Subsection (2) defines the amount of tax to be charged to be the annual chargeable amount if the chargeable person is within the charge on the first day of the chargeable period. The annual chargeable amount is determined by reference to the taxable value of the interest on the relevant day.
19. Subsection (3) provides for the amount of tax to be charged as a fraction of the annual chargeable amount if the chargeable person is not within the charge on the first day of the chargeable period.

20. Subsection (4) defines the relevant day for subsections (2) and (3).
21. Subsection (5) provides the annual chargeable amount for a single-dwelling interest, based on band into which the taxable value of the single-dwelling interest falls on the relevant day.
22. Subsection (6) defines the relevant fraction for calculating the annual chargeable amount with the number of days that it is owned in a chargeable period as a fraction of the chargeable period.

Clause 5 – Indexation of annual chargeable amounts

23. Subsection (1) sets out that section 4(5) is to be amended for chargeable periods beginning on or after 1 April 2014, if the consumer price index (CPI) is higher for September in 2013, or any later year than it was for the previous September.
24. Subsection (2) provides for the annual chargeable amounts in section 4(3) that apply for the chargeable periods beginning in the previous 12 months to be substituted with the indexed amount.
25. Subsection (3) specifies the method of calculating the indexed amount.
26. Subsection (4) defines “consumer prices index” for the purposes of this section.
27. Subsection (5) requires HM Treasury to make an order before 1 April 2014 and before 1 April annually thereafter, stating the annual chargeable amounts for chargeable periods beginning on or after that date.

Clause 6 – Taxable value

28. Subsection (1) defines the taxable value as equal to the market value on the last previous valuation date.
29. Subsection (2) sets out that the first valuation date for single-dwelling interests is 1 April 2012 and then there is a valuation date of 1 April every five years subsequently.
30. Subsection (3) defines valuation dates in respect of a single-dwelling interest to which a company (other than as a member of a partnership) is beneficially entitled to be also when interests are acquired or in part disposed of.
31. Subsection (4) defines valuation dates in respect of a single-dwelling interest to which a company is beneficially entitled as a member of a

partnership to be also when the partnership acquires or part disposes of an interest.

32. Subsection (5) defines the valuation dates in the case of a single-dwelling interest held by a collective investments scheme to be also when an interest is acquired or part disposed of for the scheme.
33. Subsection (6) confirms that references to disposal of part of a single-dwelling interest to include the grant of a chargeable interest.
34. Subsection (7) excludes the grant of an option from being a chargeable interest for the purposes of subsection (6).
35. Subsection (8) defines “market value” as the same as for the Taxation of Chargeable Gains Act 1992; see in particular sections 272 to 274 of that Act.

Clause 7 – No double charge

36. Clause 7 provides for tax in respect of a single-dwelling interest will be charged only once for any chargeable day even if more than one person is the “chargeable person”.

Clause 8 – Adjustment of amount chargeable

37. Subsection (1) allows relief to be claimed if the tax charged is greater than the adjusted chargeable amount for that single-dwelling interest in that period.
38. Subsection (2) provides for the tax charge to be reduced to the adjusted chargeable amount upon a claim being made under this section.
39. Subsection (3) defines the adjustable chargeable amount.
40. Subsection (4) sets out the method for calculating the daily amount for “the relevant day”.
41. Subsection (5) provides for relief under this section to be claimed either in an ARPT return or by amending an annual residential property return.
42. Subsection (6) specifies the deadline by which a claim for relief must be delivered.

Clause 9 – Chargeable interests

43. Subsection (1) defines what a chargeable interest is for this Part.

44. Subsection (2) provides that for this Part, when two or more people are jointly entitled to a chargeable interest, it will not be regarded as consisting of separate interests corresponding to their shares (if any) arising from joint entitlement, but will be viewed as a whole.
45. Subsection (3) excludes exempt interests from being chargeable interests.
46. Subsection (4) lists the exempt interests for the purposes of this Part.
47. Subsection (5) defines a security interest for the purposes of subsection (4) (exempt interests for this Part).
48. Subsection (6) states that in respect of the application of this Part in Scotland, the reference to “rentcharge” in subsection 9(5) means, in Scotland, “feu duty” or a payment in section 56(1) of the Abolition of the Feudal Tenure etc Scotland Act.
49. Subsection (7) provides for HM Treasury by regulations to provide that any other descriptions of interest in or right over a dwelling may become an exempt interest.

Clause 10 – Meaning of ‘single-dwelling interest’

50. Subsection (1) introduces the clause as defining “single dwelling interest”.
51. Subsection (2) defines a single-dwelling interest as a chargeable interest that is exclusively in or over land which (on any day) consists of a single dwelling.
52. Subsection (3) provides that where a person is entitled to a chargeable interest in or over land that consists of two or more single dwellings, provisions referring to a “single-dwelling interest” operate as if the person had a separate chargeable interest over each dwelling and that the chargeable interest for each dwelling is thus a single-dwelling interest.
53. Subsection (4) provides that where a person is entitled to a chargeable interest in or over land that consists of non-residential land in addition to one or more single dwellings, provisions referring to a “single-dwelling interest” operate as if the person had a separate chargeable interest over each dwelling, with a further separate chargeable interest over the non-residential land, and the chargeable interest for each dwelling thus a single-dwelling interest.
54. Subsection (5) reference to a single-dwelling interest should be made to a single-dwelling interest “in” the dwelling concerned.

55. Subsection (6) defines each single-dwelling interest as distinct, even where dwellings stand successively on the same land.
56. Subsection (7) defines for the purposes of this Part “non-residential land” and also states that references to a dwelling include part of a dwelling.

Clause 11 – Different interests held in the same dwelling

57. Subsection (1) applies subsection (2) where a company or a collective investment scheme holds two or more single-dwelling interests in the same dwelling for one or more days in a chargeable period.
58. Subsection (2) provides for this Part to have effect in respect of the chargeable period such that the taxable value of different interests held in the same dwelling is the sum of the taxable values of the separate interests, and the separate interests constituted one single-dwelling interest.
59. Subsection (3) provides that for the purposes of section 11(1)(a), it does not matter whether a company is beneficially entitled to the interest solely or jointly with another person, or as a member of a partnership or otherwise.

Clause 12 – Interests held by connected persons

60. Subsection (1) provides that where on any day separate beneficial entitlements to separate single-dwelling interests in the same dwelling are held by connected persons (e.g. company A and company or person B), this Part has effect as if they are beneficially entitled to the other’s single-dwelling interest as well as their own.
61. Subsection (2) provides that where on any day, a single-dwelling interest is held for the purposes of a unit trust scheme and where a connected person is beneficially entitled to a different single-dwelling interest in the same dwelling, this Part has effect:
- (i) in relation to the unit trust scheme: as if those separate interests constituted one single-dwelling interest held for the purposes of the unit trust scheme with a taxable value of the sum of the taxable values of the separate interests; or,
 - (ii) in relation to the connected person or connected company: as if it was beneficially entitled to the scheme’s interest as well as to its own single-dwelling interest.
62. Subsection (3) provides for the treatment of two different interests in the same dwelling, each held by a unit trust scheme that is connected

to the other, to be treated in relation to each scheme as if those separate interests constituted just one single dwelling interest held for the purpose of that scheme, the taxable value of which is the sum of the taxable values of the separate interests.

63. Subsection (4) states that it does not matter whether a person is beneficially entitled to an interest jointly or as a member of a partnership, for subsections (1) and (2).
64. Subsection (5) ensures that in accordance with section 7 tax is not charged more than once for any day on an interest treated under this section when read with section 11(2) as one single dwelling interest. This will avoid a double charge,
65. Subsection (6) provides for chargeable persons to be jointly and severally liable with other chargeable persons.

Clause 13 – Meaning of “dwelling”

66. Subsection (1) states when a building or part of a building counts as a dwelling.
67. Subsection (2) provides for land such as a garden or grounds (including any buildings or structures on the land) that is or is intended to be occupied or enjoyed with the dwelling to be part of the dwelling.
68. Subsection (3) provides for land to be considered to be part of the dwelling where it subsists or is intended to subsist for the benefit of the dwelling.
69. Subsection (4) excludes a building or part of a building used for a purpose specified in section 116(2) or (3) of FA 2003 from being considered a dwelling under subsection (1).
70. Subsection (5) makes clear that this use disqualifies the building, or part of the building from being regarded as suitable for any other use.
71. Subsection (6) provides for the temporary unsuitability of a building for use as a dwelling, to be disregarded when considering whether it is a dwelling for this Part. This subsection does not affect any of the provisions in sections 28 to 33.

Clause 14 – Substantial performance of “off-plan” purchase

72. Subsection (1) applies subsection (2) to substantial performance of a contract to acquire a chargeable interest in land or a building to be constructed or adapted, beginning after substantial performance of that contract.

73. Subsection (2) defines the chargeable interest for the purposes of subsection (1)(b).
74. Subsection (3) disapplies subsection (2) if the construction or adaptation contractual obligations cease to have effect before constructions/adaptation work is started.
75. Subsection (4) excludes a building that is used for a purpose specified in sections 116(2) or (3) of FA 2003 from being considered a dwelling under subsection (1).
76. Subsection (5) defines “contract” and the meaning of “substantially performed” for this section.

Clause 15 – Power to widen references to “use as a dwelling”

77. Subsection (1) provides for HM Treasury to amend this Part by order in order to specify cases where use of a building is to be use as a dwelling for sections 14(2) or 13(1).
78. Subsection (2) notes that the reference in section 116(8)(a) of FA 2003 to “the purposes of subsection (1)” includes a reference for the purposes of sections 14(2) and 13(1).

Clause 16 – Parts of a greater whole

79. Subsection (1) provides that where a part of building that can be used a dwelling does not exclude it from being part of a larger single dwelling.
80. Subsection (2) provides that where a building or structure is in the garden or grounds of a dwelling and is enjoyed or occupied with the dwelling, where suitable for use as a single dwelling it is still considered (in accordance with s13(3)) as part of the dwelling.

