

Changes to legislation: Finance Act 2003, Paragraph 10 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 9A

INCREASED RATES FOR NON-RESIDENT TRANSACTIONS

Textual Amendments

- F1** Sch. 9A inserted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by Finance Act 2021 (c. 26), Sch. 16 para. 5

PART 4

“NON-RESIDENT” IN RELATION TO A CHARGEABLE TRANSACTION: COMPANIES

Non-UK control: attribution of rights and powers

- 10 (1) This paragraph sets out limitations on the rights and powers of a person (A) that, apart from this paragraph, would be capable of being attributed to another person (B) under section 451(4) of CTA 2010, as that provision applies for the purposes of paragraph 9(1).
- (2) Where A and B are partners in a partnership, no rights and powers of A may be attributed to B under paragraph (c) or (d) of section 451(4) of CTA 2010 by virtue of that fact.
- (3) Where—
- (a) A and B are spouses or civil partners of each other,
 - (b) A and B are living together, and
 - (c) A is UK resident in relation to the chargeable transaction,
- no rights and powers of A may be attributed to B under paragraph (c) or (d) of section 451(4) of CTA 2010 by virtue of the fact mentioned in paragraph (a).
- (4) Where A’s or B’s interest in a company is de minimis, no rights and powers of A in relation to the company may be attributed to B under any of paragraphs (a) to (d) of section 451(4) of CTA 2010.
- (5) For this purpose, a person’s interest in a company is “de minimis” if—
- (a) the proportion of the share capital or issued share capital in the company that the person possesses or is entitled to acquire is less than 5%,
 - (b) the proportion of the voting rights in the company that the person possesses or is entitled to acquire is less than 5%,
 - (c) the issued share capital in the company that the person possesses or is entitled to acquire would, on the assumption that the whole of the income of the company were distributed among the participators, entitle the person to receive less than 5% of the income so distributed, and

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- (d) the person's rights in the company entitle the person, in the event of the winding up of the company or in any other circumstances, to less than 5% of the assets of the company which would then be available for distribution among the participators.
- (6) Any rights A has as a loan creditor are to be disregarded for the purposes of the assumption in sub-paragraph (5)(c).
- (7) Section 1011 of the Income Tax Act 2007 (references to married persons, or civil partners, living together) applies for the purposes of this paragraph.]

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Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

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. 57(3) inserted by [2011 c. 11 Sch. 22 para. 4](#)
- s. 87(3)(a)(ia) inserted by [S.I. 2003/2760 Sch. para. 3\(4\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). The affecting S.I. is revoked and superseded by [S.I. 2003/2816](#))
- Sch. 12 para. 3(2)(aa) inserted by [2007 asp 3 Sch. 5 para. 32](#) (This effect was superseded by the repeal of Sch. 12 para. 3 by Finance Act 2008 (c. 9), s. 129(4), Sch. 43 para. 16)
- Sch. 12 para. 1A inserted by [2007 c. 15 Sch. 13 para. 147\(2\)](#) (The amending provision was repealed before coming into force.)
- Sch. 12 para. 1A omitted by [2008 c. 9 Sch. 43 para. 9](#) (The amending provision was repealed before coming into force.)