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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2023, Schedule 4. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 4

Section 35

#### INVESTMENT VEHICLES

##### PART 1

#### UK PROPERTY RICH COLLECTIVE INVESTMENT VEHICLES ETC

##### *Genuine diversity of ownership*

- 1 (1) Schedule 5AAA to TCGA 1992 is amended as follows.
- (2) In paragraph 7 (appropriate connection)—
  - (a) in sub-paragraph (5)—
    - (i) in paragraph (a), for “it meets” substitute “the vehicle meets or, if the vehicle is part of multi-vehicle arrangements, the arrangements meet”;
    - (ii) in paragraph (b), for “it meets” substitute “the vehicle meets, or those multi-vehicle arrangements meet.”;
    - (iii) omit the words after paragraph (b);
  - (b) after that sub-paragraph insert—

“(5A) For the purposes of sub-paragraph (5), those Regulations have effect as if references to a fund included—

    - (a) multi-vehicle arrangements, and
    - (b) a collective investment vehicle which is not an offshore fund.”;
  - (c) after sub-paragraph (7) insert—

“(8) In this Schedule “multi-vehicle arrangements” means arrangements comprising two or more vehicles under which an investor in one of those vehicles would reasonably regard that investment as an investment in the arrangements as a whole rather than exclusively in any particular vehicle.”
- (3) In paragraph 13 (qualifying conditions)—
  - (a) in sub-paragraph (3)—
    - (i) in paragraph (a), for “it meets” substitute “the scheme meets or, if the scheme is part of multi-vehicle arrangements, the arrangements meet”;
    - (ii) in paragraph (b), for “it meets” substitute “the scheme meets, or those multi-vehicle arrangements meet.”;
    - (iii) omit the words after paragraph (b);
  - (b) after that sub-paragraph insert—

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“(3A) For the purposes of sub-paragraph (3), those Regulations have effect as if references to a fund included—

- (a) multi-vehicle arrangements, and
- (b) a collective investment scheme which is not an offshore fund.”

(4) In paragraph 46 (meaning of qualifying investor etc)—

- (a) in sub-paragraph (4)—
  - (i) in paragraph (a), for “it meets” substitute “the vehicle meets or, if the vehicle is part of multi-vehicle arrangements, the arrangements meet”;
  - (ii) in paragraph (b), for “it meets” substitute “the vehicle meets, or those multi-vehicle arrangements meet.”;
  - (iii) omit the words after paragraph (b);
- (b) after that sub-paragraph insert—

“(4A) For the purposes of sub-paragraph (4), those Regulations have effect as if references to a fund included—

- (a) multi-vehicle arrangements, and
- (b) a collective investment vehicle which is not an offshore fund.”

(5) In paragraph 46A (application of diversity of ownership condition), after sub-paragraph (3) insert—

“(4) Where the collective investment vehicle is part of multi-vehicle arrangements, sub-paragraphs (2) and (3) apply as if references to the vehicle included the multi-vehicle arrangements.”

(6) In paragraph 47 (other definitions), in sub-paragraph (1) at the appropriate place insert—

““multi-vehicle arrangements” has the meaning given by paragraph 7(8);”.

(7) In paragraph 51 (genuine diversity of ownership condition in case of funds existing before 6 April 2020), after sub-paragraph (2) insert—

“(3) Where the collective investment vehicle is part of multi-vehicle arrangements, sub-paragraph (2) applies as if references to the vehicle included the multi-vehicle arrangements.”

## PART 2

### REAL ESTATE INVESTMENT TRUSTS

#### *Amendment of CTA 2010*

2 CTA 2010 is amended in accordance with [paragraphs 3 to 5](#).

#### *REITs involving single commercial property*

3 (1) In section 527 (being a UK REIT in relation to an accounting period)—

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- (a) in subsection (2)(b), after “met” insert “or in relation to which condition C is met”;
- (b) in subsection (3)(b) after “met” insert “or in relation to which condition C is met”.

(2) In section 529 (conditions as to property rental business)—

- (a) after subsection (2) insert—

“(2A) Condition C is that the property rental business involves at least 1 property—

- (a) the value of which is equal to, or exceeds, £20 million at the relevant time, and
- (b) which is designed, fitted or equipped for the purpose of being rented, and is rented or available for rent, as a commercial unit.