Clause 17 – Dwelling in grounds of another dwelling

81. Subsection (1) applies subsection (4) if the conditions in subsection (2) are met for a “main dwelling” and an “associated dwelling” at the end of “the day in question” in a chargeable period.
82. Subsection (2) sets the conditions that need to be met for subsection (1) to apply subsection (4), including a common ownership condition.
83. Subsection (3) defines the common ownership condition for a companies (subsection (3)(a)) and collective investment schemes (subsection (3)(b)) entitled to interests in the main dwelling.

84. Subsection (4) applies this Part in relation to the interests as defined in subsections (3)(a) and (3)(b) as if the main dwelling and the associated dwelling were suitable to be used as a single dwelling.
85. Subsection (5) disapplies subsection (4) if on the day in question either the main dwelling or the associated dwelling is relieved from the ARPT by any of the provisions listed in subsection (6).
86. Subsection (6) lists the various relieving provisions referred to in subsection (5).
87. Subsection (7) states that, for a unit trust scheme, an interest held by a person connected with the scheme is treated as being held for the purpose of that scheme.
88. Subsection (8) defines “separate access” for an associated dwelling.
89. Subsection (9) outlines the meaning of references within this section to terms such as “beneficial entitlement”; “garden or grounds” in relation to dwelling or dwellings; the person entitled to possession of a dwelling; and the meaning of “separately entitled”.

Clause 18 – Amalgamation of dwellings in the same building

90. Subsection (1) provides the conditions which need to be met for two parts of a building to be “linked dwellings”.
91. Subsection (2) defines the common ownership condition for a company and for a collective investment scheme as applied to in subsection 18(1)(d).
92. Subsection (3) covers circumstances where at the end of a day in a chargeable period, two parts of a building constitute linked dwellings. This Part has effect in relation to interests cited at subsections 2(a) or (b) to treat them on the day in question, as suitable for use as a single dwelling.
93. Subsection (4) disapplies subsection (3) if in relation to a freehold or leasehold interest, the day in question is a relievable day as listed in subsection (5).
94. Subsection (5) lists the provisions where subsection (3) will not apply to treat the two parts of a building for use as a single dwelling, if the day in question is a relievable day.
95. Subsection (6) provides that a further dwelling in the same building are to be amalgamated with other linked dwellings amalgamated under this clause, so that all of the dwellings are considered suitable for use as a single dwelling, if the additional dwelling is linked with any one of them.

Clause 19 – Section 18: supplementary

96. Subsection (1) specifies that for section 18 purposes, an interest to which an individual connected with a unit trust is beneficially entitled is regarded as held for the purpose of the unit trust scheme.
97. Subsection (2) says that for the purposes of section 18 private access between two dwellings is a route between them to which no third party has a right to access
98. Subsection (3) provides the definition of “third party” for subsection (2) as someone who is neither a person entitled to possession of the dwellings mentioned in subsection (1) nor is connected with them.
99. Subsection (4) defines the “use” condition for section 18(1)(d) as that each of the two dwellings is either (a) occupied or (b) intended to be or usually so occupied or (c) not occupied by a relevant person.
100. Subsection (5) provides the definitions of “relevant person” for subsection (4), including an individual who is a connected person; occupies the property on non-commercial terms; or who is employed by a relevant person in connection with that person’s occupation.
101. Subsection (6) defines references to “beneficial entitlement” to include joint entitlement and restricts a person entitled to the possession of a dwelling to one so entitled by an estate or interest in land the person holds.

Clause 20 – Terraces etc.

102. Subsection (1) provides for a terrace of houses or semi-detached houses that are (or include) dwellings to be considered buildings for the purposes of sections 18 and 19.

Clause 21 – Acquisitions and disposals of chargeable interests

103. Subsection (1) ensures that acquisitions however effected are treated as such.
104. Subsection (2) treats the surrender or release of an interest as an acquisition and disposal.
105. Subsection (3) treats the variation of an interest as an acquisition or disposal for the purpose of this legislation..

Clause 22 – Date of acquisition

106. Subsection (1) states that the acquisition date of a chargeable interest in a land with a dwelling is treated as the beginning of the effective date of acquisition.

107. Subsection (2) defines the effective date of an acquisition, with provision for an alternative date to be specified by regulations.

Clause 23 – Date of disposal

108. Subsection (1) provides for the date of disposal of a chargeable interest in a land consisting of or including a dwelling to be the day preceding the effective date of disposal.
109. Subsection (2) defines the effective date of a disposal, with provision for an alternative date to be specified by regulations.

Clause 24 – Contract and conveyance: the purchaser

110. Subsection (1) applies this section where a person enters a contract to acquire a relevant chargeable interest and the acquisition is completed by a conveyance.
111. Subsection (2) provides that a person is not seen as having acquired a chargeable interest by reason of entering into the contract.
112. Subsection (3) where a contract is not completed but is substantially performed, this Part has effect as if the substantial performance was completion of the acquisition which the contract intended to achieve.
113. Subsection (4) provides that where subsection (3) applies and the contract is then completed through a conveyance, completion (for the purposes of section 6) it is not deemed to have given effect to acquiring the chargeable interest.
114. Subsection (5) sets out the position where subsection (3) applies and the contract is subsequently rescinded or annulled before the contract is fully carried out, then this Part is effective as if P had disposed of the chargeable interest as per subsection (1)(a).
115. Subsection (6) defines “the relevant time” for the purposes of subsection (5).
116. Subsection (7) in a situation where subsection (3) applies and the contract is then varied or partially rescinded, resulting in a chargeable interest acquired under contract which differs from that to which the contract originally related, this Part operates as if the contract variation had resulted in purchaser P’s disposal of the interest referred to in subsection (1)(a) and the substantial performance of the varied contract.
117. Subsection (8) applies subsection (7) if the parties proceed as if they had varied the contract without actually doing so.
118. Subsection (9) provides further definitions for this section.

Clause 25 – Contract and conveyance: the vendor

119. Subsection (1) applies subsections (3) and (4) where a person enters a contract to dispose of a chargeable interest and the disposal is completed by a conveyance.
120. Subsection (2) provides that a person is not seen as disposing of a chargeable interest just because it has entered into the contract to dispose of a chargeable interest where the contract provides for disposal to be completed by conveyance.
121. Subsection (3) provides that a contract substantially performed but not completed will, for this Part, be considered as though the substantial performance of the contract was completion of the disposal which the contract had intended.
122. Subsection (4) provides that where subsection (3) applies and the contract is later completed through a conveyance, for the purposes of section 6, it is not deemed that completion effected disposal of a chargeable interest.
123. Subsection (5) sets out the effect of this Part where subsection (3) applies along with other conditions that deem the vendor to have reacquired the interest referred to in subsection (1)(a).
124. Subsection (6) defines “the relevant time” for the purposes of subsection (5).
125. Subsection (7) provides that where subsection (3) applies and the contract is subsequently varied or partially rescinded altering the result of the chargeable interest to be disposed of so that it is not the same chargeable interest provided for in the original contract, the result is as if variation of the contract achieved the vendor V now treated as if they had reacquired the interest referred to in subsection (1)(a) and substantial performance of the varied contract.
126. Subsection (8) applies subsection (7) if the parties proceed as if they had varied the contract in the way subsection (7) sets out, without actually having varied the contract, as if they had.
127. Subsection (9) provides further definitions for this section.

Clause 26 – New dwellings

128. Subsection (1) defines the valuation date for a new dwelling that is or has been constructed. It is the earlier of the completion day (the date construction is proposed to finish) or the date that the dwelling is first occupied.

129. Subsection(2) defines for the purposes of subsection (1) what constitutes the construction of a new dwelling. It includes any alterations to an existing building but does not include a dwelling where sections 27 or 30 apply.
130. Subsection (3) defines for the purposes of subsection (1) completion day as the day on which the new dwelling is treated as having come into existence under the relevant legislation listed in this subsection.

Clause 27 – Dwellings produced from other dwellings

131. Subsection (1) applies this section where as a result of some structural alterations, an existing building that is a dwelling or dwellings, becomes a different dwelling or dwellings.
132. Subsection (2) defines the point when it is determined that a person has a single-dwelling interest in the old or new dwelling. This is when the conversion is completed, the old dwelling ceases to exist and the new dwelling has come into existence.
133. Subsection (3) defines the valuation date for the new dwelling as the day after the conversion is completed.
134. Subsection (4) defines when the conversion is completed as being the end of the day on which the new dwelling is, or all new dwellings are treated as having come into existence for the purposes of the legislation listed in this subsection.

Clause 28 – Demolition of a dwelling

135. Subsection (1) applies sections 29 to 31 where a dwelling is demolished on or after 1 April 2013.
136. Subsection (2) treats the building as not demolished for the purposes of determining whether a person has a single-dwelling interest interesting the property and its taxable value except where express provision to the contrary is made in sections 29 to 31.
137. Subsection (3) defines the date of the demolition for the purposes of subsection (1) as being after 1 April 2013 if a day after 1 April 2013 is the day demolition has begun and as a result the building is no longer suitable for use as a dwelling.

Clause 29 – Demolition without replacement

138. Subsection (1) applies subsection (2) if a person owning the old dwelling notifies an officer of Revenue and Customs that there is no intention to build any new dwelling on the site of the old dwelling.

139. Subsection (2) defines when the person is said to have a single-dwelling interest in the old dwelling from the day as defined by subsection (3).
140. Subsection (3) defines the date for subsection (2) when both the criteria are met of the demolition having begun and thereby rendering the building unsuitable to be used as a dwelling.
141. Subsection (4) requires a notification to be made in writing to HM Revenue & Customs under subsection (1).
142. Subsection (6) provides some further definitions for this section.

