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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

Introduction

- 31 (1) This Part of this Schedule has effect for determining—
- (a) the amount of an unauthorised payment treated as made to a member of an investment-regulated pension scheme by virtue of section 174A, and
 - (b) the time when such a payment is treated as made.
- (2) The amount is determined by—
- (a) finding the total taxable amount in relation to the unauthorised payment (see paragraphs 32 to 40),
 - (b) apportioning that amount to the pension scheme (see paragraphs 41 to 43),
 - (c) in a case to which paragraph 28 applies (acquisition etc of further interest in vehicle), making an adjustment under paragraph 44 to the amount mentioned in paragraph (b), and
 - (d) apportioning that amount to the member to whom the payment is treated as made in accordance with paragraph 45.

Modifications etc. (not altering text)

C1 Sch. 29A para. 31 modified by S.I. 2006/207, reg. 4D (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), [reg. 9](#))

Acquisition: basic rules

- 32 (1) This paragraph applies to a case within subsection (1) of section 174A (acquisition of an interest in taxable property).
- (2) The unauthorised payment is treated as made when the interest in the property is acquired by the pension scheme.

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- (3) If the interest in the property is acquired because the pension scheme or another person comes to hold the interest directly, the total taxable amount in relation to the unauthorised payment is—
- (a) the amount of consideration, in money or money's worth, given directly or indirectly for the interest, plus
 - (b) the amount of any fees and other costs incurred in connection with the acquisition.
- (4) Sub-paragraph (3) is subject to paragraphs 33 to 35.
- (5) If the interest in the property is acquired because the pension scheme or another person comes to hold an interest in a person who already holds the interest in the property directly or indirectly, the total taxable amount in relation to the unauthorised payment is—
- (a) the market value, at the date the interest in the person is acquired, of the interest in the property held by the person who holds it directly, or
 - (b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 if it were assigned to the person at that time.
- (6) If the interest in the property is treated as acquired by the pension scheme by virtue of paragraph 27 or 28, the total taxable amount in relation to the unauthorised payment is—
- (a) the market value, at the date the interest is treated as acquired, of the interest in the property held by the person who holds it directly, or
 - (b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 if it were assigned to the person at that time.
- (7) This paragraph is subject to paragraph 36.

Modifications etc. (not altering text)

- C2** Sch. 29A para. 32 applied (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Taxable Property Provisions\) Regulations 2006 \(S.I. 2006/1958\)](#), regs. 1(1), 4

Acquisition: further provisions

- 33 (1) This paragraph applies where—
- (a) an investment-regulated pension scheme acquires an interest in taxable property because it acquires a chargeable interest in the property within the meaning of section 48(1) of the Finance Act 2003,
 - (b) the interest is acquired because the pension scheme or another person comes to hold the interest directly, and
 - (c) the whole or part of the consideration for the interest is consideration other than rent.
- (2) The provisions of the Finance Act 2003 listed in sub-paragraph (3) apply for determining the amount of the consideration (or the part that is not rent) as they apply for determining the amount of chargeable consideration for a land transaction for the purposes of Part 4 of that Act.

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- (3) Those provisions are—
- (a) paragraphs 2 to 8 and 9 to 16 of Schedule 4 (chargeable consideration);
 - (b) section 51 (contingent, uncertain or unascertained consideration);
 - (c) section 52 (annuities etc: chargeable consideration limited to twelve years' payments).
- (4) The Treasury may by regulations provide—
- (a) for those provisions to apply with modifications to cases to which this paragraph applies, and
 - (b) for any other provisions of Part 4 of the Finance Act 2003 to apply (with or without modifications) to such cases.

Modifications etc. (not altering text)

- C3** Sch. 29A para. 33 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Taxable Property Provisions\) Regulations 2006 \(S.I. 2006/1958\)](#), regs. 1(1), **3**
- C4** Sch. 29A para. 33 applied (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Taxable Property Provisions\) Regulations 2006 \(S.I. 2006/1958\)](#), regs. 1(1), **5**

