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VALID FROM 01/04/2018

SCHEDULE 16

GROUP RELIEF

PART 4

WITHDRAWAL OF RELIEF

Interpretation: relieved transaction

- 7 In this Part of this Schedule, a transaction that is relieved from tax by virtue of paragraph 2 (group relief) is referred to as a “relieved transaction”.

Withdrawal of group relief

- 8 (1) Where sub-paragraph (2) applies, group relief in relation to a relieved transaction, or an appropriate proportion of it, is withdrawn and tax is chargeable in accordance with this paragraph.
- (2) This sub-paragraph applies where, in the case of a relieved transaction—
- (a) the buyer ceases to be a member of the same group as the seller—
 - (i) before the end of the period of 3 years beginning with the effective date of the transaction, or
 - (ii) in pursuance of, or in connection with, arrangements made before the end of that period, and
 - (b) at the time the buyer ceases to be a member of the same group as the seller (“the relevant time”), it or a relevant associated company holds a chargeable interest—
 - (i) that was acquired by the buyer in the relieved transaction, or
 - (ii) that is derived from an interest so acquired,and that has not subsequently been acquired at market value under a chargeable transaction for which group relief was available but was not claimed.
- (3) The amount chargeable is the tax that would have been chargeable in respect of the relieved transaction but for group relief if the chargeable consideration for that transaction had been an amount equal to—
- (a) the market value of the subject-matter of the transaction, and
 - (b) if the acquisition was the grant of a lease at a rent, that rent,
- or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (4) In sub-paragraphs (1) and (3), “an appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relieved transaction and what is held at the relevant time by the transferee company or, as the case may be, by that company and its relevant associated companies.

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(5) In this paragraph—

“arrangements” (“*trefniadau*”) includes any scheme, agreement or understanding, whether or not legally enforceable;

“relevant associated company” (“*cwmni cyswllt perthnasol*”), in relation to the buyer, means a company that—

- (a) is a member of the same group as the buyer immediately before the buyer ceases to be a member of the same group as the seller, and
- (b) ceases to be a member of the same group as the seller in consequence of the buyer so ceasing.

(6) This paragraph has effect subject to paragraphs 9 and 10 (cases in which group relief not withdrawn) and paragraph 12 (withdrawal of group relief in certain cases involving successive transactions).

Cases in which group relief not withdrawn

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(1) Group relief is not withdrawn under paragraph 8 in the following cases.

(2) The first case is where the buyer ceases to be a member of the same group as the seller by reason of—

- (a) anything done for the purposes of, or in the course of, winding up the seller or another company that is above the seller in the group structure, or
- (b) the seller or another company that is above the seller in the group structure otherwise ceasing to exist.

(3) For the purposes of sub-paragraph (2), a company is “above” the seller in the group structure if the seller, or another company that is above the seller in the group structure, is a 75% subsidiary of the company.

(4) The second case is where—

- (a) the buyer ceases to be a member of the same group as the seller as a result of an acquisition of shares by another company (“the acquiring company”) in relation to which—
 - (i) section 75 of the Finance Act 1986 (c. 41) applies (stamp duty: acquisition relief), and
 - (ii) the conditions for relief under that section are met, and
- (b) the buyer is immediately after that acquisition a member of the same group as the acquiring company.

(5) But in a case within sub-paragraph (4), sub-paragraph (6) applies if—

- (a) the buyer ceases to be a member of the same group as the acquiring company—
 - (i) before the end of the period of 3 years beginning with the effective date of the relieved transaction, or
 - (ii) in pursuance of, or in connection with, arrangements made before the end of that period, and
- (b) at the time the buyer ceases to be a member of the same group as the acquiring company, it or a relevant associated company holds a chargeable interest—
 - (i) that was acquired by the buyer in the relieved transaction, or
 - (ii) that is derived from an interest so acquired,

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and that has not subsequently been acquired at market value under a chargeable transaction for which group relief was available but was not claimed.

(6) The provisions of this Schedule apply as if the buyer had then ceased to be a member of the same group as the seller.

(7) In sub-paragraph (5)—

“arrangements” (“*trefniadau*”) includes any scheme, agreement or understanding, whether or not legally enforceable;

“relevant associated company” (“*cwmni cyswllt perthnasol*”), in relation to the buyer, means a company that is a member of the same group as the buyer that ceases to be a member of the same group as the acquiring company in consequence of the buyer so ceasing.

Group relief not withdrawn where seller leaves group

10 (1) Group relief is not withdrawn under paragraph 8 where the buyer ceases to be a member of the same group as the seller because the seller leaves the group.

(2) The seller is regarded as leaving the group if the companies cease to be members of the same group by reason of a transaction relating to shares in—

(a) the seller, or

(b) another company that—

(i) is above the seller in the group structure, and

(ii) as a result of the transaction ceases to be a member of the same group as the buyer.