(2B) For the purposes of subsection (2A) the “relevant time” means—

- (a) where the group or company is a UK REIT and its property rental business previously met conditions A and B, the first day on which at least one of those conditions ceased to be met, or
- (b) otherwise, entry.”;
- (b) in subsection (3), for “and B” substitute “to C”;
- (c) in subsection (4), in the words before paragraph (a), for “and B” substitute “to C”.

(3) In section 561—

- (a) in subsection (3) for “conditions A and B in section 529 (property rental business)” substitute “the property rental business condition”;
- (b) after that subsection insert—

“(3A) For the purposes of this section, and sections 563 and 575, the “property rental business condition” is met if either conditions A and B or condition C in section 529 (property rental business) are met.”

(4) In section 563 (breach of conditions as to property rental business)—

- (a) in the heading, for “conditions as to property rental business” substitute “property rental business condition”;
- (b) in subsection (1), for “condition A or B in section 529 (property rental business)” substitute “the property rental business condition (see section 561(3A))”.

(5) In section 575 (breach of conditions as to property rental business)—

- (a) in subsection (1), for “condition A or B in section 529 (property rental business)” substitute “the property rental business condition (see section 561(3A))”;
- (b) in subsection (2)—
  - (i) omit the “or” after paragraph (a);
  - (ii) at the end of paragraph (b) insert “, or
  - (c) more than twice in relation to Condition C in that section.”;

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- (c) in subsection (4), in Rule 2, for “condition A or B in section 529” substitute “the property rental business condition”.

*3-year development rule*

- 4 (1) Section 556 (disposal of assets) is amended as follows.
- (2) In subsection (3), in paragraph (b)—
- (a) omit “fair”, and
  - (b) omit the words from “(determined” to the end.
- (3) After that subsection insert—
- “(3ZA) For the purposes of subsection (3)(b) the value of a property is to be treated as its fair value (determined in accordance with international accounting standards) at whichever of the following times that value is the greatest—
- (a) on entry;
  - (b) when the property was acquired;
  - (c) the beginning of the accounting period in which the development commenced.”
- (4) In subsection (3A), in paragraph (b)—
- (a) omit “fair”, and
  - (b) omit the words from “(determined” to the end.
- (5) After that subsection insert—
- “(3AA) For the purposes of subsection (3A)(b) the value of a property is to be treated as its fair value (determined in accordance with international accounting standards) at whichever of the following times that value is the greatest—
- (a) on entry;
  - (b) when the property was acquired;
  - (c) the beginning of the accounting period in which the development commenced.”
- (6) The amendments made by this paragraph have effect in relation to disposals of assets made on or after 1 April 2023.

*Genuine diversity of ownership*

- 5 (1) Section 528ZB of CTA 2010 is amended as follows.
- (2) In subsection (2)—
- (a) in the words before paragraph (a), for “it meets” substitute “the scheme meets or, if the scheme is part of multi-vehicle arrangements, the arrangements meet”;
  - (b) omit the words after paragraph (b).
- (3) After that subsection insert—
- “(2A) For the purposes of subsection (2), those Regulations have effect as if references to a fund included—
- (a) multi-vehicle arrangements, and
  - (b) a collective investment scheme which is not an offshore fund.”

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- (4) In subsection (3), for “the vehicle” substitute “the scheme”.
- (5) In subsection (4), for “vehicle”, in both places it occurs, substitute “scheme”.
- (6) After subsection (5) insert—
  - “(6) Where the collective investment scheme is part of multi-vehicle arrangements, subsections (3) to (5) apply as if references to “the scheme” included the multi-vehicle arrangements.
  - (7) In this section “multi-vehicle arrangements” means arrangements comprising two or more schemes under which an investor in one of those schemes would reasonably regard that investment as an investment in the arrangements as a whole rather than exclusively in any particular scheme.”

