Finance Act 2016

2016 CHAPTER 24

PART 1

INCOME TAX

Charge and principal rates etc

1 Income tax charge and rates for 2016-17

(1) Income tax is charged for the tax year 2016-17.

(2) For that tax year—

(a) the basic rate is 20%,

(b) the higher rate is 40%, and

(c) the additional rate is 45%.

2 Basic rate limit for 2017-18

(1) In section 4(1)(b) of FA 2015 (basic rate limit for 2017-18) for "£32,400" substitute "£33,500".

(2) Accordingly, omit section 6(b) of F(No.2)A 2015 (basic rate limit for 2017-18).

3 Personal allowance for 2017-18

(1) In section 5(1)(b) of FA 2015 (personal allowance for 2017-18) for "£11,200" substitute "£11,500".

(2) Accordingly, omit section 5(b) of F(No.2)A 2015 (personal allowance for 2017-18).

Rate structure

4 Savings allowance, and savings nil rate etc

(1) ITA 2007 is amended in accordance with subsections (2) to (12).

(2) In section 6(3)(a) (other rates: savings), after "starting rate for savings" insert "and savings nil rate".

(3) In section 7 (starting rate for savings)—

(a) the existing text becomes subsection (1),

(b) after that subsection insert—

"(2) The savings nil rate is 0%.", and

(c) in the heading, after "starting rate for savings" insert "and savings nil rate".

(4) In section 10(4) (provisions displacing charge at basic, higher and additional rates), before the entry relating to section 13 insert—

"section 12A (savings income charged at the savings nil rate),".

(5) After section 12 insert—

"**12A Savings income charged at the savings nil rate**

(1) This section applies in relation to an individual if—

(a) the amount of the individual's Step 3 income is greater than £L, where £L is the amount of the starting rate limit for savings, and

(b) when the individual's Step 3 income is split into two parts—

(i) one ("the individual's income up to the starting rate for savings") consisting of the lowest £L of the individual's Step 3 income, and

(ii) the other ("the individual's income above the starting rate limit for savings") consisting of the rest of the individual's Step 3 income,

some or all of the individual's income above the starting rate limit for savings consists of savings income (whether or not some or all of the individual's income up to the starting rate limit for savings consists of savings income).

(2) In this section—

£A is the amount of the individual's savings allowance (see section 12B),

"the excess" is so much of the individual's income above the starting rate limit for savings as consists of savings income, and

£X is the amount of the excess.

(3) If £X is less than or equal to £A, income tax is charged at the savings nil rate (rather than the basic, higher or additional rate) on the excess.

(4) If £X is more than £A, income tax is charged at the savings nil rate (rather than the basic, higher or additional rate) on the lowest £A of the excess.

(5) Subsections (3) and (4) are subject to any provisions of the Income Tax Acts (apart from section 10) which provide for income to be charged at different rates of income tax in some circumstances.

(6) Section 16 has effect for determining the extent to which the individual's income above the starting rate limit for savings consists of savings income.

(7) For the purposes of this section, an individual's "Step 3 income" is the individual's net income less allowances deducted at Step 3 of the calculation in section 23.

12B Individual's entitlement to a savings allowance

(1) Subsections (2) to (4) determine the amount of an individual's savings allowance for a tax year.

(2) If any of the individual's income for the year is additional-rate income, the individual's savings allowance for the year is nil.

(3) If—

(a) any of the individual's income for the year is higher-rate income, and

(b) none of the individual's income for the year is additional-rate income,

the individual's savings allowance for the year is £500.

(4) If none of the individual's income for the year is higher-rate income, the individual's savings allowance for the year is £1,000.

(5) The Treasury may by regulations substitute a different amount for the amount for the time being specified in subsection (2), (3) or (4); and regulations under this subsection that have effect for a tax year may be made at any time before the end of that tax year.