- 34 (1) This paragraph applies where—
- (a) an investment-regulated pension scheme acquires an interest in taxable property because it acquires a chargeable interest in the property within the meaning of section 48(1) of the Finance Act 2003,
 - (b) the interest is acquired because the pension scheme or another person comes to hold the interest directly, and
 - (c) the whole or part of the consideration for the acquisition is rent.
- (2) The amount of the consideration (or the part that is rent) is to be taken to be the relevant rental value of the property; and paragraphs 2(4)(a), 3 and 8 of Schedule 5 (rent) to the Finance Act 2003 apply for determining that value.
- (3) The following provisions of the Finance Act 2003 apply for the purposes of sub-paragraph (2) for determining the amount of rent payable as they apply for determining the amount of rent payable under a lease to which that Act applies—
- (a) paragraphs 2, 5 to 7A, 9 and 16 of Schedule 17A (further provisions relating to leases);
 - (b) (subject to the provisions mentioned in paragraph (a)) the provisions mentioned in paragraph 33(3).
- (4) The Treasury may by regulations provide—
- (a) for the provisions mentioned in sub-paragraph (2) or (3) to apply with modifications to cases to which this paragraph applies, and
 - (b) for any other provisions of Part 4 of the Finance Act 2003 to apply (with or without modifications) to such cases.
- (5) For the purposes of this paragraph where on an assignment of a lease the assignee assumes the obligation to pay rent, the assumption counts as consideration for the assignment.

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Modifications etc. (not altering text)

- C5** Sch. 29A para. 34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Taxable Property Provisions\) Regulations 2006 \(S.I. 2006/1958\)](#), regs. 1(1), 3
- C6** Sch. 29A para. 34 applied (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Taxable Property Provisions\) Regulations 2006 \(S.I. 2006/1958\)](#), regs. 1(1), 6

- 35 (1) This paragraph applies where—
- (a) an investment-regulated pension scheme acquires an interest in taxable property because the pension scheme or another person comes to hold the interest directly,
 - (b) the interest is acquired for less than its market value, and
 - (c) immediately before the acquisition the interest was held by a registered pension scheme which was not an investment-regulated pension scheme.
- (2) This paragraph also applies where—
- (a) an investment-regulated pension scheme acquires an interest in taxable property because the pension scheme or another person comes to hold the interest directly,
 - (b) the interest is acquired for less than its market value, and
 - (c) tax relief is available under section 188 or 196 in respect of the transfer of the interest.
- (3) The amount of the consideration for the interest is treated as—
- (a) the market value, at the date the interest is acquired, of the interest in the property held by the person who holds it directly, or
 - (b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 if it were assigned to the person at that time.
- 36 (1) The Treasury may by regulations make provision with respect to—
- (a) what is to count as consideration for the acquisition of an interest in taxable property, and
 - (b) the determination of the amount of such consideration.
- (2) The Treasury may by regulations make provision with respect to the determination of the market value of an interest held in taxable property.
- (3) Regulations under this paragraph may, in particular, make provision for cases where an investment-regulated pension scheme acquires—
- (a) an interest in taxable property outside the United Kingdom,
 - (b) a licence to use or occupy taxable property, or
 - (c) an interest in taxable property which is tangible moveable property.
- (4) Regulations under this paragraph may—
- (a) amend this Part of this Schedule, and
 - (b) include provision having effect in relation to times before they are made.

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Post-acquisition unauthorised payments

- 37 (1) The Treasury may by regulations make provision for an investment-regulated pension scheme which has acquired an interest in taxable property to be treated as making one or more further unauthorised payments where—
- (a) the amount of consideration for the acquisition was determined on the basis of a reasonable estimate, and the actual amount of the consideration turns out to be higher than the estimated amount,
 - (b) in the case of an interest which is a lease, there is a variation in the rent payable under the lease, or
 - (c) in such a case, the amount of consideration for the acquisition was determined on an assumption about the length of the term of the lease, and the lease continues after the end of the term.
- (2) Regulations under this paragraph may—
- (a) amend section 174A or this Schedule (apart from this paragraph), and
 - (b) include provision having effect in relation to times before they are made.
- (3) References in the taxable property provisions to unauthorised payments treated as made under section 174A include references to payments treated as made under regulations under this paragraph.

Improvement of taxable property

- 38 (1) This paragraph applies to a case within subsection (2) of section 174A (improvement of taxable property).
- (2) An unauthorised payment is treated as made when a payment is made in connection with the improvement works.
- (3) The total taxable amount in relation to the unauthorised payment is the amount of the payment mentioned in sub-paragraph (2).