Clause 30 – Demolition and replacement: new dwellings

143. Subsection (1) applies subsection (2) if new dwellings are built on the site of the old dwelling after its demolition.
144. Subsection (2) states that a person's single-dwelling interest in new dwelling comes into existence at the point when the rebuilding is completed on the assumption that the old dwelling has ceased to exist.
145. Subsection (3) defines the valuation date of a single-dwelling interest in a new dwelling as the day after the rebuilding is completed.
146. Subsection (4) provides further definitions for the terms in subsection (1).
147. Subsection (5) confirms that reference to when rebuilding is complete is the earlier of completion day or the day the last of the new dwellings is first occupied.
148. Subsection (6) defines the reference to completion day in subsection (5) as the day on which the new dwelling or all new dwellings are treated as having come into existence for the purposes of the legislation listed in this subsection.

Clause 31 – Demolition and replacement: other cases

149. Subsection (1) applies section 31 where section 30 does not apply and where a building is constructed on the site of an old dwelling, post-demolition.
150. Subsection (2) states that where a person's single-dwelling interest in the old dwelling is queried, this will be determined by assuming the old dwelling no longer existed at the end of the final day of the old dwelling's existence (i.e. before any demolition or replacement) or, at the end of the last day the dwelling was occupied, whichever is later.

151. Subsection (3) provides further definitions for the terms in subsection (1).

Clause 32 – Conversion of dwelling for non-residential use

152. Subsection (1) applies this section where a building, or any part of it previously been suitable as a dwelling is then altered so as to make is unsuitable to use as a dwelling.
153. Subsection (2) states that it is a question of fact whether the alterations at subsection (1)(b) above render the building or part unsuitable for use as a dwelling.
154. Subsection (3) provides that once planning permission or development consent has been granted for the alterations, the building or the part of it is unsuitable for use as a dwelling.
155. Subsection (4) applies the planning enactments as listed in subsection (5) to definitions of “planning permission” used throughout this section.

Clause 33 – Damage to a dwelling

156. Subsection (1) applies subsections (2) and (3) if accidental damage occurs to a dwelling, resulting in the dwelling becoming temporarily unsuitable for occupation for a period of at least 90 days. The damage has to be caused by events that the relevant person had no control over.
157. Subsection (2) states that the day the damage occurs is a valuation date for purposes of the single-dwelling interest.
158. Subsection (3) disapplies subsection (2) if the dwelling is destroyed.
159. Subsection (4) provides for the damage to be disregarded when applying subsection (1) if it occurs as part of the demolition work that the person is having done.
160. Subsection (5) defines “the relevant person” for the purposes of this section.

Clause 34 – Property rental businesses

161. Subsection (1) defines a relievable day for a single-dwelling interest if a person entitled to that interest intends to or is renting out or receiving some sort of receipt in carrying on a qualifying property rental business.

162. Subsection (2) applies subsection (3) where tax is charged and there are one or more relievable days in that chargeable period as a result of subsection (1) in respect of the single-dwelling interest.
163. Subsection (3) provides for the calculation of the adjusted chargeable amount such that the chargeable person is not within the charge in respect of the interest for relievable days.
164. Subsection (4) provides that if the dwelling is made available for occupation by a non-qualifying person or if they are permitted to occupy, the dwelling will not be considered as being exploited in the course of a qualifying property rental business.
165. Subsection (5) defines a “non-qualifying person” for the purposes of subsection (4).
166. Subsection (6) states that if a non-qualifying individual has had permission to occupy (or has occupied) the dwelling or part of it, no subsequent day is relievable unless on the day is itself or the previous day is a relievable day covered by the provision at section 1(a).
167. Subsection (7) provides for this section to apply if a non-qualifying individual is permitted to occupy any part or all of a dwelling where the beneficial entitlement to the single-dwelling interest is held by a property rental business. It is treated as if there had been an intention for the dwelling to be made available for occupation by a non-qualifying individual as per subsection (4)(b).
168. Subsection (8) states that subsection (7) does not treat a person as having had the intention in question to occupy the dwelling as long as a non-qualifying person does not occupy the dwelling at the same time.
169. Subsection (9) defines when a single-dwelling interest is considered as “held in preparation” for the purposes of subsection (1)(a).
170. Subsection (10) provides definitions for “relative”, “relevant settlor”, “settlement” and “trustee” for this section.

Clause 35 – Meaning of “property rental business” and related expressions

171. This section provides definitions for Section 35.

Clause 36 – Trade involving the exploitation of an interest in a dwelling

172. Subsection (1) defines a relievable day for a single-dwelling interest if that interest is being exploited or held with the intention of being exploited as a source of income in the course of carrying on a qualifying trade.

173. Subsection (2) applies subsection (3) where tax is charged and there are one or more relievably days in that chargeable period as a result of subsection (1) in respect of the single-dwelling interest.
174. Subsection (3) provides for the calculation of the adjusted chargeable amount after taking account of the person not being chargeable to tax for the relievably days.
175. Subsection (4) defines a “qualifying trade” for the purposes of this section as one which makes the dwelling available for use and enjoyment and meets the conditions set out in subsection (5).
176. Subsection (5) lists the conditions for a “qualifying trade”. The conditions to be met by the trade are that the trade is carried on commercially with a view to making a profit and that for at least 28 days in a chargeable period, the dwelling is made available to the public to use, stay in or enjoy.
177. Subsection (6) provides that for the purposes of subsections (4)(a) and (5)(b), a significant part of the interior of the dwelling has to be made available for persons permitted to use, stay in or enjoy the dwelling.
178. Subsection (7) sets out that size, nature and function of areas concerned are taken into account when determining whether they form a significant part of the interior of the dwelling.
179. Subsection (8) provides that a single-dwelling interest will only be seen as held with an intention to exploit it as a source of income in the course of a qualifying trade if steps are taken to secure the exploitation of the interest as soon as reasonably practical.

Clause 37 – Provisional relief under section 36

180. Subsection (1) states that subsection (2) is applicable if conditions listed are met. The conditions include the person being within the charge to tax and being required to deliver an ARPT return for a single-dwelling interest; subsection 36(5) not being met on the first day in the chargeable period. If the dwelling is available to the public to stay in, use or enjoy for at least 28 days in the chargeable period, the first day chargeable period will count as a relievably day and this has to be stated in the return.
181. Subsection (2) provides for HMRC under section 8 to give the relief due if the initial day was relievably under s36.

182. Subsection (3) provides for withdrawal of relief granted under subsection (2) if the condition of subsection 36(5)(b) are not met within the chargeable period.

Clause 38 –Property developers

183. Subsection (1) defines a relievable day for a single-dwelling interest if that interest has been acquired in the course of a property development trade, the company is beneficially entitled to the interest or the interest is held exclusively for a qualifying purpose.
184. Subsection (2) applies subsection (3) where tax is charged and there are one or more relievable days in that chargeable period as a result of subsection (1).
185. Subsection (3) states that the calculation of the adjusted chargeable amount excluding from the charge any relievable days.
186. Subsection (4) defines an interest being held for a qualifying purpose where it is held for the purpose or intention of redeveloping and reselling the land in the course of the property development trade or for rent or receipts in the course of a qualifying rental business, subject to subsection (5).
187. Subsection (5) states that where a single-dwelling interest is held within the terms of section 4(b) that does not preclude section 36 relief.
188. Subsection (6) provides that the interest is not held for a qualifying purpose within subsection 4(b) unless redevelopment will commence without delay (subject to delays justified by commercial considerations).

Clause 39 – Property developers: occupation of dwelling by non-qualifying individual

189. Subsection (1) covers a single-dwelling interest not held for a qualifying purpose if a non-qualifying individual occupies the building or any part of it; or where it is intended that a non-qualifying individual may occupy the building or part of it.
190. Subsection (2) has effect where a company in a property development trade and beneficially entitled to a single-dwelling interest, at any time during the chargeable period allows a non-qualifying individual to occupy the dwelling. This section has effect as if the interest was held other than for the purpose of s38(1)(b). It takes effect from either (2)(a) or (b) which define the first day of the chargeable period.

191. Subsection (3) for intervals between periods of non-qualifying occupation, for a company carrying on a property development trade, s41 has effect as if a non-qualifying individual was permitted to occupy the dwelling during that interval and from the end of the interval until disposal of the investment.
192. Subsection (4) defines “interval between periods of non-qualifying occupation” for the purposes of subsection (3).

Clause 40 – Property developers: exchange of dwellings

193. Subsection (1) defines a relievable day for a single-dwelling interest if that interest has been acquired in the course of a property development business, the business is entitled to the interest and the acquisition (the reverse acquisition) was part of a qualifying exchange.
194. Subsection (2) applies subsection (3) where tax is charged and there are one or more relievable days in that chargeable period as a result of subsection (1) in respect of the single-dwelling interest.
195. Subsection (3) provides for the calculation of the adjusted chargeable amount after taking account of the person not being chargeable to tax for the relievable days.
196. Subsection (4) provides a day not be considered as relievable by this section if a non-qualifying person occupies or is intended to occupy the dwelling or any part of it.
197. Subsection (5) provides that if a non-qualifying person occupies or is intended to occupy the dwelling after the conditions in subsection (1)(a) and (b) are met at the end of a day, and between the reverse acquisition and time a non-qualifying person has occupied, that day or days are not relievable for the single-dwelling interest.
198. Subsection (6) provides the meaning of “the relevant person” for this section. These are the members of a partnership in the case where a company entitled to the interest is a member of a partnership, or the company itself and any person who acquired the interest jointly with the company.
199. Subsection (7) provides the conditions for a reverse acquisition to be part of a qualifying exchange.
200. Subsection (8) provides the conditions that need to be met for a building or part of it to be considered a “new dwelling”.

Clause 41 – Definitions for sections 38 to 40

- 201. Subsection (1) provides for the meaning of property development trade.
- 202. Subsection (2) provides the meaning for non-qualifying individual as used in sections 38 to 40.
- 203. Subsection (3) provides further definitions for sections 38 to 40 for “relative”, “relevant settlor”, “qualifying individual”, “settlement” and “trustee”.
- 204. Subsection (4) further defines “beneficially entitled” in sections 38 to 40 and in this section.
- 205. Subsection (5) provides for the application of section 35 for the purposes of section 38 equally as for the purposes of section 34.