(6) If regulations under subsection (5) reduce any amount, the regulations may not be made unless a draft of the instrument containing them (whether alone or together with regulations under subsection (5) which increase any amount) has been laid before, and approved by a resolution of, the House of Commons.

(7) Section 1014(4) (negative procedure) does not apply to regulations under subsection (5) which increase any amount if—

(a) the instrument containing them also contains regulations under subsection (5) which reduce any amount, and

(b) a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(8) For the purposes of this section—

(a) each of the following is "additional-rate income"—

(i) income on which income tax is charged at the additional rate or dividend additional rate,

(ii) income on which income tax would be charged at the additional rate but for section 12A (income charged at savings nil rate),

(iii) income on which income tax would be charged at the dividend additional rate but for section 13A (income charged at dividend nil rate), and

(iv) income of an individual who is a Scottish taxpayer or Welsh taxpayer which would, if the individual were not a Scottish taxpayer or Welsh taxpayer (as the case may be), be income on which income tax is charged at the additional rate, and

(b) each of the following is "higher-rate income"—

(i) income on which income tax is charged at the higher rate or dividend upper rate,

(ii) income on which income tax would be charged at the higher rate but for section 12A (income charged at savings nil rate),

(iii) income on which income tax would be charged at the dividend upper rate but for section 13A (income charged at dividend nil rate), and

(iv) income of an individual who is a Scottish taxpayer or Welsh taxpayer which would, if the individual were not a Scottish taxpayer or Welsh taxpayer (as the case may be), be income on which income tax is charged at the higher rate."

(6) In section 16(1) (purposes of rules about highest part of income), before the "and" at the end of paragraph (a) insert—

"(aa) the extent to which a person's income above the starting rate limit for savings consists of savings income,".

(7) In section 17 (repayment where tax paid at basic rate instead of starting rate for savings)—

(a) after subsection (1) insert—

"(1A) This section also applies if income tax at a rate greater than the savings nil rate has been paid on income on which income tax is chargeable at the savings nil rate.", and

(b) in the heading—

(i) for "basic" substitute "greater", and

(ii) after "savings" insert "or savings nil rate".

(8) In sections 55B(2)(b) and 55C(1)(c) (individual liable to tax only at certain rates), after "dividend ordinary rate" insert ", the savings nil rate".

(9) In section 745(1) (transfer of assets abroad: same rate of tax not to be charged twice), after "the starting rate for savings" insert "when that rate is more than 0%,".

(10) In section 828B(5) (individual liable to tax only at certain rates), after "basic rate" insert ", the savings nil rate".

(11) In section 989 (definitions for the purposes of the Income Tax Acts)—

(a) at the appropriate places insert—

""savings allowance" has the meaning given by section 12B,", and

""savings nil rate" means the rate of income tax specified in section 7(2),", and

(b) in the entry for "starting rate of savings", for "has the meaning given by section 7" substitute "means the rate of income tax specified in section 7(1)".

(12) In Schedule 4 (index of defined expressions), at the appropriate places insert—

"savings allowance	section 12B", and
"savings nil rate	section 7"

(13) In section 669(3) of ITTOIA 2005 (preventing charge to both income and inheritance tax: meaning of "extra liability"), for paragraphs (a) and (b) substitute—

"(a) income charged at the additional rate or the higher rate were charged at the basic rate, and

(b) income charged at the dividend additional rate or the dividend upper rate were charged at the dividend ordinary rate."

(14) In consequence of the amendment made by subsection (13)—

(a) in Schedule 1 to ITA 2007 omit paragraph 561,

(b) in Schedule 1 to FA 2008 omit paragraph 59, and

(c) in Schedule 2 to FA 2009 omit paragraph 21.

(15) In section 7(6) of TMA 1970 (cases where person not required to give notice of being chargeable to income tax), after "dividend ordinary rate" insert ", the savings nil rate".

(16) In section 91(3)(c) of TMA 1970 (interest adjustments where reliefs given: when to ignore relief from higher rates on income paid subject to deduction of tax) after "basic rate" insert ", the savings nil rate".

