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SCHEDULES

[^{F1}SCHEDULE 29A

TAXABLE PROPERTY HELD BY INVESTMENT-REGULATED PENSION SCHEMES

Textual Amendments

F1 Sch. 29A inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 13](#)

PART 3

ACQUISITION AND HOLDING OF TAXABLE PROPERTY

Exceptions to indirect holding

- 20 (1) A pension scheme does not hold an interest in property indirectly through a vehicle through which the pension scheme would otherwise hold the interest in the property indirectly where one of the following paragraphs applies in relation to the vehicle, and, in particular—
- (a) paragraph 21 makes provision in relation to holding through vehicles which carry on trading activities,
 - (b) [^{F2}paragraphs 22, 24 and 25 make] provision in relation to holding through Real Estate Investment Trusts,
 - (c) paragraphs 23 to 25 make provision in relation to holding through other kinds of vehicles, and
 - (d) paragraph 26 makes provision in relation to holding through a vehicle which holds the interest in the property directly by virtue of paragraph 14(3) (receipt of payments determined by reference to value of or income from property).
- (2) In the taxable property provisions “vehicle”, in relation to a pension scheme which holds an interest in taxable property indirectly, means a person through whom the pension scheme holds the interest in the property.
- (3) For the purposes of the taxable property provisions a person holds an interest in a vehicle directly if the person holds an interest of the kind mentioned in paragraph 16(2) in the vehicle.
- (4) For the purposes of the taxable property provisions a person holds an interest in a vehicle indirectly if the person does not hold the interest directly but—
- (a) holds an interest in a person who holds an interest in the vehicle directly, or
 - (b) holds an interest in a person who holds the interest in the vehicle indirectly by virtue of paragraph (a) or this paragraph.

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Textual Amendments

F2 Words in Sch. 29A para. 20(1)(b) substituted (retrospective to 1.1.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 14\(2\), 24\(8\)](#)

- 21 (1) This paragraph applies to a vehicle in which a pension scheme directly or indirectly holds an interest where—
- (a) the vehicle's main activity is the carrying on of a trade, profession or vocation,
 - (b) the pension scheme does not, whether alone or together with one or more associated persons, have control of the vehicle, and
 - (c) neither a member of the pension scheme nor a person connected with such a member is a controlling director of the vehicle or any other vehicle which holds an interest in the vehicle directly or indirectly.
- (2) But this paragraph does not apply if the purpose or one of the purposes for which the pension scheme holds the interest in the vehicle is to enable a member of the pension scheme or a person connected with such a member to occupy or use the property.
- (3) In sub-paragraph (1)—
- (a) “control” has the same meaning as in section 416 of ICTA (reading references in that section to a company as references to the vehicle and references to associates as including associated persons), and
 - (b) “controlling director”, in relation to a vehicle, means a director to whom paragraph (b) of section 417(5) of that Act applies (reading the reference to associates in that paragraph as including associated persons).
- (4) For the purposes of this paragraph a pension scheme or an arrangement under a pension scheme has control of a vehicle if the pension scheme or the arrangement holds such interest as would, if the pension scheme or the arrangement were a person, mean that the person had control of the vehicle.
- (5) Section 839 of ICTA (connected persons) applies for the purposes of this paragraph.
- (6) For the definition of “associated person” see paragraph 30.
- 22 (1) This paragraph applies to a vehicle in which a pension scheme directly or indirectly holds an interest where the vehicle is—
- (a) a company to which Part 4 of the Finance Act 2006 (Real Estate Investment Trusts) applies, or
 - (b) a member of a group to which that Part applies.
- (2) But this paragraph does not apply if the purpose or one of the purposes for which the pension scheme holds the interest in the vehicle is to enable a member of the pension scheme or a person connected with such a member to occupy or use the property.
- (3) Section 839 of ICTA (connected persons) applies for the purposes of sub-paragraph (2).
- 23 (1) This paragraph applies to a vehicle in which a pension scheme directly or indirectly holds an interest where—
- (a) Conditions A to C are met in relation to the vehicle, and
 - (b) paragraph 24 applies to the pension scheme's interest in the vehicle.