Clause 42 – Property traders

- 206. Subsection (1) defines a “relievable” day for a single-dwelling interest if at the end of that day a person beneficially entitled to that interest is carrying on a property trading business. The person is also required to hold the property as stock and solely for resale in the course of the business.
- 207. Subsection (2) applies subsection (3) where tax is charged and there are one or more relievable days in that chargeable period as a result of subsection (1).
- 208. Subsection (3) provides for the calculation of the adjusted chargeable amount having taking account of the person not being chargeable to tax for any “relievable” days.
- 209. Subsection (4) defines when a single-dwelling interest is not considered to be held for the sole purpose of resale by a person carrying on a property trading business.
- 210. Subsection (5) provides the definition for a “property trading business”.

Clause 43 – Property traders: supplementary

- 211. Subsection (1) provides that during a chargeable period, where a property trader with beneficial entitlement to the property allows a non-qualifying person to occupy it, section 43 has effect as if there had been an intention (such as in section 42(4)(b) for occupation by a non-qualified individual).
- 212. Subsection (2) applies section 42 throughout any interval between periods of non-qualifying occupation. It applies from the end of the

interval until the interest is disposed of by the property trader, rendering the entire period unrelievable.

- 213. Subsection (3) provides for the meaning of “interval between periods of non-qualifying occupation” in subsection (2).
- 214. Subsection (4) provides the meaning of “non-qualifying individual” for section 44.
- 215. Subsection (5) provides further definitions for this section for “relative”, “relevant settlor”, “settlement” and “trustee”.
- 216. Subsection (6) defines occupation of any part of a dwelling as occupation of the dwelling, for sections 42 and 43.
- 217. Subsection (7) defines “beneficially entitled”.

Clause 44 – Occupation by certain employees or partners

- 218. Subsection (1) sets out the conditions for a relievable day where a dwelling is made available for use as a living accommodation for qualifying individual/individuals.
- 219. Subsection (2) applies subsection (3) where tax is charged and there are one or more relievable days in that chargeable period as a result of subsection (1) in respect of the single-dwelling interest.
- 220. Subsection (3) provides for the calculation of the adjusted chargeable amount after taking account of the person not being chargeable to tax for the relievable days.
- 221. Subsection (4) sets out the requirements for what makes a trade a “qualifying trade”.
- 222. Subsection (6) provides the reference for “a relevant group member” in subsection (1)(a) as mentioned in paragraph 1(2) of Schedule 7 FA 2003.

Clause 45 – Meaning of “qualifying individual” in section 44

- 223. Subsection (1) sets out “qualifying individuals” where the trade as per section 44(1)(b) is carried out in partnership with one or more persons. It includes any qualifying member of the partnership and any qualifying employee.
- 224. Subsection (2) provides that for any other case than as defined in subsection (1), “qualifying individual” means a qualifying employee.
- 225. Subsection (3) provides that a “qualifying member of the partnership is any member of the partnership unless the partner is entitled to a 5%

or greater share in the income profits of the partnership or in any company beneficially entitled to the single-dwelling interest or in the single-dwelling interest in section 44(1)(a).

226. Subsection (4) sets out who is a “qualifying employee” for the purposes of subsections (1) and (2).
227. Subsection (5) provides for who is considered an individual providing excluded domestic services as per subsection (4)(b). The individual is one whose employment includes the provision of services with the occupation of the relevant dwelling in section 44(1)(b) or a linked dwelling by a non-qualifying individual.
228. Subsection (7) sets out “linked” dwellings for the purposes of subsection (5). The first is one which meets the conditions as set out in section 17(2) regarding a relevant dwelling and another dwelling. The second is one where a dwelling is linked to the relevant dwelling as per section 18(1).
229. Subsection (9) provides for the purposes of subsection (3)(c) that beneficial joint tenants (or, in Scotland, joint owners) entitled to a chargeable interest are treated as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.

Clause 46 – Meaning of “5% or greater share in a company”

230. Subsection (2) sets out an individual P as entitled to a 5% or greater share in a company if it is entitled to acquire any of the shares or rights as set out in this subsection.
231. Subsection (3) requires any rights P or any other person has as a loan creditor to be disregarded for the assumption in subsection (2)(d).
232. Subsection (4) sets out that for subsection (2), a person is treated as entitled to acquire if it is at a later date or a future date.
233. Subsection (5) provides for the rights to be attributed to A if a person possesses any rights or powers on behalf of A or a person maybe required to exercise any rights or powers for A.
234. Subsection (6) provides for further attributions to a person in the case of rights and powers of any two or more companies or of any associate of the person.
235. Subsection (7) sets out the rights and powers to be attributed under subsection (6).
236. Subsection (8) provides for a person nevertheless to be treated as having 5% or greater share in a company if they are able to exercise

or acquire direct or indirect control over the company's affairs even if the conditions in subsection (2) are not met.

237. Subsection (9) provides definitions for “associate”, “control”, “loan creditor” and “participator” as per CTA 2010 for the purposes of this section.

Clause 47 – Farmhouses

238. Subsection (1) defines a relievable day for a farmhouse if a person entitled to it (the owner) is carrying on qualifying trade of farming and the farmhouse is occupied by a qualifying farm worker. The person (owner) is also required to have held the farmhouse and occupied it for the purposes of farming for the two years prior to the day.
239. Subsection (2) applies subsection (3) where tax is charged and there are one or more relievable days in that chargeable period as a result of subsection (1) in respect of the farmhouse.
240. Subsection (3) provides for the calculation of the adjusted chargeable amount after taking account of the person not within the charge to tax on relievable days.
241. Subsection (4) provides for the meaning of “farmhouse” as used in subsection (1).
242. Subsection 5 provides for the meaning of “qualifying farm worker” for the purposes of subsection (1).
243. Subsection (6) provides that farming is a qualifying trade only if the two conditions set out in subsection (6) are met.
244. Subsection (8) defines “beneficially entitled” for the purposes of this section
245. Subsection (9) defines “farming” and “market gardening” for the purposes of this section.

Clause 48 – Responsibility for collection and management

246. Section 48 provides for the HMRC Commissioners to be responsible for the administration and collection of the ARPT.

Clause 49 – Duty to make an ARPT return

247. Subsection (1) requires a person to make a return with respect to an interest they hold in a dwelling for a chargeable period.

248. Subsection (2) requires the person to make a return within 30 days of coming into charge with respect to their interest in the single-dwelling.
249. Subsection (3) disapplies subsection (2) if that first day that the person becomes chargeable is a valuation date under section 26 or 27. In this case, the return is required by the end of the 90 day period.
250. Subsection (4) applies subsection (5) and (6) if the person already held an interest in the dwelling and acquires a new interest in the same dwelling in the same chargeable period.
251. Subsection (5) if not within the charge on the day prior to the effective date of acquisition in subsection 4(a), the new interest is in a different single-dwelling and subsection 2 applies.
252. Subsection (6) requires the person to make a further return for all the interests that are mentioned in subsection (4) in addition to the one that is required under subsection (2).
253. Subsection (7) requires the further return under subsection (6) to be made within 30 days of the effective date of acquisition in subsection (4)(a).
254. Subsection (8) requires the return (ARPT return) to be made to an officer of HM Revenue and Customs.

Clause 50 – Amendment of return where conditions for relief cease to be met

255. Subsection (1) requires a person to amend their a return if that person claims relief through sections 34 to 47 and through a change of circumstances, one or more of the days that relief is claimed for is no longer relievable.
256. Subsection (2) requires the person to amend the ARPT return within 90 days of the first day in the chargeable period not being a relievable day. .

Clause 51 – ARPT return to include self-assessment

257. Subsection (1) requires the annual charge return to include a person’s self assessment as per subsection (2).
258. Subsection (2) defines self-assessment and states that under s49(6) it is a re-assessment.
259. Subsection (3) requires the self-assessment to include a statement of the market value of the single-dwelling interest for each valuation date relevant for the purposes of the assessment.

Clause 52 – Returns, enquiries, assessments and other administrative matters

260. Subsections (1) and (2) refer to Schedule 1 which contains provisions for making returns, enquiries and related matters and provides for any further amendments to be made to this Part by regulations.

Clause 53 – Payment of tax

261. Subsection (1) provides for the tax to be paid with respect to the single-dwelling interest at the same time as the ARPT return and by the required filing date for the respective period.
262. Subsection (2) requires any tax payable due to an amendment to the return to be made by the filing date or immediately if it is after the filing date subject to subsection (3).
263. Subsection (3) requires the tax as a result of an amendment under section 50(1) to be made within the 90 day limit under section 50(2) for the amended return.
264. Subsection (4) provides for where a determination or assessment has been made by HMRC. This requires the tax to be paid within 30 days of the determination or assessment being issued.

Clause 54 – Interest on repayment of tax overpaid, etc

265. Subsection (1) requires the repayment of tax under this section to be made with interest for the period starting with the relevant day as per subsection (3) to the day before the repayment order is issued. The interest rate applicable is as per section 178 of Finance Act (FA) 1989.
266. Subsection (2) details the repayments of tax this section applies to.
267. Subsection (3) provides for the relevant day that is to be taken into account when applying subsection (1).
268. Subsection (4) provides that the interest that is paid under this section will not be considered income for the person for tax purposes.

Clause 55 - Companies

269. Subsection (1) requires an appropriately authorised person, including a proper officer of the company, to act on behalf of the company in complying with the provisions under this Part.

270. Subsection (2) lists who would be considered “the proper officer” of a company for the purposes of subsection (1).
271. Subsection (3) covers how service of a document can be effected.
272. Subsection (4) provides for any tax due under this Part to be recovered from the proper officer of the company.
273. Subsection (5) provides for the proper officer to be reimbursed by the company for any amount that has been paid by the officer under subsection (4).
274. Subsection (6) applies the rules as listed in the subsection instead of subsection (1) and (2) if a liquidator or administrator has been appointed for the company. The rules provide for the liquidator or administrator to act as “the proper officer” of the company.