(17) Subject to subsection (18), the amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

(18) The amendments in section 669 of ITTOIA 2005, and the repeals made by subsection (14), have effect where the tax year mentioned in section 669(1)(b) of ITTOIA 2005 is the tax year 2016-17 or a later tax year.

(19) The Treasury may, by regulations made by statutory instrument, make such provision amending, repealing or revoking any provision made by or under the , and c) Taxation of Chargeable Gains Act 1992 c. 12 and all other enactments relating to capital gains tax">Taxes Acts as the Treasury considers appropriate in consequence of the amendments made by this section; and regulations under this subsection that have effect for the tax year 2016-17 may be made at any time before the end of that tax year.

(20) In subsection (19) "the , and c) Taxation of Chargeable Gains Act 1992 c. 12 and all other enactments relating to capital gains tax">Taxes Acts" means—

(a) the Tax Acts,

(b) TMA 1970, and

(c) TCGA 1992 and all other enactments relating to capital gains tax.

(21) A statutory instrument containing regulations under subsection (19) is subject to annulment in pursuance of a resolution of the House of Commons.

5 Rates of tax on dividend income, and abolition of dividend tax credits etc

(1) ITA 2007 is amended in accordance with subsections (2) to (8).

(2) In section 6(3)(b) (other rates: dividends), before "dividend ordinary rate," insert "dividend nil rate,".

(3) In section 8 (dividend ordinary, upper and additional rates)—

(a) in the heading, after "The" insert "dividend nil rate,",

(b) before subsection (1) insert—

"(A1) The dividend nil rate is 0%.",

(c) in subsection (1) (dividend ordinary rate), for "10%" substitute "7.5%", and

(d) in subsection (3) (dividend additional rate), for "37.5%" substitute "38.1%".

(4) In section 9(2) (dividend trust rate), for "37.5%" substitute "38.1%".

(5) After section 13 insert—

"**13A Income charged at the dividend nil rate**

(1) Subsection (2) applies if, ignoring this section, at least some of an individual's income would be charged to income tax at the dividend ordinary rate, the dividend upper rate or the dividend additional rate.

(2) Income tax is charged at the dividend nil rate (rather than the dividend ordinary rate, dividend upper rate or dividend additional rate) on one or more amounts of the individual's income as follows—

Step 1

Identify the amount ("D") of the individual's income which would, ignoring this section, be charged at the dividend ordinary rate.

Rule 1A: If D is more than £5,000, the first £5,000 of D is charged at the dividend nil rate (rather than the dividend ordinary rate), and is the only amount charged at the dividend nil rate.

Rule 1B: If D is equal to £5,000, D is charged at the dividend nil rate (rather than the dividend ordinary rate), and is the only amount charged at the dividend nil rate.

Rule 1C: If D is less than £5,000 but more than nil, D is charged at the dividend nil rate (rather than the dividend ordinary rate).

Step 2

If D is less than £5,000, identify the amount ("U") of the individual's income which would, ignoring this section, be charged at the dividend upper rate.

Rule 2A: If the total of D and U is more than £5,000—

(a) the first £M of U is charged at the dividend nil rate (rather than the dividend upper rate), where £M is the difference between £5,000 and D, and

(b) the amounts charged under this Rule and Rule 1C are the only amounts charged at the dividend nil rate.

Rule 2B: If the total of D and U is equal to £5,000, U is charged at the dividend nil rate (rather than the dividend upper rate), and the amounts charged under this Rule and Rule 1C are the only amounts charged at the dividend nil rate.

Rule 2C: If the total of D and U is less than £5,000 but more than nil, U is charged at the dividend nil rate (rather than the dividend upper rate).

Step 3

If the total of D and U is less than £5,000, identify the amount ("A") of the individual's income which would, ignoring this section, be charged at the dividend additional rate.

