*These notes refer to the Finance Act 2012 (c.14) which received Royal Assent on 17 July 2012*

# FINANCE ACT 2012

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## EXPLANATORY NOTES

### INTRODUCTION

### *Section 9: Post-Cessation Trade Or Property Relief: Tax-Generated Payments Or Events*

#### Summary

1. Section 9 provides for changes to the rules for "post-cessation trade relief" and "post-cessation property relief" which can be claimed by a person after a business has ceased. The changes are designed to prevent tax-generated costs being available for relief against the person's other taxable income or capital gains. The changes apply to post-cessation trade relief with effect from 12 January 2012 and to post-cessation property relief with effect from 13 March 2012.

#### Details of the Section

2. Subsection (2) adds section 98A of the Income Tax Act 2007 (ITA) to the list of sections with which section 96 of ITA needs to be read.

3. Subsection (3) inserts new section 98A of ITA (Denial of relief for tax-generated payments or events).

4. New section 98A(1) provides that no post-cessation trade relief (including relief by way of claim under section 261D of the Taxation of Chargeable Gains Act 1992) is available to a person in respect of a payment or an event which is made or occurs in consequence of, or in connection with, relevant tax avoidance arrangements.

5. New section 98A(2) defines "relevant tax avoidance arrangements" for the purposes of new section 98A(1).

6. New section 98A(3) defines "arrangements" and "section 261D claim" for the purposes of new section 98A.

7. Subsection (4) adds section 98A of ITA to the list of sections which apply to post-cessation property relief in the same way as for post-cessation trade relief.

8. Subsections (5) and (6) provide commencement rules.

9. Subsection (7) defines "an unconditional obligation" for the purposes of subsections (5) and (6).

#### Background Note

10. The Government has become aware of avoidance activity that relies on creating contrived costs in order to claim post-cessation trade relief. This puts at risk substantial amounts of tax.

11. The Exchequer Secretary to the Treasury announced in a written statement on 12 January 2012 that legislation would be introduced with effect from that date to prevent post-cessation trade relief being available where the relief arises from arrangements

and a main purpose of the arrangements is to obtain a tax reduction resulting from post-cessation trade relief. A further announcement was made on 13 March 2012 extending the restriction to post-cessation property relief with effect from that date.