Clause 56 - Partnerships

275. Subsection (1) defines “partnerships” as applied to this Part.
276. Subsection (2) provides for the application of provisions under this Part to partnerships and treats the partners as jointly beneficially entitled to the single-dwelling interest instead of the partnership itself.
277. Subsection (3) defines the partnership to be the same as long as at least one member of the partnership is the same as before and after any changes in membership.
278. Subsection (4) provides for a Partnership not to be regarded as a collective investment scheme or as a unit trust scheme for the purposes of this Part.
279. Subsection (5) provides for a representative partner or partners to act on behalf of the partnership to comply with this Part.
280. Subsection (6) defines a representative partner for the purposes of subsection (5).
281. Subsection (7) requires a nomination or revocation of a representative partner for the purposes of this section to be made to an officer of HMRC.

Clause 57 – Orders and regulations

282. Section 57 provides for any further provisions under this Part to be made by statutory instrument containing regulations.

Clause 58 – Meaning of “chargeable day” and “within the charge”

283. Section 58 defines “chargeable day” and “within the charge” for the purposes of this Part for tax charged with respect to a single-dwelling interest.

Clause 59 – Connected persons

284. Section 59 provides for section 1122 of the Corporation Tax Act 2010 for the application of connected persons for this Part.

Clause 60 – General interpretation

285. Section 60 provides general interpretations for this Part as defined in various sections under this Part as well as defined elsewhere in previous Finance Acts.

BACKGROUND NOTE

286. At Budget 2012 it was announced that an ‘annual charge’ on residential property owned in structures where stamp duty land tax (SDLT) might not be paid on a future sale was to be introduced. The ‘annual charge’ was to be consulted on over the summer with a response to that consultation and draft legislation available in the Autumn.
287. That consultation has been completed and the response document and the draft legislation for the ‘annual charge’ drafted. The ‘annual charge’ is to be known as the ARPT.
288. The ARPT will be payable by certain non-natural persons that own interests in dwellings valued at more than £2 million. This tax will come into effect on 1 April 2013. It is an annual tax, and returns and payments will be required annually. Returns and payment will usually be due on 30 April, but for the first year returns will be due on 1 October 2013 and payment by 31 October 2013. The amount of tax payable will depend upon which of the fixed bands the dwelling is within.
289. The measure is part of a package of measures designed to ensure that individuals and companies pay a fair share of tax on residential property transactions and to reduce avoidance. Its aim was to disincentivise the ownership of high value residential property in structures that would permit the indirect ownership or enjoyment of the property to be transferred in a way that would not be chargeable to SDLT.

290. As part of the package, FA 2012 package, FA 2012 introduced a 15 per cent rate of stamp duty land tax on the acquisition by certain non-natural persons of properties costing more than £2 million. That Act provided only two exclusions from the higher rate charge; for companies acting solely in their capacity as trustees, and for property developers with a 2 year trading history.
291. The scope of the 15 per cent rate was included as part of the consultation on the ARPT. In response to the consultation a number of reliefs are to be introduced in ARPT and also further reliefs into the SDLT legislation. Where possible the two reliefs should operate in tandem; so if the 15% of SDLT is paid on an acquisition then the property will be within ARPT. In particular there are to be reliefs for; property rental businesses, property developers, property traders, trades that exploit a dwelling to generate income by providing access to a significant part of the interior, dwellings used to house employees or partners with a limited interest in the company or partnership, farmhouses, charities, social landlords, diplomatic property and sovereign and public bodies.
292. Relief will only apply if the property continues to satisfy the relevant qualifying conditions throughout the period of ownership. It is possible that a property could move into and out of the charge though out its ownership.
293. The intention of the measures is to stop or reduce the number of properties that will enter such complex ownership structures other than where the property is used in a genuine business (or owned by a specific category of person). For those who choose to continue to hold their property in such a manner, and are not relieved, there is to be a cost. Taken together with the introduction of the SDLT changes in FA 2012 (and the changes in Finance Bill 2013) the ARPT will result in a reduction in the number of high value properties owned in such structures.
294. If you have on questions about these changes, or comments on the legislation, please contact Andrew Hewitt on 03000 564964 (email: andrew.hewitt@hmrc.gsi.gov.uk)

EXPLANTORY NOTE

**ANNUAL RESIDENTIAL PROPERTY CHARGE: RETURNS,
ENQUIRIES, ASSESSMENTS AND APPEALS**

SUMMARY

295. This Schedule deals with returns, enquiries, compliance powers and other matters. It also empowers HM Treasury to amend certain parts of the Schedule by regulation.

DETAILS OF THE SCHEDULE

Part 1: Annual charge returns

296. This Part of the Schedule deals with returns. It provides for the contents of the return, defines delivery and covers amendment of a return.
297. Paragraph 1 deals with the contents of the return and allows for the Commissioners of HMRC to make provisions by regulation for the contents, form and method of delivery of an annual charge return or for a different purpose. It provides the requirement of the return to include a declaration by the person that the return is complete and correct.
298. Paragraph 2 provides for the references in this Part to the delivery of the return to be according to the requirements in section 49 or 51 or paragraph 1
299. Paragraph 3 provides for the amendment of a return and what form it needs to take. It also specifies the deadline by which the amendment to the return needs to be made.

Part 2: Enquiry into return

300. This Part of the Schedule deals with enquiries into returns. It provides for the notice and scope of enquiry, the amendment of self-assessment during enquiry, referrals to tribunal during enquiry and completion of enquiry.
301. Paragraph 4 provides for an officer of HMRC to make enquiries into returns within 12 months of the relevant date as defined by subparagraph (3).
302. Paragraph 5 deals with the scope of enquiry. The enquiry can be into the amount of tax chargeable or the question of whether tax is chargeable on the relevant person with respect to an interest. Where an enquiry is made into an amended return after the enquiry period is closed, the enquiries are limited to matters which are amended or affected by the amendment.
303. Paragraph 6 provides for the amendment of the return by an officer of HMRC during course of enquiry to prevent loss of tax. Where an enquiry is made into an amended return, it limits this to matters which are amended or affected by the amended return.
304. Paragraph 7 deals with the referral of questions to the tribunal during enquiry. It requires the referral to be made jointly by the relevant person and HMRC by notice.
305. Paragraph 8 provides for the withdrawal of notice of referral made under paragraph (7) by HMRC or the person who made the return.

306. Paragraph 9 deals with the effect of referral under paragraph (7) on an enquiry. It provides that a closure notice or an application for a closure notice cannot be made while proceedings under paragraph (7) are in progress.
307. Paragraph 10 provides that the determination of any question by the Tribunals under paragraph (7) is binding on the parties. It requires the officer of HMRC to take the determination into account when making any amendments to the return and limits the question from being reopened.
308. Paragraph 11 deals with the completion of enquiry and requires HMRC to issue a closure notice stating whether an amendment is required or not and making the amendment if necessary.
309. Paragraph 12 provides for the person who made the return to seek from a tribunal a direction that HMRC should issue a closure notice.

Part 3: HMRC determination where no return delivered

310. This Part of the Schedule deals with determinations by HMRC where no return is delivered.
311. Paragraph 13 allows HMRC to make a determination of tax chargeable if no return is delivered by the relevant filing date. It limits the time period in which the determination has to be made to 4 years after the end of the chargeable period when the return should have been made.
312. Paragraph 14 provides that the determination has the same effect as self-assessment by the person for enforcement purposes as defined in sub-paragraph (14)(2).
313. Paragraph 15 provides that if, after a determination under paragraph 14, the person make a self-assessment, that supersedes the determination unless the self-assessment is delivered as defined in sub-paragraph (15)(2). It also provides that where proceedings have begun for the tax due, these may continue regardless of the self-assessment.
314. Paragraph 16 provides for a nil charge return following a determination to supersede the determination.

Part 4: HMRC Assessments

315. This Part of the Schedule provides for HMRC assessments in certain defined cases.

316. Paragraph 17 deals with discovery assessments where an amount that should have been assessed under this Part has not been assessed, is less than it should be or excessive relief has been claimed.
317. Paragraph 18 provides for an assessment to recover an excessive repayment of tax including any interest that may have been paid.
318. Paragraph 19 provides for the references to the taxpayer in paragraphs 20 to 23.
319. Paragraph 20 sets out the circumstances where a discovery assessment can be made if the taxpayer has made a return. There has to be fraudulent or negligent conduct on the part of the taxpayer or a person acting on their behalf (or a partner) and the information on which HMRC base the return has to be information that they could not reasonably be expected to be aware of when the return was delivered. Furthermore no assessment can be made if the return was made in accordance with generally prevailing practice at the time it was delivered.
320. Paragraph 21 provides the time limit for assessments. The general time limit is 4 years after the end of the relevant chargeable period, but in cases as provided in sub-paragraph (4), this is extended to 20 years. Where the taxpayer or a related person has been careless in their assessment, the time limit is 6 years. If the taxpayer has died, assessments must be made on personal representatives within 4 years of the date of death and can only cover chargeable periods within the 6 years prior to death.
321. Paragraph 22 provides the definition of losses brought about carelessly or deliberately for the purposes of paragraph 21.
322. Paragraph 23 provides procedure for making an assessment on a taxpayer and the contents of the notice of assessment.

Part 5: Supplementary

323. Paragraph 24 provides for persons who are jointly entitled to a single-dwelling interest to be jointly obliged to deliver a return
324. Paragraph 25 provides the requirement for all the responsible partners of a partnership to be responsible for anything required section (40) or this Schedule.
325. Paragraph 26 provides for meaning of “filing date” for an annual charge return.