Rule 3A: If the total of D, U and A is more than £5,000, the first £X of A is charged at the dividend nil rate (rather than the dividend additional rate), where £X is the difference between—

£5,000, and

the total of D and U,

and the amounts charged under this Rule, and Rules 1C and 2C, are the amounts charged at the dividend nil rate.

Rule 3B: If the total of D, U and A is less than or equal to £5,000, A is charged at the dividend nil rate (rather than the dividend additional rate), and the amounts charged under this Rule, and Rules 1C and 2C, are the amounts charged at the dividend nil rate."

(6) In section 55B(2) (transferable allowance: conditions for entitlement to tax reduction) —

(a) in paragraph (b) (individual liable to tax only at certain rates), after "the basic rate," insert "the dividend nil rate,", and

(b) after paragraph (b) insert—

"(ba) if for the tax year the individual is liable to tax at the dividend nil rate, the individual would for that year neither be liable to tax at the dividend upper rate, nor be liable to tax at the dividend additional rate, if section 13A (dividend nil rate) were omitted,".

(7) In section 55C(1) (transferable allowance: conditions for entitlement to elect for reduced personal allowance)—

(a) in paragraph (c) (individual would be liable to tax only at certain rates), after "the basic rate," insert "the dividend nil rate,", and

(b) before the "and" at the end of paragraph (c) insert—

"(ca) where on that assumption the individual would for the tax year be liable to tax at the dividend nil rate, the individual on that assumption would for that year neither be liable to tax at the dividend upper rate, nor be liable to tax at the dividend additional rate, if section 13A (dividend nil rate) were omitted,".

(8) In section 989 (definitions for the purposes of the Income Tax Acts), after the entry for "dividend income" insert—

""dividend nil rate" means the rate of income tax specified in section 8(A1),".

(9) In section 7 of TMA 1970 (duty to notify HMRC of liability to tax)—

(a) in subsection (6) (exception for net payments etc)—

(i) after paragraph (a) insert "or",

(ii) at the end of paragraph (b), for "; or" substitute a comma,

(iii) omit paragraph (c), and

(iv) in the words after paragraph (c), after "the basic rate" insert ", the dividend nil rate", and

(b) after subsection (6) insert—

"(6A) A source of income falls within this subsection in relation to any person and any year of assessment if for that year—

(a) all income from the source is dividend income (see section 19 of ITA 2007), and

(b) the person—

(i) is UK-resident,

(ii) is not liable to tax at the dividend ordinary rate,

(iii) is not liable to tax at the dividend upper rate,

(iv) is not liable to tax at the dividend additional rate, and

(v) is not charged to tax under section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis) on any dividend income."

(10) The amendments made by the preceding provisions of this section have effect for the tax year 2016-17 and subsequent tax years.

(11) Schedule 1 contains provision for, and connected with, the abolition of dividend tax credits etc.

6 Structure of income tax rates

(1) ITA 2007 is amended in accordance with subsections (2) to (22).

(2) Before section 10 insert—

"**9A Overview of sections 10 to 15**

The general effect of sections 10 to 15 is outlined in the following table—

Type of taxpayer	*Rates payable on savings income*	*Rates payable on most dividend income*	*Rates payable on other income*
UK resident individual who is neither a Scottish taxpayer nor a Welsh taxpayer	Savings rates	Dividend rates	Main rates
Scottish taxpayer	Savings rates	Dividend rates	Scottish rates
Welsh taxpayer	Savings rates	Dividend rates	Main rates while section 11B is not in force; Welsh rates if that section is in force
Non-UK resident individual	Savings rates	Dividend rates	Default rates

Type of taxpayer	*Rates payable on savings income*	*Rates payable on most dividend income*	*Rates payable on other income*
Non-individual, except that some trustees in some circumstances are subject instead to the trust rate or the dividend trust rate	Default basic rate	Dividend ordinary rate	Default basic rate

Note: the table does not address the effect of some exceptions referred to in sections 10 to 15."