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- (2) Condition A is that—
- (a) the total value of the assets held directly by the vehicle is at least £1 million, or
 - (b) the vehicle holds directly at least three assets which consist of an interest in residential property,
- and no asset held directly by the vehicle which consists of an interest in taxable property has a value which exceeds 40% of the total value of the assets held directly by the vehicle.
- (3) Condition B is that, if the vehicle is a company—
- (a) it is resident in the United Kingdom and is not a close company, or
 - (b) it is not resident in the United Kingdom and would not be a close company if it were resident in the United Kingdom.
- (4) Condition C is that the vehicle does not have as its main purpose, or one of its main purposes, the direct or indirect holding of an animal or animals used for sporting purposes.
- (5) For the purposes of sub-paragraph (2)—
- (a) assets must be valued in accordance with generally accepted accounting practice,
 - (b) no account is to be taken of liabilities secured against or otherwise relating to assets (whether generally or specifically), and
 - (c) where generally accepted accounting practice offers a choice of valuation between cost basis and fair value, fair value must be used.
- (6) The Treasury may by order—
- (a) increase the amount for the time being specified in paragraph (a) of sub-paragraph (2), or
 - (b) increase the percentage for the time being specified in that sub-paragraph.
- 24 (1) For the purposes of paragraph 23 this paragraph applies to the interest held directly or indirectly by a pension scheme in a vehicle where—
- (a) Condition A is met, and
 - (b) Condition B or C is met.
- (2) Condition A is that the pension scheme does not hold the interest in the vehicle for the purpose of enabling a member of the pension scheme or a person connected with such a member to occupy or use the property.
- (3) Condition B is that—
- (a) the pension scheme is an occupational pension scheme, and
 - (b) the pension scheme does not, either alone or together with one or more associated persons, directly or indirectly hold an interest in the vehicle to which sub-paragraph (5) applies.
- (4) Condition C is that—
- (a) the pension scheme is not an occupational pension scheme, and
 - (b) no arrangement under the pension scheme, either alone or together with one or more associated persons, directly or indirectly holds an interest in the vehicle to which sub-paragraph (5) applies.
- (5) This sub-paragraph applies to the following interests—

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- (a) 10% or more of the share capital or issued share capital of the vehicle;
 - (b) 10% or more of the voting rights in the vehicle;
 - (c) a right to receive 10% or more of the income of the vehicle;
 - (d) such interest in the vehicle as gives an entitlement to 10% or more of the amounts distributed on a distribution in relation to the vehicle;
 - (e) such interest in the vehicle as gives an entitlement to 10% or more of the assets of the vehicle on a winding-up or in any other circumstances;
 - (f) such interest in the vehicle as gives rise to income or gains from a specific property.
- (6) Section 839 of ICTA (connected persons) applies for the purposes of this paragraph.
- (7) For the definition of “associated person” see paragraph 30.
- 25 (1) This paragraph contains provisions supplementary to paragraph 24.
- (2) Where—
- (a) paragraph 23(1) does not apply in relation to a vehicle in which the pension scheme directly or indirectly holds an interest merely because Condition C in paragraph 24(4) is not met in relation to an arrangement under the pension scheme, and
 - (b) accordingly, the pension scheme holds an interest in property indirectly through the vehicle,
- the interest in the property is to be treated as held through the vehicle for the purposes of another arrangement under the pension scheme only if that arrangement, either alone or together with one or more associated persons, directly or indirectly holds an interest in the vehicle to which paragraph 24(5) applies.
- (3) Sub-paragraph (4) applies for determining the percentage of an interest held by a person in a vehicle at a time when the person holds that interest indirectly.
- (4) That percentage is equal to the percentage of the total taxable amount that would be apportioned to the person under paragraphs 41 to 43—
- (a) where the person is not the pension scheme, if the person were the pension scheme, and
 - (b) in any case, if the person were treated as making an unauthorised payment by virtue of the vehicle coming to hold the interest in the property directly at that time.
- (5) For the definition of “associated person” see paragraph 30.
- 26 (1) This paragraph applies to a vehicle in which a pension scheme directly or indirectly holds an interest where—
- (a) the vehicle holds the interest in the property directly by virtue of paragraph 14(3) merely because it does not meet Condition C in paragraph 15(4), and
 - (b) sub-paragraph (2) applies in relation to the pension scheme.
- (2) This sub-paragraph applies in relation to the pension scheme if—
- (a) where the pension scheme is an occupational pension scheme, the pension scheme is not, either alone or together with one or more associated persons, deemed to be entitled to 10% or more of the market value of or the income from the property, or

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- (b) where the pension scheme is not an occupational pension scheme, no arrangement under the pension scheme, either alone or together with one or more associated persons, is deemed to be so entitled.
- (3) For the purposes of this paragraph the percentage of the market value of or the income from the property to which a person is deemed to be entitled at any time is—

$$IG \times TTA$$

where—

IG is the percentage of the market value of or the income from the property to which the vehicle that holds the interest in the property directly is entitled at that time, and

TTA is the percentage of the total taxable amount that would be apportioned to the person at that time on the assumptions mentioned in sub-paragraph (4).

- (4) Those assumptions are—
- (a) if the person is not the pension scheme, that the person is the pension scheme, and
- (b) in any case, that the person is treated as making an unauthorised payment by virtue of the vehicle coming to hold the interest in the property directly at that time.
- (5) For the definition of “associated person” see paragraph 30.]

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