*Amendment of the Real Estate Investment Trusts (Assessment and Recovery of Tax) Regulations 2006*

- 6 (1) The Real Estate Investment Trusts (Assessment and Recovery of Tax) Regulations 2006 ([S.I. 2006/2867](#)) are amended as follows.
- (2) After regulation 7 insert—

**Partial gross payment of distributions to partnerships**

- “7A (1) This regulation applies to the payment of a relevant distribution by a company if—
- (a) the company reasonably believes that the recipient is a partnership whose partners include a person or body—
    - (i) to which paragraph (2) or (3) of regulation 7 applies, or
    - (ii) to which paragraph (4) of that regulation applies where the partner’s share of the partnership profits are to be applied for the purposes of the fund, scheme, account or plan in respect of which that partner has duties,
  - (b) the company has a reasonable belief as to the share of partnership profits that each partner is entitled to,
  - (c) the company reasonably believes that arrangements exist that will result in each partner’s share of the partnership profits reflecting whether or not tax was deducted in relation to that partner (as a result of regulation 3(2) and this regulation), and
  - (d) the company elects to make the payment in accordance with paragraph (2) (by making it in accordance with that paragraph).
- (2) The relevant proportion of the relevant distribution is to be paid without deduction of income tax.
- (3) The relevant proportion is equal to the sum of the shares of the partnership profits (expressed as proportions) to which each partner who falls within [paragraph \(1\)\(a\)\(i\)](#) or [\(ii\)](#) is entitled.
- (4) But—
- (a) [paragraph \(2\)](#) is subject to the qualification in [paragraph \(7\)](#) of regulation 7, and

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- (b) if the company’s belief as to any of the matters referred to in paragraph (1) is incorrect, these Regulations apply to the payment as if it were never one to which this regulation applied.
  - (5) Upon discovering that a payment that was made in accordance with paragraph (2) should not have been made in accordance with that paragraph (as a result of paragraph (4) or otherwise), the company who made it must deliver an amended return in accordance with regulation 11.
  - (6) Where this paragraph applies to the payment of a relevant distribution, the company making it must (in addition to its duty under regulation 6(1)) furnish the partnership with a statement in writing in respect of each partner that is not a partner who falls within paragraph (1)(a)(i) or (ii) showing the amount of tax deducted in relation to each such partner.
  - (7) The duty imposed by paragraph (6) is enforceable at the suit or instance of the partnership.”
- (3) In regulation 3(2) (deduction of tax), after “regulation 7” insert “or 7A”.

### PART 3

#### QUALIFYING ASSET HOLDING COMPANIES

##### *Amendment of Schedule 2 to FA 2022*

- 7 Schedule 2 to FA 2022 (qualifying asset holding companies) is amended as follows.

##### *Securitisation companies unable to be QAHCs*

- 8 (1) In paragraph 2(1) (conditions for being a QAHC), in paragraph (e) for “not” substitute “neither a securitisation company nor”.
- (2) In paragraph 58(1) (interpretation), at the appropriate place insert—  
 ““securitisation company” means a company whose profits are brought into account, for corporation tax purposes, in accordance with regulation 14 of the Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296);”.
- (3) The amendments made by [this paragraph](#) are treated as having come into force on 15 March 2023.
- (4) Those amendments are not to have effect in relation to a securitisation company that was a QAHC immediately before that date for so long as it continuously remains a QAHC.

##### *Beneficial entitlement held only through QAHCs*

- 9 (1) In paragraph 4 (only direct and certain indirect interests to constitute “relevant interests”), after sub-paragraph (2) insert—  
 “(2A) For the purposes of sub-paragraph (1)(b)(i), a beneficial entitlement of T or C held solely through one or more QAHCs is to be treated as held by that person directly.”

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- (2) The amendment made by [this paragraph](#) is treated as having come into force on 20 July 2022.
- (3) But the amendment is not to have effect in relation to a QAHC that became a QAHC before that date if the effect of the amendment would, by itself, cause the QAHC to cease to meet the ownership condition on that date, ignoring—
  - (a) any provision of Schedule 2 to FA 2022 that would, in some circumstances, treat the ownership condition as met or a breach of the condition as having not occurred, and
  - (b) any prior breach of that condition.