(3) Before section 7 insert—

"**6C The default basic, higher and additional rates**

The default basic rate, default higher rate and default additional rate for a tax year are the rates determined as such by Parliament for the tax year."

(4) After section 7 insert—

"**7A The savings basic, higher and additional rates**

The savings basic rate, savings higher rate and savings additional rate for a tax year are the rates determined as such by Parliament for the tax year."

(5) In section 6(3) (other rates)—

(a) before paragraph (a) insert—

"(zc) section 6C (default basic, higher and additional rates),", and

(b) after paragraph (a) insert—

"(aa) section 7A (savings basic, higher and additional rates),".

(6) In section 10(2) (income charged at basic rate) omit the words after "at the basic rate".

(7) In section 10(4) (provisions displacing charge at basic, higher and additional rates), before the entry (inserted by this Act) relating to section 12A insert—

"section 11C (income charged at the default basic, higher and additional rates: non-UK resident individuals),

section 11D (savings income charged at the savings basic, higher and additional rates: individuals),

section 12 (savings income charged at the starting rate for savings),".

(8) In section 11 (income charged at the basic rate: other persons)—

(a) in the heading, for "basic rate: other persons" substitute "default basic rate: non-individuals", and

(b) in subsection (1), before "basic" insert "default".

(9) After section 11B insert—

"**11C Income charged at the default basic, higher and additional rates: non-UK resident individuals**

(1) Income tax on a non-UK resident individual's income up to the basic rate limit is charged at the default basic rate.

(2) Income tax is charged at the default higher rate on a non-UK resident individual's income above the basic rate limit and up to the higher rate limit.

(3) Income tax is charged at the default additional rate on a non-UK resident individual's income above the higher rate limit.

(4) Subsections (1) to (3) are subject to—

section 11D (savings income charged at the savings basic, higher and additional rates),

section 12 (savings income charged at the starting rate for savings),

section 12A (savings income charged at the savings nil rate),

section 13 (income charged at the dividend ordinary, upper and additional rates: individuals), and

any other provisions of the Income Tax Acts (apart from section 10) which provide for income to be charged at different rates of income tax in some circumstances.

11D Income charged at the savings basic, higher and additional rates

(1) Income tax is charged at the savings basic rate on an individual's income which—

(a) is saving income, and

(b) would otherwise be charged at the basic rate or the default basic rate.

(2) Income tax is charged at the savings higher rate on an individual's income which—

(a) is savings income, and

(b) would otherwise be charged at the higher rate or the default higher rate.

(3) Income tax is charged at the savings additional rate on an individual's income which—

(a) is savings income, and

(b) would otherwise be charged at the additional rate or the default additional rate.

(4) Subsections (1) to (3)—

(a) have effect after sections 12 and 12A have been applied (so that any reference in subsections (1) to (3) to income which would otherwise be charged at a particular rate does not include income charged at the starting rate for savings or at the savings nil rate), and

(b) are subject to any other provisions of the Income Tax Acts (apart from sections 10 and 11C) which provide for income to be charged at different rates of income tax in some circumstances.

(5) Section 16 has effect for determining the extent to which an individual's savings income above the starting rate limit for savings would otherwise be charged at the basic, higher or additional rate or the default basic, default higher or default additional rate.

(6) In relation to an individual who is a Scottish taxpayer, references in this section to income which would otherwise be charged at a particular rate are to be read as references to income that would, if the individual were not a Scottish taxpayer (but were UK resident), be charged at that rate (and subsection (5) is to be read accordingly)."

(10) In section 12(1) (income charged at the starting rate for savings)—

(a) omit "(rather than the basic rate)", and

(b) for "as is savings income" substitute "as—

(a) is savings income, and

(b) would otherwise be charged at the basic rate or the default basic rate".

(11) In section 12A (inserted by this Act)—

(a) in each of subsections (3) and (4), after "rather than the basic, higher or additional rate" insert "or the default basic, default higher or default additional rate", and

(b) in subsection (5), for "section 10" substitute "sections 10 and 11C".

