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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 4

AMOUNT AND TIMING OF UNAUTHORISED PAYMENT

Apportionment to pension scheme

- 41 (1) This paragraph applies for determining—
- (a) whether the amount of an unauthorised payment treated as made by an investment-regulated pension scheme under section 174A consists of the whole of the total taxable amount in relation to the payment, and
 - (b) if not, how much of the total taxable amount comprises the amount of the unauthorised payment.
- (2) The pension scheme is treated as making an unauthorised payment equal to the whole of the total taxable amount where Condition A, B or C is met.
- (3) Condition A is that the pension scheme directly holds the interest in the taxable property which gives rise to the unauthorised payment.
- (4) Condition B is that—
- (a) the pension scheme holds the interest in the property indirectly through one vehicle, and
 - (b) that vehicle is wholly owned by the pension scheme.
- (5) Condition C is that—
- (a) the pension scheme holds the interest in the property indirectly through more than one vehicle (a “chain” of vehicles), and
 - (b) each vehicle in the chain is wholly owned by another vehicle in the chain or by the pension scheme.
- (6) Where—
- (a) the pension scheme holds the interest in the property indirectly through one vehicle, and
 - (b) the vehicle is not wholly owned by the pension scheme,
- the amount of the unauthorised payment is a proportion of the total taxable amount determined by reference to the extent of the pension scheme's interest in the vehicle.

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- (7) Where—
- (a) the pension scheme holds the interest in the property indirectly through one or more chains of vehicles, and
 - (b) one or more vehicles in such a chain is not wholly owned by another vehicle in the chain or by the pension scheme,
- the amount of the unauthorised payment is the amount or the total of all the amounts found under sub-paragraph (8) for each chain through which the pension scheme owns the interest in the property.
- (8) The amount is a proportion of the total taxable amount determined by reference to the extent of the interest held directly by the pension scheme or another vehicle in the chain in each vehicle in the chain—
- (a) starting with the vehicle which holds the interest in the property directly, and
 - (b) ending with the vehicle in which the pension scheme directly holds an interest.
- (9) For the purposes of this paragraph a vehicle is wholly owned by a person if no other person directly holds an interest in the vehicle.
- (10) This paragraph is subject to paragraph 44.
- 42 (1) References in this Schedule to the extent of an interest held directly by a person in a vehicle are references to the proportion of the interests of everyone who directly holds an interest in the vehicle which on a just and reasonable apportionment is represented by that interest.
- (2) Sub-paragraph (1) is subject to paragraph 43, which explains how to determine the extent of a person's interest in a vehicle for the purposes of the taxable property provisions where the vehicle is a company.
- (3) The Treasury may by regulations—
- (a) amend paragraph 43, or
 - (b) amend this Part of this Schedule for the purposes of explaining how to determine the extent of a person's interest in a vehicle in other cases.
- (4) Regulations under sub-paragraph (3) may include provision having effect in relation to times before they are made.
- 43 (1) For the purposes of this Schedule, and except in a case to which sub-paragraph (3) applies, the extent of a person's interest in a company is determined by reference to whichever of the following gives the person the greatest interest in the company—
- (a) the percentage of the share capital or issued share capital of the company owned by the person;
 - (b) the percentage of the voting rights in the company owned by the person;
 - (c) the percentage of all the income of the company to which the person has a right;
 - (d) the percentage of the amounts distributed on a distribution in relation to the company to which the person has a right;
 - (e) the percentage of the assets of the company to which the person has a right on a winding-up or in any other circumstances;
 - (f) where the person has a right to a percentage of a particular asset or description of assets of the company, or of the income or gains from such

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an asset or description (either generally or in particular circumstances), that percentage or the highest of all the percentages found under this paragraph.

- (2) For the purposes of sub-paragraph (1) a person is treated as owning or having a right to anything which the person will only acquire—
- (a) at some future date,
 - (b) if the person exercises a right to acquire it, or
 - (c) if some other uncertain future event occurs or does not occur.

- (3) Where—
- (a) a person has an interest in a company as a result of lending the company money to fund the acquisition of an interest in taxable property, and
 - (b) this sub-paragraph gives the person a greater interest in the company than any interest given by sub-paragraph (1),

for the purposes of this Schedule the extent of the person's interest in the company is determined by the proportion that the value of the loan bears to the total value of the assets held directly by the company.

- (4) For the purposes of sub-paragraph (3)—
- (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.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)