#### *Determining relevant interests*

- 10 In paragraph 5(4) (determining relevant interests), after paragraph (h) insert—
- “(ha) in sections 170(3) and 172(3) (shares or securities with limited or temporary rights), for “less than” there were substituted “more than”,
  - (hb) in section 174 (option arrangements)—
    - (i) in subsection (1), in Step 4, for “lowest proportion” there were substituted “highest proportion”, and
    - (ii) in subsection (2), for “less than” there were substituted “more than”,
  - (hc) in sections 175(3), 176(3), 177(3) and 178(3) (cases in which more than one of sections 170, 172, and 174 apply), for “lowest proportion” there were substituted “highest proportion”,.”

#### *Dealing with bodies corporate without share capital*

- 11 (1) In paragraph 9 (qualifying funds)—
- (a) in sub-paragraph (2)(a), in the words before sub-paragraph (i), after “scheme” insert “, or is an AIF that is not a collective investment scheme only by reason of it being a body corporate,”;
  - (b) in sub-paragraph (5)—
    - (i) in paragraph (a), after “company”, in the first place it occurs, insert “that has share capital”;
    - (ii) in paragraph (b)(i), after “company” insert “that has share capital”;
  - (c) in sub-paragraph (6), after “collective investment scheme” insert “, or is an AIF that is not a collective investment scheme only by reason of it being a body corporate,”.
- (2) Schedule 2 to FA 2022 has effect, and is to be deemed always to have had effect, with the amendment made by [this paragraph](#).

#### *Genuine diversity of ownership*

- 12 (1) Paragraph 9 is amended as follows.
- (2) In sub-paragraph (2)(a)—
- (a) in sub-paragraph (i), for “it meets” substitute “the fund meets or, if the fund is part of multi-vehicle arrangements, the arrangements meet”;

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- (b) in sub-paragraph (ii), for “it” substitute “the fund or those multi-vehicle arrangements”.
- (3) In sub-paragraph (3)—
  - (a) before paragraph (a) insert—
    - “(za) the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) have effect as if references to a fund included—
      - (i) multi-vehicle arrangements,
      - (ii) a collective investment scheme which is not an offshore fund, and
      - (iii) an AIF that is not a collective investment scheme only by reason of it being a body corporate (and which is not an offshore fund);”;
  - (b) in paragraph (a), in the words before sub-paragraph (i)—
    - (i) for “the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)” substitute “those Regulations”;
    - (ii) after “a fund” insert “or multi-vehicle arrangements”;
    - (iii) after “the fund”, in both places it occurs, insert “or multi-vehicle arrangements”;
  - (c) in that paragraph—
    - (i) in sub-paragraphs (i) and (ii), after “fund” insert “or multi-vehicle arrangements”;
    - (ii) in sub-paragraph (ii), after “fund” insert “or multi-vehicle arrangements”;
    - (iii) in sub-paragraph (iii), for “vehicle” substitute “fund or multi-vehicle arrangements”;
  - (d) in paragraph (b), after “fund” insert “or multi-vehicle arrangements”.
- (4) In sub-paragraph (4) after “fund”, in each place it occurs, insert “or multi-vehicle arrangements”.
- (5) In sub-paragraph (10), at the end insert—
  - ““multi-vehicle arrangements” means arrangements comprising two or more funds under which an investor in one of those funds would reasonably regard that investment as an investment in the arrangements as a whole rather than exclusively in any particular fund;”.

#### *Investment strategy condition*

- 13 (1) In paragraph 13 (activity and investment strategy conditions), after sub-paragraph (2) insert—
  - “(3) A company (“C”) may make an election under this sub-paragraph that all relevant equity securities held by C are to be treated as if they were not equity securities listed or traded on a recognised stock exchange or any other public market or exchange for the purposes of—
    - (a) the investment strategy condition as it applies to C, and
    - (b) that condition as it applies to any other company with a relevant interest in C.
  - (4) Equity securities are “relevant” if—