(12) In section 12B (inserted by this Act), in subsection (8) (income charged at savings nil-rate: meaning of "additional-rate income" and "higher-rate income")—

(a) in paragraph (a)(i), after "at the additional rate" insert ", default additional rate",

(b) in paragraph (a)(ii), after "additional rate" insert ", or default additional rate,",

(c) in paragraph (a)(iv), after "additional rate" insert "or default additional rate",

(d) in paragraph (b)(i), after "at the higher rate" insert ", default higher rate",

(e) in paragraph (b)(ii), after "higher rate" insert ", or default higher rate,", and

(f) in paragraph (b)(iv), after "higher rate" insert "or default higher rate".

(13) In section 16(1) (purposes of rules about highest part of income), before the "and" at the end of the paragraph (aa) (inserted by this Act) insert—

"(ab) the rate at which income tax would be charged on a person's savings income above the starting rate limit for savings apart from sections 11D and 12A,".

(14) In section 17(1) (repayment where tax paid at basic rate instead of starting rate for savings), for "at the basic rate" substitute "at a rate greater than the starting rate for savings".

(15) In section 55B (entitlement to transferable tax allowances for married couples and civil partners)—

(a) in subsection (2)(b) as amended by section 5 of this Act, after "other than the basic rate," insert "the default basic rate, the savings basic rate,", and

(b) in subsection (3), after "is the basic rate" insert "or default basic rate".

(16) In section 55C(1)(c) (election to reduce personal allowance conditional on not becoming subject to higher rates) as amended by section 5 of this Act, after "other than the basic rate," insert "the default basic rate, the savings basic rate,".

(17) In section 58(2) ("adjusted net income" includes grossed-up gift aid donations), after "grossed up by reference to the basic rate for the tax year" insert "if for the tax year the individual is UK resident but not a Scottish taxpayer, by reference to the default basic rate for the tax year if for the tax year the individual is non-UK resident".

(18) In section 414(2)(a) (gift aid donation treated as made after deduction of tax at the basic rate or Scottish basic rate), before the "or" at the end of sub-paragraph (i) insert—

"(ia) at the default basic rate if for the tax year the individual is non-UK resident,".

(19) In section 415 (grossing-up rate for gift aid purposes), after "the basic rate for the tax year in which the gift is made" insert "if the gift is made by an individual who for that tax year is UK resident but not a Scottish taxpayer, by reference to the default basic rate for that tax year if the gift is made by an individual who for that tax year is non-UK resident".

(20) In section 828B(5) (exemption for non-domiciled UK residents conditional on not being subject to higher rates) as amended by section 4 of this Act, after "other than the basic rate" insert ", the savings basic rate".

(21) In section 989 (definitions for the purposes of the Income Tax Acts), at the appropriate places insert—

""default additional rate" means the rate of income tax of that name determined pursuant to section 6C,

"default basic rate" means the rate of income tax of that name determined pursuant to section 6C,

"default higher rate" means the rate of income tax of that name determined pursuant to section 6C,"

and—

""savings additional rate" means the rate of income tax of that name determined pursuant to section 7A,"

and—

""savings basic rate" means the rate of income tax of that name determined pursuant to section 7A,

"savings higher rate" means the rate of income tax of that name determined pursuant to section 7A,".

(22) In Schedule 4 (index of defined expressions), at the appropriate places insert—

"default additional rate	section 6C (as applied by section 989)"
"default basic rate	section 6C (as applied by section 989)"
"default higher rate	section 6C (as applied by section 989)"
"savings additional rate	section 7A (as applied by section 989)"

"savings basic rate	section 7A (as applied by section 989)"

"savings higher rate	section 7A (as applied by section 989)"

(23) In sections 4(4) and (5) and 4BA(1) of TCGA 1992 (rate of capital gains tax depends on individual's liability to higher rates of income tax), after "at the higher rate" insert ", the default higher rate, the savings higher rate".