BACKGROUND

326. ARPT is a new tax and therefore it requires a set of rules regarding returns, enquiries, compliance powers in much the same way as other regimes administered by HMRC. The scheme adopted is based on the stamp duty land tax self-assessment regime, and that legislation is found in Schedule 10 FA 2003. This allows ARPT to use established procedures which will be familiar to many tax and legal practitioners and HMRC. The legislation will be fully balanced by rights of appeal to the independent tax tribunals and when appropriate to the relevant lands tribunal.
327. If you have on questions about these changes, or comments on the legislation, please contact Andrew Hewitt on 03000 564964 (email: andrew.hewitt@hmrc.gsi.gov.uk)

EXPLANATORY NOTE

ANNUAL RESIDENTIAL PROPERTY CHARGE: SPECIAL PROVISIONS FOR 2013-14

SUMMARY

328. This schedule provides special rules regarding the filing of returns for the first year of the ARPT.

DETAILS OF THE SCHEDULE

329. The schedule deals with the duty to make returns for 2013-14. It makes provision for subsections (2) and (3) of section 49 for making returns for periods beginning 1 April 2013.

BACKGROUND NOTE

330. Special rules regarding the filing of returns for the ARPT are necessary in the first year as the legislation regarding the tax will only become law on Royal Assent being given to the Finance Bill 2013. Obligations under that law can only be enforced at that point. So whilst the tax will be due for the chargeable period 1 April 2013 to 31 March 2014 the filing obligation for this year will be 1 October 2013.
331. If you have on questions about these changes, or comments on the legislation, please contact Andrew Hewitt on 03000 564964 (email: andrew.hewitt@hmrc.gsi.gov.uk)

1 Relief from higher rate

Schedule 1 contains provisions about relief from the higher rate of stamp duty land tax.

SCHEDULE 1

Section 1

STAMP DUTY LAND TAX: RELIEF FROM 15% RATE

- 1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.
- 2 (1) Schedule 4A (higher rate for certain transactions) is amended as follows.
- (2) For paragraph 5 (property developers) and the cross-heading preceding it substitute –

“Businesses of letting, trading in or redeveloping properties

- 5 (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest that is acquired exclusively for one or more of the following purposes –
 - (a) exploitation as a source of rents or other receipts (other than excluded rents) in the course of a qualifying property rental business;
 - (b) redevelopment and resale in the course of a property development trade;
 - (c) resale in the course of a property development trade (in a case where the chargeable transaction mentioned above is part of a qualifying exchange);
 - (d) resale (as stock of the business) in the course of a property trading business.
- (2) A chargeable interest does not count as being acquired exclusively for one or more of those purposes if –
 - (a) it is intended that a non-qualifying individual will be permitted to occupy the dwelling, or
 - (b) it is intended that the dwelling will (or will if certain circumstances arise) be made available for occupation by a non-qualifying person.
- (3) In this paragraph –
 - “excluded rents” has the same meaning as in section 34 of FA 2013;
 - “non-qualifying individual” has the same meaning as in section 34 of FA 2013;
 - “property development trade” means a trade that –
 - (a) consists of or includes buying and redeveloping for resale residential or non-residential property, and
 - (b) is run on a commercial basis and with a view to profit;
 - “property trading business” means a business that consists of or includes activities in the nature of a trade of buying and selling dwellings;
 - “qualifying exchange” is to be construed in accordance with section 40 of FA 2013;

“qualifying property rental business” has the same meaning as in section 34 of FA 2013.

(3) After paragraph 5 insert—

“Trades involving making a dwelling available to the public

- 5A (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions in sub-paragraph (2) are met.
- (2) The conditions are that—
- (a) the higher threshold interest is acquired with the intention of exploiting that interest as a source of income in the course of a qualifying trade, and
 - (b) reasonable commercial plans have been formulated to carry out those plans as soon as is reasonably practicable having regard to all the circumstances.
- (3) “Qualifying trade”, in relation to a higher threshold interest means a trade that—
- (a) involves permitting persons to make use of, stay in or otherwise enjoy the dwelling,
 - (b) is carried on a commercial basis and with a view to profit, and
 - (c) involves making available to the public for at least 28 days in each calendar year the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade.
- (4) For the purposes of sub-paragraph (3), persons are not considered to have the opportunity to make use of, stay in or otherwise enjoy a dwelling unless the areas that they have the opportunity to make use of, stay in or otherwise enjoy include a significant part of the interior of the dwelling.
- (5) The size (relative to the size of the whole dwelling), nature and function of any relevant area or areas in a dwelling are taken into account in determining whether they form a significant part of the interior of the dwelling.

Dwellings for occupation by certain employees etc

- 5B (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions for relief under this paragraph are met.
- (2) The conditions are that—
- (a) the purchaser, or a relevant group member, carries on a qualifying trade,
 - (b) the interest is acquired for the purpose of making the dwelling available to one or more qualifying individuals for use as living accommodation, and
 - (c) the dwelling is to be made available as mentioned in paragraph (b) for purposes that are solely or mainly purposes of the trade.

- (3) For the purposes of the relief under this paragraph it does not matter whether or not the individuals mentioned in sub-paragraph (2)(b) are identified at the time of the chargeable transaction.
- (4) “Qualifying trade” means a trade that—
 - (a) is not a property rental business, a property development trade or a property trading business, and
 - (b) is carried on on a commercial basis and with a view to profit.
- (5) In this paragraph references to making a dwelling available to a qualifying individual include making it available to persons who are to share the accommodation with a qualifying individual as that person’s family.
- (6) Where the purchaser is a company, “relevant group member” means a company which is a member of the same group of companies as the purchaser for the purposes mentioned in paragraph 1(2) of Schedule 7 (group relief).

More about the condition in paragraph 5B(2)(b)

- 5C (1) In a case where the person carrying on the trade mentioned paragraph 5B(2)(a) carries it on in partnership with one or more other persons, “qualifying individual” means any individual who is—
- (a) a member of the partnership, or
 - (b) employed for the purposes of the qualifying trade.
- (2) In any other case, “qualifying individual” means an individual employed for the purposes of the qualifying trade.
- (3) In a case falling within sub-paragraph (1), the condition in paragraph 5B(2)(b) is not taken to be met if the persons, or a class of persons, to whom it is proposed to make the dwelling available as living accommodation include, or are likely to include, a member of the partnership who is (or will at the relevant time be) entitled to a 5% or greater share—
- (a) in the income profits of the partnership, or
 - (b) in any company beneficially entitled to the higher threshold interest mentioned in paragraph 5B(1), or
 - (c) in that higher threshold interest.
- (4) In addition, the condition in paragraph 5B(2)(b) is not taken to be met if the persons, or a class of persons, to whom it is proposed to make the dwelling available for use as living accommodation include, or are likely to include, an individual employed for the purposes of the trade in question who is (or will at the relevant time be)—
- (a) entitled to a 5% or greater share—
 - (i) in the income profits of the trade, or
 - (ii) in any company that is beneficially entitled to the higher threshold interest, or
 - (iii) in that higher threshold interest, or

- (b) employed to provide excluded domestic services.
- (5) The reference in sub-paragraph (4)(b) to an individual employed to provide excluded domestic services is to an individual the duties of whose employment include the provision of services in connection with the (actual or intended) occupation, by a non-qualifying individual, of the dwelling mentioned in paragraph 5B(2)(b) (“the relevant dwelling”), or a linked dwelling.
- (6) In sub-paragraph (5) “non-qualifying individual” means an individual connected with a person who is or is to be beneficially entitled to the higher threshold interest.
- (7) The following are “linked” dwellings for the purposes of sub-paragraph (5)—
 - (a) if the conditions in section 17(2) of FA 2013 are met in relation to the relevant dwelling and another dwelling, that other dwelling;
 - (b) a dwelling that is linked to the relevant dwelling, as described in section 18(1) of FA 2013.
- (8) In this paragraph references to employment include the holding of an office.
- (9) For the purposes of sub-paragraphs (3)(c) and (4)(a) persons who are entitled to a chargeable interest as beneficial joint tenants (or, in Scotland, as joint owners) are taken to be entitled to the chargeable interest as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.
- (10) Section 46 of FA 2003 (meaning of “5% or greater share in a company”) applies for the purposes of this paragraph as for the purposes of section 45 of that Act.

Farmhouses

- 5D (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in or over a dwelling—
 - (a) that is, or is to be, a farmhouse, and
 - (b) in relation to which the conditions in sub-paragraph (3) are met.
- (2) The reference in sub-paragraph (1) to a dwelling that “is or is to be a farmhouse” is to a dwelling that—
 - (a) forms part of land that is to be occupied, or to continue to be occupied, for the purposes of a qualifying trade of farming, and
 - (b) is of a character appropriate to a dwelling occupied in connection with the farming of the land concerned, having regard to the size of the (proposed or actual) farm and to the nature and scale of the trade mentioned in paragraph (a).
- (3) The conditions are that—
 - (a) the dwelling is to be occupied for the purposes of that trade by a qualifying farm worker,

- (b) reasonable commercial plans have been formulated under which such occupation is either to continue from the effective date of the chargeable transaction or to begin as soon as is reasonably practicable having regard to all the circumstances, and
 - (c) occupation of the farmhouse by a qualifying farm worker is then expected to continue as part of the normal way in which the trade is, or is to be, carried on.
- (4) In sub-paragraph (3) “qualifying farm worker” means an individual who –
- (a) occupies the dwelling for the purposes of the trade mentioned in that sub-paragraph, and
 - (b) has a substantial involvement (as a manager or otherwise) in the day-to-day work of the trade.
- (5) “Qualifying trade of farming” means a trade of farming that is carried on –
- (a) on a commercial basis, and
 - (b) with a view to the realisation of profits.
- (6) A person occupying part of a dwelling is regarded as occupying the dwelling for the purposes of this paragraph.
- (7) In this paragraph –
- (a) “farming” has the same meaning as in the Corporation Tax Acts (see section 1125 of CTA 2010), except that in this paragraph “farming” includes market gardening;
 - (b) “market gardening” has the same meaning as in the Corporation Tax Acts (see section 1125(5) of CTA 2010).

