

SCHEDULES

SCHEDULE 41

Section 196

COMPANIES IN ADMINISTRATION

Accounting period for company in administration

- 1 (1) Section 12 of the Taxes Act 1988 (corporation tax: basis of, and periods for, assessment) is amended as follows.
 - (2) In subsection (3), after paragraph (d) insert—

“(da) the company ceasing to be in administration;”.
 - (3) After subsection (5A) insert—

“(5B) For the purposes of subsection (3)(da) a company ceases to be in administration when it ceases to be in administration under Schedule B1 to the Insolvency Act 1986 or any corresponding event occurs otherwise than under that Act.”.
 - (4) In subsection (7) (accounting periods where company is wound up), after the words “subject to” insert “subsection (7ZA) below and”.
 - (5) After subsection (7) insert—

“(7ZA) Notwithstanding anything in subsections (1) to (6) above, where a company enters administration—
 - (a) an accounting period of the company shall end immediately before the day the company enters administration, and
 - (b) if immediately before the company enters administration it is in the course of being wound up, subsection (7) ceases to apply at the end of that accounting period.

For this purpose a company enters administration when it enters administration under Schedule B1 to the Insolvency Act 1986 or is subject to any corresponding procedure otherwise than under that Act.”.
 - (6) In subsection (7A) for “subsections (1) to (7)” substitute “subsections (1) to (7ZA)”.

Responsibility of officers of company in administration

- 2 (1) Section 108 of the Taxes Management Act 1970 (c. 9) (responsibility of company officers) is amended as follows.
 - (2) In subsection (3)(a)—
 - (a) after first “liquidator” insert “or administrator”, and
 - (b) after second “liquidator” insert “or, as the case may be, administrator”.
 - (3) After subsection (3) insert—

- “(4) For the purposes of subsection (3)(a), where two or more persons are appointed to act jointly or concurrently as the administrator of a company, the proper officer is—
- (a) such one of them as is specified in a notice given to the Board by those persons for the purposes of this section, or
 - (b) where the Board is not so notified, such one or more of those persons as the Board may designate as the proper officer for those purposes.”.

Tax on companies in administration

- 3 After section 342 of the Taxes Act 1988 (tax on company in liquidation) insert—

“342A Tax on companies in administration

- (1) In this section—
- (a) references to the relevant event, in relation to a company in administration, are references—
 - (i) to the administrator sending a notice in respect of the company under paragraph 84(1) of Schedule B1 to the Insolvency Act 1986 (company moving from administration to dissolution), or
 - (ii) in the case of a company which enters administration otherwise than under that Act, to the doing of any other act for a like purpose, and
 - (b) references to a company’s final year are references to the financial year in which the relevant event occurs, and references to the company’s penultimate year are references to the last financial year preceding its final year.
- (2) Subject to subsections (3) and (4)—
- (a) corporation tax shall be charged on the profits of the company arising in the administration in its final year at the rate of corporation tax fixed or proposed for the penultimate year, but
 - (b) where the corporation tax charged on the company’s income included in those profits falls to be calculated or reduced in accordance with section 13, it shall be so calculated or reduced in accordance with such rate or fraction fixed or proposed for the penultimate year as is applicable under that section.
- (3) If, before the relevant event, any of the rates or fractions mentioned in subsection (2) has been fixed or proposed for the final year, that subsection shall have effect in relation to that rate or fraction as if for the references to the penultimate year there were substituted references to the final year.
- (4) If, in the case of the company’s final accounting period, the income (if any) which consists of interest received or receivable by the company under section 826 does not exceed £2,000, that income shall not be subject to corporation tax.
- (5) In subsection (4) “the company’s final accounting period” means the last accounting period of the company before the relevant event.

Status: This is the original version (as it was originally enacted).

- (6) An assessment on the company's profits for an accounting period in which the company is in administration shall not be invalid because made before the end of the accounting period.
- (7) In making an assessment after the company enters administration and before the date of the relevant event, the administrator may act on an assumption as to when that date will fall so far as it governs section 12(3).
- (8) The assumption of the wrong date shall not alter the company's final and penultimate year and, if the right date is later—
 - (a) an accounting period shall end on the date assumed and a new accounting period shall begin, and
 - (b) thereafter, section 12(3) shall apply as if the company had entered administration at the beginning of that new accounting period.
- (9) Subsections (7) and (9) of section 342 apply in relation to this section as they apply in relation to that section, except that in subsection (7) of that section the reference to the completion of the winding up is to be read as a reference to the relevant event.
- (10) Where the company entered administration before its final year, paragraphs (a) and (b) of subsection (2) (but not subsection (3)) apply in relation to the company's profits arising at any time in its penultimate year."

Debit for bad debt where parties connected and creditor insolvent

- 4 (1) Paragraph 6A of Schedule 9 to the Finance Act 1996 (c. 8) (bad debt etc: parties having connection and creditor in insolvent liquidation etc) is amended as follows.
 - (2) In sub-paragraph (1)—
 - (a) in paragraph (a), for "has gone into" substitute "is in",
 - (b) for paragraph (b) substitute—

“(b) that company is in insolvent administration;”, and
 - (c) in paragraph (d), for “an event has occurred, or circumstances exist,” substitute “circumstances exist”.
 - (3) In sub-paragraph (2)—
 - (a) in paragraph (a) for “after the commencement” substitute “in the course”, and
 - (b) in paragraph (b) for “when the administration order is in force” substitute “in the course of the administration”.
 - (4) For sub-paragraph (3) substitute—

“(3) For the purposes of this paragraph a company is in insolvent liquidation during the period which—

 - (a) begins when it goes into liquidation, as defined in section 247(2) of the Insolvency Act 1986 or Article 6(2) of the Insolvency (Northern Ireland) Order 1989, at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up, and

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- (b) ends when the winding up is completed or otherwise brought to an end (whether under paragraph 37 or 38 of Schedule B1 to the Insolvency Act 1986 or otherwise).
- (4) For the purposes of this paragraph a company in administration is in insolvent administration if—
- (a) in the case of an administration under Schedule B1 to the Insolvency Act 1986, it entered administration at a time when its assets were insufficient for the payment of its debts and other liabilities and the expenses of the administration, or
 - (b) in a case where an administration order has effect under Part 3 of the Insolvency (Northern Ireland) Order 1989, the order was made at such a time.”.

Commencement

- 5 (1) Subject to sub-paragraph (2), this Schedule has effect in relation to companies which enter administration (whether under the Insolvency Act 1986 (c. 45) or otherwise) on or after the commencement of section 248 of the Enterprise Act 2002 (c. 40) (which substitutes Part 2 of the Insolvency Act 1986 (administration)).
- (2) Paragraph 4 has effect in relation to companies which—
- (a) are in insolvent liquidation or insolvent administration immediately before 9th April 2003, or
 - (b) go into insolvent liquidation or insolvent administration on or after that date.

For this purpose “insolvent liquidation” and “insolvent administration” are to be construed in accordance with paragraph 6A of Schedule 9 to the Finance Act 1996 (c. 8) (as amended by paragraph 4 above).