(24) Subject to any provision made by virtue of subsection (25)(b), the amendments made by this section come into force on the day appointed by the Treasury under section 13(14) of the Scotland Act 2016 and have effect—

(a) for the tax year appointed by the Treasury under section 13(15) of the Scotland Act 2016, and

(b) for subsequent tax years.

(25) The Treasury may by regulations make—

(a) such consequential provision as they consider appropriate in connection with any preceding provision of this section;

(b) such transitional or saving provision as they consider appropriate in connection with the coming into force of any provision of the preceding subsections of this section.

(26) Regulations under this section may amend, repeal or revoke an enactment, whenever passed or made (including this Act).

(27) Regulations under this section must be made by statutory instrument.

(28) A statutory instrument containing regulations under this section which includes provision amending or repealing a provision of an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

(29) Any other statutory instrument containing regulations under this section, if made without a draft having been approved by a resolution of the House of Commons, is subject to annulment in pursuance of a resolution of the House of Commons.

(30) In subsection (26) "enactment" includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978).

Employment income: taxable benefits

7 Taxable benefits: application of Chapters 5 to 7 of Part 3 of ITEPA 2003

(1) Part 3 of ITEPA 2003 (employment income: earnings and benefits etc treated as earnings) is amended as follows.

(2) In section 97 (living accommodation to which Chapter 5 applies), after subsection (1) insert—

"(1A) Where this Chapter applies to any living accommodation—

(a) the living accommodation is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms on which it is provided to any of those persons constitute a fair bargain), and

(b) sections 102 to 108 provide for the cash equivalent of the benefit of the living accommodation to be treated as earnings."

(3) In section 109 (priority of Chapter 5 over Chapter 1), after subsection (3) insert—

"(4) In a case where the cash equivalent of the benefit of the living accommodation is nil—

(a) subsections (2) and (3) do not apply, and

(b) the full amount mentioned in subsection (1)(b) constitutes earnings from the employment for the year under Chapter 1."

(4) In section 114 (cars, vans and related benefits to which Chapter 6 applies), after subsection (1) insert—

"(1A) Where this Chapter applies to a car or van, the car or van is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms on which it is made available to the employee or member constitute a fair bargain)."

(5) For section 117 substitute—

"**117 Meaning of car or van made available by reason of employment**

(1) For the purposes of this Chapter a car or van made available by an employer to an employee or member of an employee's family or household is to be regarded as made available by reason of the employment unless subsection (2) or (3) excludes the application of this subsection.

(2) Subsection (1) does not apply where—

(a) the employer is an individual, and

(b) the car or van in question is made available in the normal course of the employer's domestic, family or personal relationships.

(3) Subsection (1) does not apply where—

(a) the employer carries on a vehicle hire business under which cars or vans of the same kind are made available to members of the public for hire,

(b) the car or van in question is hired to the employee or member in the normal course of that business, and

(c) in hiring that car or van the employee or member is acting as an ordinary member of the public."

(6) In section 120 (benefit of car treated as earnings)—

(a) in subsection (2) after "case" insert "(including a case where the cash equivalent of the benefit of the car is nil)", and

(b) after subsection (2) insert—

"(3) Any reference in this Act to a case where the cash equivalent of the benefit of a car is treated as the employee's earnings for a year by virtue of this section includes a case where the cash equivalent is nil."

(7) In section 154 (benefit of van treated as earnings)—

(a) the existing text becomes subsection (1) of that section, and

(b) after that subsection insert—

"(2) In such a case (including a case where the cash equivalent of the benefit of the van is nil) the employee is referred to in this Chapter as being chargeable to tax in respect of the van for that year.

(3) Any reference in this Act to a case where the cash equivalent of the benefit of a van is treated as the employee's earnings for a year by virtue of this section includes a case where the cash equivalent is nil."