Withdrawal of relief

- 5E (1) Sub-paragraph (2) applies where relief under paragraph 5 has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if either of the requirements in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) (but see sub-paragraph (4)).
- (3) The requirements are that –
- (a) the higher threshold interest is held exclusively for one or more of the purposes mentioned in paragraph 5(1), and
 - (b) no non-qualifying person is permitted to occupy the dwelling.
- (4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds –
- (a) the higher threshold interest, or
 - (b) a chargeable interest that is derived from the higher threshold interest.
- (5) The requirement in sub-paragraph (3)(a) does not apply in relation to times when, because of a change of circumstances that is

unforeseen and beyond the purchaser's control, it is not reasonable to expect the purposes for which the higher threshold interest was acquired to be carried out.

- (6) Sub-paragraph (7) applies if a higher threshold interest was acquired for a purpose mentioned in paragraph 5(1) but at some time in the control period the activity in question (for instance, exploitation of the interest as mentioned in paragraph 5(1)(a)) –
 - (a) has not yet begun, in the case of that interest, or
 - (b) has ceased in the case of that interest.
 - (7) For the purposes of sub-paragraph (3), the interest is taken to be held for the purpose in question only if reasonable steps are being taken to ensure that the purpose in question is carried out.
 - (8) In this paragraph “non-qualifying individual” has the same meaning as in section 34 of FA 2013.
- 5F
- (1) This paragraph applies where relief under paragraph 5A (trades involving making a dwelling open to the public) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
 - (2) The relief is withdrawn if the requirement in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) (but see sub-paragraph (4)).
 - (3) The requirement is that the interest is being exploited as a source of income in the course of a qualifying trade (as defined in paragraph 5A(3)).
 - (4) The requirement in sub-paragraph (3) applies only to times in the control period when the purchaser holds –
 - (a) the higher threshold interest, or
 - (b) a chargeable interest that is derived from the higher threshold interest.
 - (5) The requirement in sub-paragraph (3) does not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect the higher threshold interest to be exploited as mentioned in that sub-paragraph.
 - (6) Sub-paragraph (7) applies if at some time in the control period the higher threshold interest –
 - (a) has not begun to be made available as mentioned in paragraph 5B(2)(b) and (c), or
 - (b) has ceased to be so made available.
 - (7) The requirement in sub-paragraph (3) is treated as being met if reasonable steps are being taken to ensure that the higher threshold interest begins to be exploited as mentioned in that sub-paragraph, or that such exploitation of the interest is resumed.
- 5G
- (1) This paragraph applies where relief under paragraph 5B (dwellings for occupation by certain employees etc) has been

- allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if any requirement in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) (but see sub-paragraph (4)).
 - (3) The requirements are that—
 - (a) the condition in paragraph 5B(2)(a) is met,
 - (b) the dwelling is made available as mentioned in paragraph 5B(2)(b), and
 - (c) the dwelling is made so available for purposes that are solely or mainly purposes of the trade mentioned in paragraph 5B(2)(a).
 - (4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—
 - (a) the higher threshold interest, or
 - (b) a chargeable interest that is derived from the higher threshold interest.
 - (5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser’s control, it is not reasonable to expect those requirements to be met.
 - (6) Sub-paragraph (7) applies if at some time in the control period the higher threshold interest—
 - (a) has not begun to be exploited as mentioned in sub-paragraph (3), or
 - (b) has ceased to be so exploited.
 - (7) The requirement in paragraph (b) of sub-paragraph (3) is treated as being met if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, available as mentioned in that paragraph.
- 5H (1) This paragraph applies where relief under paragraph 5D (farmhouses) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) the requirements in sub-paragraph (3) are not met (but see sub-paragraph (4)).
 - (3) The requirements are that—
 - (a) the land mentioned in paragraph 5D(2)(a) is occupied for the purposes of a qualifying trade of farming, and
 - (b) the dwelling is occupied for the purposes of that trade by a qualifying farm worker.
 - (4) The requirement in sub-paragraph (3) applies only to times in the control period when the purchaser holds—
 - (a) the higher threshold interest, or

- (b) a chargeable interest that is derived from the higher threshold interest.
 - (5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect those requirements to be met.
 - (6) Sub-paragraph (7) applies if at some time in the control period a requirement in sub-paragraph (3) –
 - (a) has not begun to be met in the case of the higher threshold interest, or
 - (b) has ceased to be met in the case of the higher threshold interest.
 - (7) The requirement is treated as being met if reasonable steps are being taken to ensure that the requirement begins to be met, or is again met.”
 - (4) In paragraph 9 (interpretation), at the appropriate places insert –
 - ““qualifying farm worker” has the meaning given by section 5D(4);”
 - ““qualifying trade of farming” has the meaning given by paragraph 5D(5);”.
- 3 (1) Section 81 (further return where relief withdrawn), is amended as follows.
 - (2) After subsection (1) insert –
 - “(1A) Where relief is withdrawn to any extent under any of paragraphs 5E to 5H of Schedule 4A (relief from higher rate), the purchaser must deliver a further return before the end of the period of 30 days after the relevant date.
 - (1B) In subsection (1A) “the relevant date” means –
 - (a) in the case of relief under paragraph 5E, the first day in the period mentioned in paragraph 5E(2) on which a requirement under paragraph 5E(3) was not met in the case of the chargeable interest in question;
 - (b) in the case of relief under paragraph 5F, the first day in the period mentioned in paragraph 5F(2) on which the higher threshold interest in question was not being exploited as mentioned in paragraph 5F(3);
 - (c) in the case of relief under paragraph 5G, the first day in the period mentioned in paragraph 5G(2) on which a requirement under paragraph 5G(3) was not met in the case of the chargeable interest in question;
 - (d) in the case of relief under paragraph 5H, the first day in the period mentioned in paragraph 5H(2) on which a requirement under paragraph 5H(3) was not met in the case of the chargeable interest in question.”
 - (3) In subsection (2A), at the beginning insert “Where subsection (1) applies any”.

EXPLANATORY NOTE

STAMP DUTY LAND TAX RELIEF FROM 15 PER CENT RATE

SUMMARY

1. This clause and Schedule provide for a number of reliefs from the higher rate of Stamp Duty Land Tax charged by Schedule 4A Finance Act 2003. This rate is charged on acquisitions of interests in dwellings of value greater than £2 million by certain companies, partnerships with company members and collective investment schemes. The reliefs reduce the rate of tax chargeable to that applying to acquisitions of high value residential properties by others. They exclude from the higher rate dwellings held for a number of commercial purposes.

DETAILS OF THE SCHEDULE

2. Paragraph 1 is introductory.
3. Sub-paragraph 2(1) states that Schedule 4A FA 2003 is to be amended. Five new paragraphs replace the existing relief for property development trades with relief for a wider range of commercial uses of the dwelling.
4. Sub-paragraph 2(2) inserts a new paragraph 5 to replace the existing paragraph 5 in Schedule 4A FA 2003 which provides relief only for certain property developers.
5. New Paragraph 5 deals with relief for property rental businesses, property development trades and property trading businesses.
6. New sub-paragraph 5 (1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15 per cent rate on certain transactions, if the interest in land is acquired exclusively for one of four purposes:
 - (a) exploitation as a source of rents or other receipts in a property rental business;
 - (b) redevelopment and resale in a property development trade;
 - (c) as an exchange property in a property development trade; and
 - (d) resale in a property trading business.
7. New sub-paragraph 5(2) states that the interest is not to be regarded as exclusively acquired for one of these purposes if it is intended that

certain types of individual (non-qualifying individuals) will occupy the dwelling, or if it is intended that the dwelling may be made available for them to do so in the future.

8. New sub-paragraph 5(3) defines terms used in paragraphs 5(1) and 5(2).
9. Paragraph (3) inserts new paragraphs 5A to 5H into Schedule 4A to provide other reliefs for properties as follows:
10. New sub-paragraph 5A(1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15 per cent rate on certain transactions, if certain conditions are met, that are set out in new paragraph 5A(2).
11. New sub-paragraph 5A(2) states one set of conditions to be that the interest in the property is acquired with the intention that it is to be used in a qualifying trade, and that reasonable commercial plans have been made to exploit the property as soon as is reasonably practicable.
12. New sub-paragraph 5A(3) defines a qualifying trade as one involving permitting persons to stay in, make use of, or otherwise enjoy the dwelling, provided it is carried on on a commercial basis and is made available to the public for at least 28 days in a year.
13. New sub-paragraph 5A(4) and (5) require that the public must be permitted to use a significant proportion of the interior of the building for the trade to qualify, taking into account the size, nature and function of the part which they are permitted to use.
14. New sub-paragraph 5B(1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15 per cent rate on certain transactions, if conditions set out in new Paragraph 5B(2) are met.
15. New sub-paragraph 5B(2) sets out that the conditions are that the purchaser, or a member of the same group carries on a qualifying trade, the dwelling is acquired for the purpose of making it available as living accommodation for “qualifying individuals” for trade purposes.
16. New sub-paragraph 5B(3) clarifies that the accommodation can be for individuals generally or for specifically identified individuals.
17. New sub-paragraph 5B(4) defines a qualifying trade as one carried on on a commercial basis with a view to profit, with certain exclusions
18. New sub-paragraph 5B(5) specifies that provision for an individual includes provision for the individual’s family living with the employee.