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- (a) they are listed or traded on a recognised stock exchange or any other public market or exchange,
  - (b) they are held directly by C,
  - (c) they were not acquired at a time when the election had effect from a company that is a member of the same group as C, other than a company that was a QAHC at the time of the acquisition, and
  - (d) where C has previously been and ceased being a QAHC, they were acquired after the most recent occasion on which C became a QAHC.
- (5) An election under [sub-paragraph \(3\)](#)—
- (a) must be notified to HMRC,
  - (b) has effect only while the company is a QAHC,
  - (c) is revoked on the company ceasing to be a QAHC, and
  - (d) may not otherwise be revoked.
- (6) Where an election under [sub-paragraph \(3\)](#) has effect, any dividend or other distribution received by C in respect of relevant equity securities that would otherwise be exempt for the purposes of section 931A(1) of CTA 2009 (charge to tax on distributions received) is to be treated as not exempt for the purposes of that section.
- (7) Where—
- (a) C disposes of relevant equity securities (“the dispossessed securities”), and
  - (b) within the period of thirty days after the disposal, C acquires securities (“the acquired securities”) of the same class,
- any dividend or other distribution received by a person in respect of holding the acquired securities in the period (“the dispossession period”) commencing with the disposal by C of the dispossessed securities and ending with the acquisition by C of the acquired securities is to be treated as having been received by C for Corporation Tax purposes.
- (8) But the amount of any dividend or other distribution treated as received by C as a result of [sub-paragraph \(7\)](#) is limited to the amount of the dividend or other distribution C would have received had C held the dispossessed securities throughout the dispossession period.
- (9) Equity securities are not to be treated as being of the same class unless they are so treated by the practice of the recognised stock exchange, other public market or exchange they are listed or traded on.”
- (2) Omit paragraph 35 (and the italic heading before it).
- (3) In paragraph 58, after [sub-paragraph \(2\)](#) insert—
- “(3) In this Schedule, apart from in paragraphs 42 and 43 (worldwide groups), references to a company being a member of a group of companies are to be read in accordance with section 170 of TCGA 1992 (interpretation of sections 171 to 181 of that Act: groups).”

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*Disposal of derivatives where underlying subject matter is shares*

- 14 (1) In paragraph 53 (no chargeable gain on disposal of overseas land or certain shares), in sub-paragraph (4), at the appropriate place insert—
- ““derivative contract” means—
- (a) a derivative contract within the meaning of Part 7 of CTA 2009 (see section 576 of that Act), or
  - (b) a contract which is not a derivative contract within the meaning of that Part only as a result of section 589(2)(b) of that Act (general exclusion of contracts whose underlying subject matter consists of shares);”.
- (2) That paragraph has effect, and is to be deemed always to have had effect, with the amendment made by sub-paragraph (1).

*Alternative finance arrangements*

- 15 (1) After paragraph 58 insert—

*“Alternative finance arrangements*

- 59 (1) Sub-paragraph (2) applies for the purposes of determining the amounts of relevant interests in companies in accordance with paragraphs 3 to 6 and the provisions of Chapter 6 of Part 6 of CTA 2010 applied by those paragraphs.
- (2) Where a person has (in substance) a beneficial entitlement to the profits of a company as a result of qualifying alternative finance arrangements—
- (a) that entitlement is to be treated as an entitlement to a proportion of the profits of that company available for distribution to equity holders of the company, and
  - (b) that person is to be treated as an equity holder.
- (3) “Qualifying alternative finance arrangements” means arrangements—
- (a) that constitute alternative finance arrangements for the purposes of Chapter 6 of Part 6 of CTA 2009 (alternative finance arrangements), or
  - (b) that do not constitute alternative finance arrangements only as a result of section 508 of that Act (exclusion provision not at arms length).
- (4) But arrangements that are analogous to a normal commercial loan are not qualifying alternative finance arrangements.
- (5) Arrangements are analogous to a normal commercial loan if, were the arrangements structured as a loan that resulted in the same or similar entitlements of the parties to the arrangements, they would constitute a normal commercial loan within the meaning of section 162 of CTA 2010.”
- (2) In paragraph 3, after sub-paragraph (5) insert—

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“(5A) See also paragraph 59, which makes provision for parties to alternative finance arrangements who are equivalent to equity holders to be treated as such.”

(3) In paragraph 58(1), in the definition of “equity holder” at the end insert “, but see also paragraph 59 of this Schedule”.

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