(3) For the purpose of sub-paragraph (2), a company is “above” the seller in the group structure if the seller, or another company that is above the seller in the group structure, is a 75% subsidiary of the company.

(4) But if there is a change in the control of the buyer after the seller leaves the group, paragraphs 8, 9(4) and (6), 13 and 14 have effect as if the buyer had then ceased to be a member of the same group as the seller (but see sub-paragraph (7)).

(5) For the purposes of this paragraph, there is a change in the control of the buyer if—

(a) a person who controls the buyer (alone or with others) ceases to do so,

(b) a person obtains control of the buyer (alone or with others), or

(c) the buyer is wound up.

(6) For the purposes of sub-paragraph (5), a person (“P”) does not control, or obtain control of, the buyer if P is under the control of another person or other persons.

(7) Sub-paragraph (4) does not apply where—

(a) there is a change in the control of the buyer because a loan creditor (within the meaning given by section 453 of the Corporation Tax Act 2010 (c. 4)) obtains control of, or ceases to control, the buyer, and

(b) the other persons who controlled the buyer before that change continue to do so.

(8) In this paragraph, references to “control” are to be interpreted in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c. 4) (subject to sub-paragraph (6)).

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Group relief not withdrawn as a result of certain transfers of business etc. by mutual societies

- 11 (1) Group relief is not withdrawn under paragraph 8 where—
- (a) there is a relevant transfer of business or engagement,
 - (b) before the date of the relevant transfer there had been a relieved transaction, and
 - (c) as a result of that transfer, the buyer in the relieved transaction ceases to be a member of the same group as the seller—
 - (i) before the end of the period of 3 years beginning with the effective date of the relieved transaction, or
 - (ii) in pursuance of, or in connection with, arrangements made before the end of that period.
- (2) In this paragraph, a “relevant transfer of business or engagement” means—
- (a) a transfer of business described in paragraph 10(1)(a) and (b) of Schedule 22 (transactions entered into by building societies);
 - (b) a transfer of business described in paragraph 11(1) of that Schedule (transactions entered into by friendly societies);
 - (c) a transfer of business described in paragraph 12(1) of that Schedule (transactions entered into by co-operative and community benefit societies or credit unions).

Withdrawal of group relief in certain cases involving successive transactions

- 12 (1) Where in the case of a relieved transaction—
- (a) there is a change in the control of the buyer,
 - (b) that change occurs—
 - (i) before the end of the period of 3 years beginning with the effective date of the relieved transaction, or
 - (ii) in pursuance of, or in connection with, arrangements made before the end of that period,
 - (c) apart from this paragraph, group relief in relation to the relieved transaction would not be withdrawn under paragraph 8, and
 - (d) any previous transaction falls within sub-paragraph (3),
- paragraphs 8, 9 and 10 have effect in relation to the relieved transaction as if the seller in the earliest previous transaction falling within sub-paragraph (3) were the seller in the relieved transaction.
- (2) Sub-paragraph (1) has effect subject to sub-paragraph (6).
- (3) A previous transaction falls within this sub-paragraph if—
- (a) the previous transaction is a relieved transaction or is relieved from tax by virtue of Schedule 17 (reconstruction and acquisition reliefs),
 - (b) the effective date of the previous transaction is less than 3 years before the date of the event falling within sub-paragraph (1)(a),
 - (c) the chargeable interest acquired under the relieved transaction by the buyer in that transaction is the same as, comprises, forms part of, or is derived from, the chargeable interest acquired under the previous transaction by the buyer in the previous transaction, and

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- (d) since the previous transaction, the chargeable interest acquired under that transaction has not been acquired by any person in a transaction that is not a relieved transaction nor is relieved from tax by virtue of Schedule 17 (reconstruction and acquisition reliefs).
- (4) For the purposes of this paragraph, there is a change in the control of a company if—
- (a) any person who controls the company (alone or with others) ceases to do so,
 - (b) a person obtains control of the company (alone or with others), or
 - (c) the company is wound up.
- (5) References to “control” in this paragraph are to be construed in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c. 4).
- (6) Sub-paragraph (1) does not apply where—
- (a) there is a change in the control of the buyer because a loan creditor (within the meaning given by section 453 of the Corporation Tax Act 2010 (c. 4)) obtains control of, or ceases to control, the buyer, and
 - (b) the other persons who controlled the buyer before that change continue to do so.
- (7) If two or more transactions effected at the same time are the earliest previous transactions falling within sub-paragraph (3), the reference in sub-paragraph (1) to the seller in the earliest previous transaction is a reference to the persons who are the sellers in the earliest previous transactions.
- (8) In this paragraph, “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

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