Conversion or adaptation as residential property

- 39 (1) This paragraph applies to a case within subsection (3) of section 174A (conversion or adaptation as residential property).
- (2) The unauthorised payment is treated as made on the occurrence of whichever of the following first occurs after the property has become residential property—
- (a) the substantial completion of the works to convert or adapt the property;
 - (b) the interest in the property ceasing to be held by the pension scheme.
- (3) But if the property becomes residential property after the end of the period of three years beginning with the date on which the first payment was made in connection with the works to convert or adapt the property, the unauthorised payment is treated as made when the property becomes residential property.
- (4) If the works began before the end of the period of twelve months beginning with the acquisition of the interest in the property by the pension scheme, the total taxable amount in relation to the unauthorised payment is—
- (a) the amount of consideration for the interest, determined in accordance with paragraphs 32 to 36, plus
 - (b) the development costs (see sub-paragraph (7)).

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- (5) If the works began after the end of that period, the total taxable amount in relation to the unauthorised payment is—
- (a) the relevant market value (see sub-paragraph (6)), plus
 - (b) the development costs (see sub-paragraph (7)).
- (6) In this paragraph “the relevant market value” means—
- (a) the market value, at the date the works began, of the interest in the property held by the person who holds it directly, or
 - (b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 if it were assigned to the person at that time.
- (7) In this paragraph “the development costs” means the total cost of the works to convert or adapt the property at the time when the unauthorised payment is treated as made.
- (8) Where, at the time the unauthorised payment is treated as made—
- (a) an amount will be payable for the works only if some uncertain future event occurs, or
 - (b) an amount will cease to be payable for the works if some uncertain future event occurs,
- the development costs are to be determined on the assumption that the amount will be payable or, as the case may be, will not cease to be payable.
- (9) Where, at that time, an amount payable for the works—
- (a) depends on uncertain future events, or
 - (b) cannot otherwise be ascertained,
- that amount is to be determined for the purposes of sub-paragraph (7) on the basis of a reasonable estimate.
- 40 (1) This paragraph applies to a case within subsection (3) of section 174A (conversion or adaptation as residential property).
- (2) This paragraph applies if —
- (a) sub-paragraph (8) of paragraph 39 has effect when an unauthorised payment is treated as made under that paragraph,
 - (b) an amount estimated under that sub-paragraph later becomes ascertained, and
 - (c) the ascertained amount is more than the estimated amount.
- (3) An unauthorised payment is treated as made when the amount becomes ascertained.
- (4) The total taxable amount in relation to the unauthorised payment is the difference between the ascertained amount and the estimated amount.
- (5) References in the taxable property provisions to unauthorised payments treated as made under section 174A include references to payments treated as made under this paragraph.

Apportionment to pension scheme

- 41 (1) This paragraph applies for determining—

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- (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.
 - (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

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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 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

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- (c) where generally accepted accounting practice offers a choice of valuation between cost basis and fair value, fair value must be used.

Deemed acquisition: adjustment

- 44 (1) This paragraph applies where an investment-regulated pension scheme is treated as acquiring an interest in taxable property by virtue of paragraph 28 (increase in extent of interest in vehicle).

- (2) The amount of the unauthorised payment treated as made by the pension scheme is—

$$UP - UPB$$

Where—

UP is the amount that would have been the amount of the unauthorised payment apart from this paragraph; and

UPB is the amount that would have been the amount of any unauthorised payment treated as made by the pension scheme if it had acquired the interest in the property immediately before the increase in the extent of the interest in the vehicle (assuming the total taxable amount in relation to the unauthorised payment to be that given under paragraph 32(5)).

Apportionment to member

- 45 (1) This paragraph has effect for determining—

- (a) whether the whole of an unauthorised payment treated as made by a pension scheme is to be treated as made to a member of the scheme, and
(b) if not, how much of the unauthorised payment is to be treated as made to the member.

- (2) If the interest in the taxable property which gives rise to the unauthorised payment is held by the pension scheme for the purposes of—

- (a) the arrangement under the pension scheme relating to the member, and
(b) at least one other arrangement under the pension scheme,

the unauthorised payment is to be apportioned on a just and reasonable basis between all of the arrangements for the purposes of which the interest in the property is held.

- (3) Otherwise, the whole of the unauthorised payment is to be treated as made to the member.]

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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\(2\)](#)