

SCHEDULE 7

PARTNERSHIPS

PART 8

TRANSFERS INVOLVING PROPERTY-INVESTMENT PARTNERSHIPS

Introduction

- 32 This Part of this Schedule makes provision—
- (a) about certain transactions involving the transfer of an interest in a property-investment partnership, and
 - (b) for a property investment partnership to elect to disapply paragraph 13 in relation to certain land transactions.

Meaning of property investment partnerships

- 33 (1) In this Schedule, a “property-investment partnership” is a partnership whose sole or main activity is investing or dealing in chargeable interests (whether or not that activity involves the carrying out of construction operations on the land in question).
- (2) In sub-paragraph (1), “construction operations” has the same meaning as in Chapter 3 of Part 3 of the [Finance Act 2004 \(c. 12\)](#)(see section 74 of that Act).
- (3) For the purposes of sub-paragraph (1), “chargeable interests” includes any interest which would be a chargeable interest but for the fact that it relates to land outside Wales.

Transfer of interest in property-investment partnership

- 34 (1) This paragraph applies where—
- (a) there is a transfer of an interest in a property-investment partnership, and
 - (b) the relevant partnership property includes a chargeable interest.
- (2) For the purposes of this Act, the transfer—
- (a) is taken to be a land transaction, and
 - (b) is a chargeable transaction.
- (3) The buyer in the transaction is the person who acquires an increased partnership share or, as the case may be, becomes a partner in consequence of the transfer.
- (4) The chargeable consideration for the transaction is taken to be equal to a proportion of the market value of the relevant partnership property.
- (5) That proportion is—
- (a) if the person acquiring the interest in the partnership was not a partner before the transfer, the person’s partnership share immediately after the transfer;
 - (b) if the person was a partner before the transfer, the difference between that person’s partnership share before and after the transfer.

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- (6) The “relevant partnership property”, in relation to a Type A transfer of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than—
- (a) any chargeable interest that was transferred to the partnership in connection with the transfer,
 - (b) a lease to which paragraph 35 (exclusion of market rent leases) applies, and
 - (c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred.
- (7) The “relevant partnership property”, in relation to a Type B transfer of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than—
- (a) any chargeable interest that was transferred to the partnership in connection with the transfer,
 - (b) a lease to which paragraph 35 (exclusion of market rent leases) applies,
 - (c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred,
 - (d) any chargeable interest that was transferred to the partnership on or before 22 July 2004,
 - (e) any chargeable interest in respect of whose transfer to the partnership an election has been made under paragraph 36, and
 - (f) any other chargeable interest whose transfer to the partnership did not fall within paragraph 13(1).
- (8) A Type A transfer is—
- (a) a transfer that takes the form of arrangements entered into under which—
 - (i) the whole or part of a partner’s interest as partner is acquired by another person (who may be an existing partner), and
 - (ii) consideration in money or money’s worth is given by or on behalf of the person acquiring the interest, or
 - (b) a transfer that takes the form of arrangements entered into under which—
 - (i) a person becomes a partner,
 - (ii) the interest of an existing partner in the partnership is reduced or an existing partner ceases to be a partner, and
 - (iii) there is a withdrawal of money or money’ worth from the partnership by the existing partner mentioned in paragraph (ii) (other than money or money’s worth paid from the resources available to the partnership prior to the transfer).
- (9) Any other transfer to which this paragraph applies is a Type B transfer.
- (10) An interest in respect of the transfer of which this paragraph applies is to be treated as a chargeable interest for the purposes of paragraph 8(2) of Schedule 16 (group relief) to the extent that the relevant partnership property consists of a chargeable interest.

Exclusion of market rent leases

- 35 (1) A lease held as partnership property immediately after a transfer of an interest in the partnership is not relevant partnership property for the purposes of paragraph 34(6) or (7) if the following four conditions are met.

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- (2) Condition 1 is that—
 - (a) no chargeable consideration other than rent has been given in respect of the grant of the lease, and
 - (b) no arrangements are in place at the time of the transfer for any chargeable consideration other than rent to be given in respect of the grant of the lease.
- (3) Condition 2 is that the rent payable under the lease as granted was a market rent at the time of the grant.
- (4) Condition 3 is that—
 - (a) the term of the lease is 5 years or less, or
 - (b) if the term of the lease is more than 5 years—
 - (i) the lease provides for the rent payable under it to be reviewed at least once in every 5 years of the term, and
 - (ii) the rent payable under the lease as a result of a review is required to be a market rent at the review date.
- (5) Condition 4 is that there has been no change to the lease since it was granted which is such that, immediately after the change has effect, the rent payable under the lease is less than a market rent.
- (6) The market rent of a lease at any time is the rent which the lease might reasonably be expected to fetch at that time in the open market.
- (7) A review date is a date from which the rent determined as a result of a rent review is payable.

Election by property-investment partnership to disapply paragraph 13

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- (1) Paragraph 13 does not apply to a transfer of a chargeable interest to a property-investment partnership if the buyer in the transaction elects for that paragraph not to apply.
 - (2) Where an election under this paragraph is made in respect of a transaction—
 - (a) paragraph 21 (transfer of chargeable interest from a partnership: general) is also disappplied,
 - (b) the chargeable consideration for the transaction is taken to be the market value of the chargeable interest transferred, and
 - (c) the transaction falls within Part 3 (ordinary partnership transactions) of this Schedule.
 - (3) An election under this paragraph must be included in the return made in respect of the transaction, or in an amendment of that return (for provision as to amendment of returns, see section 41 of TCMA).
 - (4) The election is irrevocable so that the return may not be amended so as to withdraw the election.
 - (5) Where an election under this paragraph in respect of a transaction (the “main transaction”) is made in an amendment of a return—
 - (a) the election has effect as if it had been made on the date on which the return was made, and

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- (b) any return in respect of an affected transaction may be amended (within the period allowed for amendment of that return) to take account of that election.
- (6) In sub-paragraph (5), “affected transaction” in relation to the main transaction means a transaction—
 - (a) to which paragraph 34 (transfer of interest in property-investment partnership) applied, and
 - (b) with an effective date on or after the effective date of the main transaction.

Partnership interests: application of provisions about exchange

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- (1) Where section 16 (exchanges) applies to the acquisition of an interest in a property-investment partnership in consideration of entering into a land transaction with an existing partner, the interest in the partnership is to be treated as a major interest in land, for the purposes of paragraph 5 of Schedule 4 if the relevant partnership property includes a major interest in land.
 - (2) In sub-paragraph (1), “relevant partnership property” has the meaning given by paragraphs 34(6) or (7) (as appropriate, and as read with paragraph 35).
 - (3) Where this paragraph applies, paragraph 6 of Schedule 4 (partition etc.: disregard of existing interest) does not apply.