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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2001, SCHEDULE 9. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 9

Section 35.

#### AGGREGATES LEVY: GROUP TREATMENT

##### *Eligibility for group treatment*

- 1 Two or more bodies corporate are eligible to be treated as members of a group for the purposes of this Part of this Act if—
- (a) each of them has an established place of business in the United Kingdom; and
  - (b) they are all under the same control.

##### *Application for group treatment*

- 2 (1) Subject to sub-paragraph (3) below, where an application is made to the Commissioners with respect to two or more bodies corporate and those bodies are all eligible to be treated as members of the same group, then, from the specified time—
- (a) they shall be so treated for the purposes of this Part of this Act; and
  - (b) such one of them as is specified in the application shall be the representative member.
- (2) Subject to sub-paragraph (3) below, where—
- (a) any bodies corporate are treated as members of a group for the purposes of this Part of this Act, and
  - (b) an application is made to the Commissioners for the addition to the group of a body corporate that is eligible to be treated as a member of the group,
- then, from the specified time, that body shall be included among the bodies so treated.
- (3) The Commissioners may refuse an application under sub-paragraph (1) or (2) above if, and only if, it appears to them necessary to do so for the protection of the revenue; and an application that is refused under this sub-paragraph shall be, and be treated as always having been, ineffective.
- (4) Where—
- (a) it appears to the Commissioners that an application has been made for the purposes of this paragraph for a body corporate to be treated as a member of a group, but
  - (b) that body is not eligible to be treated as a member of that group,
- the Commissioners shall give notice to the applicant that the application is ineffective.
- (5) The Commissioners shall not refuse an application under sub-paragraph (3) above after the end of the period of ninety days beginning with the day on which the application is received by the Commissioners.

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### *Modification of group treatment*

- 3 (1) Subject to sub-paragraph (2) below, where any bodies corporate are treated as members of a group for the purposes of this Part of this Act and an application for the purpose is made to the Commissioners, then, from the specified time—
- (a) a body corporate shall be excluded from the bodies so treated;
  - (b) one of those bodies corporate shall be substituted for another body corporate as the representative member; or
  - (c) the bodies corporate shall no longer be treated as members of a group.
- (2) The Commissioners may refuse an application made for the purpose mentioned in sub-paragraph (1)(a) or (c) above if, and only if—
- (a) the case is not one appearing to them to fall within paragraph 4(2)(a) and (b) below; and
  - (b) it appears to them necessary to refuse the application for the protection of the revenue.
- (3) The Commissioners may refuse an application made for the purpose mentioned in sub-paragraph (1)(b) above if, and only if, it appears to them necessary to do so for the protection of the revenue.
- (4) An application that is refused under this paragraph shall be, and be treated as always having been, ineffective.
- (5) The specified time for the purposes of an application under sub-paragraph (1) above shall not be before the beginning of the accounting period which is current when the application is made.

### *Termination of group treatment*

- 4 (1) If it appears to the Commissioners necessary to do so for the protection of the revenue, the Commissioners may, by notice given to any body corporate that is treated as a member of a group and to the representative member, terminate that treatment from such time as may be specified in the notice.
- (2) Where—
- (a) a body corporate is treated as a member of a group, and
  - (b) it appears to the Commissioners that it is not eligible to be treated as a member of that group,
- they shall, by notice given to the body corporate and the representative member, terminate that treatment from such time as may be specified in the notice.
- (3) Where—
- (a) a body corporate ceases as from any time to be treated as a member of a group,
  - (b) immediately before that time that body was the representative member,
  - (c) there are two or more other bodies corporate which will continue after that time to be treated as members of the group, and
  - (d) none of those bodies corporate is substituted from that time, or from before that time, as the representative member of the group under paragraph 3(1)(b) above,

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the Commissioners shall, by notice given to such one of the bodies corporate mentioned in paragraph (c) above as they think fit, substitute that body corporate as the representative member as from that time.

- (4) The time specified in a notice under sub-paragraph (1) above shall not be a time before the day on which the notice is given to the representative member.
- (5) Subject to sub-paragraph (6) below, the time specified in a notice under sub-paragraph (2) or (3) above may be a time before the giving of the notice.
- (6) In the case of a notice given under sub-paragraph (2) above in respect of a body corporate's having ceased to be eligible to be treated as a member of a group, the time specified in the notice shall not be before the time when it so ceased.

#### *Applications relating to group treatment*

- 5 An application under this Schedule with respect to any bodies corporate must be made by one of those bodies or by the person controlling them.

#### *Notifications relating to group treatment*

- 6 (1) Where—
- (a) two or more bodies corporate are treated as members of a group for the purposes of this Part of this Act, and
  - (b) any of those bodies ceases to be eligible to be so treated,
- the body corporate which ceases to be so eligible shall notify the Commissioners of that fact.
- (2) A body corporate which is designated as representative member in relation to any other bodies corporate shall not cease to have an established place of business in the United Kingdom without first notifying the Commissioners of that fact.
  - (3) A body corporate which fails to comply with sub-paragraph (1) or (2) above shall be liable to a penalty of £250.

#### *Supplemental regulations about applications and notifications*

- 7 (1) For the purposes of any provision made by or under this Schedule for an application to be made to the Commissioners, regulations made by the Commissioners may make provision—
- (a) as to the time within which the application is to be made;
  - (b) as to the form and manner in which the application is to be made;
  - (c) as to the information and other particulars to be contained in or provided with any application.
- (2) For those purposes the Commissioners may also by regulations impose obligations requiring a person who has made an application to notify the Commissioners if any information contained in or provided in connection with that application is or becomes inaccurate.
  - (3) The power under this paragraph to make regulations as to the time within which any application is to be made shall include power to authorise the Commissioners to extend the time for the making of an application.

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- (4) Sub-paragraphs (1) to (3) above shall apply for the purposes of any provision made by or under this Schedule for any matter to be notified to the Commissioners as they apply for the purposes of any provision so made for an application to be made to them; and for this purpose references to the making of the application shall be construed as references to the giving of the notification.

### *Interpretation of Schedule*

- 8 (1) For the purposes of this Schedule two or more bodies are under the same control if—
- (a) one of them controls each of the others;
  - (b) one person (whether a body corporate or an individual) controls all of them; or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (2) For the purposes of this Schedule a body corporate shall be taken to control another body corporate if, and only if—
- (a) it is empowered by statute to control that body’s activities; or
  - (b) it is that body’s holding company within the meaning of section [F11159 of and Schedule 6 to] the Companies Act [F12006] ([F2c. 46]).
- (3) For the purposes of this Schedule an individual or individuals shall be taken to control a body corporate if, and only if (were he or they a company) he or they would be that body’s holding company within the meaning of [F3those provisions].
- (4) In this Schedule “the specified time”, in relation to an application made under paragraph 2(1) or (2) or 3(1) above, means the beginning of such accounting period as may be specified in the application.

#### **Textual Amendments**

- F1** Words in Sch. 9 para. 8(2)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(1)(e)**
- F2** Word in Sch. 9 para. 8(2)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(1)(e)**
- F3** Words in Sch. 9 para. 8(3) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(2)**

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