19. New sub-paragraph 5B(6) defines a group of companies as the same as a group for Stamp Duty Land Tax group relief purposes.
20. New sub-paragraph 5C(1) defines, for a trade carried on in partnership, qualifying individuals are individuals employed for the purposes of the trade and members of the partnership.
21. New sub-paragraph 5C(2) defines qualifying individuals as individuals employed for the purposes of the trade, in any other case.
22. New sub-paragraph 5C(3) prevents relief being given if the individuals to whom the dwelling is likely to be made available includes members of a partnership who have a 5 per cent or greater share in the income profits of the partnership, in a company holding the interest in the dwelling or in the interest itself.
23. New sub-paragraph 5C(4) similarly prevents relief if individuals to whom the dwelling is likely to be made available include employees of the relevant trade who have a 5 per cent or greater share of the income profits of the trade, in any company holding the interest in the dwelling or in the interest itself. Additionally relief is prevented if the individuals include those employed to provide excluded domestic services.
24. New sub-paragraph 5C(5) defines excluded domestic services as services in connection with actual or intended occupation of the dwelling or a linked dwelling by a non-qualifying individual.
25. New sub-paragraph 5C(6) defines a non-qualifying individual as one who is connected with a person beneficially entitled to the interest in the dwelling.
26. New sub-paragraph 5C(7) defines linked dwellings according to the definitions in the Annual Residential Property Tax legislation.
27. New sub-paragraph 5C(8) includes an office holder as an employee.
28. New sub-paragraph 5C(9) treats beneficial joint tenants as having equal shares in the dwelling.
29. New Paragraph 5C(10) applies the Annual Residential Property Tax definition of a 5 per cent or more share in a company.
30. New sub-paragraph 5D(1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15 per cent rate on certain transactions, if the higher threshold interest is in or over a dwelling used as a farmhouse and the conditions set out in new paragraph 5D(3) are met.
31. New sub-paragraph 5D(2) defines a farmhouse for these purposes as a dwelling that forms part of land that is occupied (or to be occupied)

for the purposes of a farming trade and which is appropriate in character to the size of the farm and the nature and scale of the farming trade to be carried on there.

32. New sub-paragraph 5D(3) states that the conditions are (i) for the dwelling to be occupied for the purposes of the farming trade by a qualifying farm worker, (ii) that reasonable commercial plans have been made for such occupation to start as soon as is reasonably practicable, and (iii) that occupation by a qualifying farm worker is expected to continue as part of the normal way that farming trade is carried on.
33. New sub-paragraph 5D(4) defines a qualifying farm worker as an individual who occupies the farmhouse for the purposes of a farming trade in which he or she has substantial day to day involvement.
34. New sub-paragraph 5D(5) defines a qualifying trade of farming as one carried on on a commercial basis and with a view to profit.
35. New sub-paragraph 5D(6) states that a person who occupies part of a dwelling is treated as occupying the dwelling.
36. New sub-paragraph 5D(7) applies the definition of “farming” from Corporation Tax Act 2010 but with the inclusion of market gardening.
37. New paragraphs 5E – 5H provide that the reliefs from the higher rate of Stamp Duty Land Tax may, in certain circumstances, be withdrawn if the relevant conditions cease to be met within the three years following the acquisition of the interest.
38. New sub-paragraph 5E(1) provides that reliefs within paragraph 5 (property rental businesses, property development trades and property trading businesses) may be withdrawn under sub-paragraph 5E(2).
39. New sub-paragraph 5E(2) withdraws relief under paragraph 5 if, at any time in the three years following the acquisition, the requirements in paragraph 5E(3) are not met.
40. New sub-paragraph 5E(3) sets out the requirements that (i) the dwelling is held for the purposes of one or more of a property rental business, property development trade or property trading business and (ii) no non-qualifying individual is permitted to occupy the dwelling.
41. New sub-paragraph 5E(4) provides that these requirements only apply while the purchaser still holds the interest acquired (or an interest derived from that interest).

42. New sub-paragraph 5E(5) provides that, if it is not reasonable to expect the dwelling to be used for the intended purpose because of circumstances beyond the purchaser's control, the requirement that the interest is held for the purposes of one or more of a property rental business, property development trade or property trading business does not apply.
43. New sub-paragraph 5E(6) provides that sub-paragraph 5E(7) will apply if, within the three years following the acquisition, the activity which gave rise to the relief under paragraph 5 either has not begun or has ceased.
44. New sub-paragraph 5E(7) provides that an interest will only be treated as being held for a purpose eligible for relief if reasonable steps are being taken to ensure that that purpose is carried out.
45. New sub-paragraph 5E(8) applies the definition of non-qualifying individual from the property rental business relief from the Annual Residential Property Tax.
46. New sub-paragraph 5F(1) provides that relief from the 15 per cent rate for trades which involve opening a dwelling to the public may be withdrawn under sub-paragraph 5F(2).
47. New sub-paragraph 5F(2) withdraws relief if, at any time in the three years following the acquisition, the requirement in paragraph 5F(3) is not met.
48. New sub-paragraph 5F(3) sets out the requirement that the interest is being exploited as a source of income in the course of a qualifying trade.
49. New sub-paragraph 5F(4) provides that the requirement that the interest is being so exploited only applies while the purchaser still holds the interest acquired (or an interest derived from that interest).
50. New sub-paragraph 5F(5) provides that relief will not be withdrawn if, due to circumstances beyond the purchaser's control, it is not reasonable to expect the dwelling to be exploited as a source of income in the course of a qualifying trade.
51. New sub-paragraph 5F(6) provides that sub-paragraph 5F(7) will apply if, within the three years following the acquisition, the exploitation of the interest as a source of income either has not begun or has ceased.
52. New sub-paragraph 5F(7) provides that an interest will only be treated as being exploited as a source of income in a qualifying trade

if reasonable steps are being taken to ensure that the interest begins to be so exploited or that such exploitation resumes.

53. New sub-paragraph 5G(1) provides that relief from the 15 per cent rate for dwellings for occupation by certain employees and partners may be withdrawn under sub-paragraph 5G(2).
54. New sub-paragraph 5G(2) withdraws relief if, at any time in the three years following the acquisition, any requirement in paragraph 5G(3) is not met.
55. New sub-paragraph 5G(3) sets out the requirements that:
 - a. the purchaser (or a group member) carries on a qualifying trade;
 - b. the dwelling is made available to one or more qualifying individuals for use as living accommodation; and
 - c. the dwelling is made available for trade purposes.
56. New sub-paragraph 5G(4) provides that these requirements only apply while the purchaser still holds the interest acquired (or an interest derived from that interest).
57. New sub-paragraph 5G(5) provides that relief will not be withdrawn if, due to circumstances beyond the purchaser's control, it is not reasonable to expect these requirements to be met.
58. New sub-paragraph 5G(6) provides that sub-paragraph 5G(7) will apply if, within the three years following the acquisition, the dwelling has not begun to or has ceased to be made available as accommodation within the conditions for the relief.
59. New sub-paragraph 5G(7) provides that a dwelling will only be treated as being made available to one or more qualifying individuals for use as living accommodation if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, so available.
60. New sub-paragraph 5H(1) provides that relief from the 15 per cent rate for farmhouses may be withdrawn under sub-paragraph 5H(2).
61. New sub-paragraph 5H(2) withdraws relief if, at any time in the three years following the acquisition, the requirements in paragraph 5H(3) are not met.
62. New sub-paragraph 5H(3) sets out the requirements that:

- a. the land, of which the farmhouse forms part, is occupied for a qualifying farming trade; and
 - b. the dwelling is occupied for the purposes of that trade by a qualifying farm worker.
63. New sub-paragraph 5H(4) provides that these requirements only apply while the purchaser still holds the interest acquired (or an interest derived from that interest).
64. New sub-paragraph 5H(5) provides that relief will not be withdrawn if, due to circumstances beyond the purchaser's control, it is not reasonable to expect one of these requirements to be met.
65. New sub-paragraph 5H(6) provides that sub-paragraph 5H(7) will apply if, within the three years following the acquisition, a requirement in paragraph 5H(3) has not begun to be met or has ceased to be met.
66. New sub-paragraph 5H(7) provides that the requirement in question will be treated as met if reasonable steps are being taken to ensure that the requirement is met.
67. Paragraph 3 amends section 81 FA 2003 which provides that, where relief is withdrawn in certain circumstances, a purchaser is obliged to file a further land transaction return.
68. Sub-paragraph 3(2) inserts two new sub-sections in section 81 FA 2003 to provide for further returns to be filed where the relief from the 15 per cent rate is withdrawn.
69. New sub-section 81(1A) provides that where relief from the 15 per cent rate is withdrawn under new paragraphs 5E-5H (summarised above), the purchaser must deliver a further return within 30 days after the relevant date provided for in new sub-section 81(1B).
70. New sub-section 81(1B) specifies, for each relief, the relevant date from which the 30 day period, in which the further return must be delivered, is calculated.
71. Sub-paragraph 3(3) amends sub-section 81(2A) FA 2003 so that it does not apply to new-subsection 81(1A).

BACKGROUND

72. Finance Act 2012 introduced a 15 per cent rate of stamp duty land tax on the acquisition by certain non-natural persons of properties costing more than £2 million. The measure formed part of a package designed to ensure that individuals and companies pay a fair share of

tax on residential property transactions and to reduce avoidance. Its aim was to dis-incentivise the ownership of high value residential property in structures that would permit the indirect ownership or enjoyment of the property to be transferred in a way that would not be chargeable to SDLT.

73. The measure is to have effect for land transactions where the effective date is on or after the date Royal Assent is given to Finance Bill 2013. The effective date is normally the date on which a contract is completed, but may be earlier if the land is occupied or the consideration for the transaction is given before that date.
74. Finance Act 2012 provided only two exclusions from the higher rate charge; for companies acting solely in their capacity as trustees, and for property developers with a 2 year trading history.
75. The scope of the 15 per cent rate was included as part of the consultation on the annual residential property tax that was held over summer 2012.
76. In response to the consultation a number of reliefs will be introduced to reduce the SDLT rate to that applicable to purchases not within the higher rate of SDLT (currently 7 per cent). The new property developer relief no longer has the 2 year trading history condition. Further reliefs are also to be introduced for property rental businesses, property traders, trades that exploit a dwelling to generate income by providing access to a significant part of the interior, dwellings used to house employees or partners with a limited interest in the company or partnership, and farmhouses.
77. Relief will only apply if the property continues to satisfy the relevant qualifying conditions throughout the three years following purchase. If it does not, additional SDLT will become payable.
78. The intention is to stop or reduce the number of properties that will enter such complex ownership structures other than where the property is used in a genuine business. Taken together with the introduction of the annual residential property tax (ARPT) from 1 April 2013 on such property owned by non-natural persons, this will result in a reduction in the number of high value properties owned in such structures.
79. If you have any questions about this change, or comments on the legislation, please contact the Stamp Taxes team 03000 564964 (email: budget12.Stamptaxes@hmrc.gsi.gov.uk).