(8) In section 173 (loans to which Chapter 7 applies), after subsection (1) insert—

"(1A) Where this Chapter applies to a loan—

(a) the loan is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms of the loan constitute a fair bargain), and

(b) sections 175 to 183 provide for the cash equivalent of the benefit of the loan (where it is a taxable cheap loan) to be treated as earnings in certain circumstances."

(9) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

8 Cars: appropriate percentage for 2019-20 and subsequent tax years

(1) ITEPA 2003 is amended as follows.

(2) Section 139 (car with a CO_2 figure: the appropriate percentage) is amended as set out in subsections (3) and (4).

(3) In subsection (2)—

(a) in paragraph (a), for "13%" substitute "16%",

(b) in paragraph (aa), for "16%" substitute "19%", and

(c) in paragraph (b), for "19%" substitute "22%".

(4) In subsection (3), for "20%" substitute "23%".

(5) Section 140 (car without a CO_2 figure: the appropriate percentage) is amended as set out in subsections (6) and (7).

(6) In subsection (2), in the Table—

(a) for "20%" substitute "23%", and

(b) for "31%" substitute "34%".

(7) In subsection (3)(a), for "13%" (as substituted by section 9(3)) substitute "16%".

(8) In section 142(2) (car first registered before 1 January 1998: the appropriate percentage), in the Table—

(a) for "20%" substitute "23%", and

(b) for "31%" substitute "34%".

(9) The amendments made by this section have effect for the tax year 2019-20 and subsequent tax years.

9 Cars which cannot emit CO_2: appropriate percentage for 2017-18 and 2018-19

(1) In section 140(3)(a) of ITEPA 2003 (car which cannot emit CO_2: the appropriate percentage), for "7%" substitute "9%".

(2) The amendment made by subsection (1) has effect for the tax year 2017-18.

(3) In section 140(3)(a) of ITEPA 2003, for "9%" substitute "13%".

(4) The amendment made by subsection (3) has effect for the tax year 2018-19.

10 Diesel cars: appropriate percentage

(1) In section 24 of FA 2014 (cars: the appropriate percentage), omit the following ("the repealing provisions")—

(a) subsection (2),
(b) subsection (6),
(c) subsection (10),
(d) subsection (11), and
(e) subsection (15).

(2) Any provision of ITEPA 2003 amended or omitted by the repealing provisions has effect for the tax year 2016-17 and subsequent tax years as if the repealing provisions had not been enacted.

11 Cash equivalent of benefit of a van

(1) Section 155 of ITEPA 2003 (cash equivalent of the benefit of a van) is amended as follows.

(2) In subsection (1B)(a), for "2019-20" substitute "2021-22".

(3) In subsection (1C), for paragraphs (b) to (e) substitute—

"(b) 20% for the tax year 2016-17;
(c) 20% for the tax year 2017-18;
(d) 40% for the tax year 2018-19;
(e) 60% for the tax year 2019-20;
(f) 80% for the tax year 2020-21;
(g) 90% for the tax year 2021-22."

(4) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

12 Tax treatment of payments from sporting testimonials

Schedule 2 contains provision about the tax treatment of payments from sporting testimonials.

13 Exemption for trivial benefits provided by employers

(1) ITEPA 2003 is amended as follows.

(2) After section 323 insert—

"**323A Trivial benefits provided by employers**

(1) No liability to income tax arises in respect of a benefit provided by, or on behalf of, an employer to an employee or a member of the employee's family or household if—

(a) conditions A to D are met, or

(b) in a case where subsection (2) applies, conditions A to E are met.

(2) This subsection applies where—

(a) the employer is a close company, and

(b) the employee is—

(i) a person who is a director or other office-holder of the employer, or

(ii) a member of the family or household of such a person.

(3) Condition A is that the benefit is not cash or a cash voucher within the meaning of section 75.

(4) Condition B is that the benefit cost of the benefit does not exceed £50.

(5) In this section "benefit cost", in relation to a benefit, means—

(a) the cost of providing the benefit, or

(b) if the benefit is provided to more than one person and the nature of the benefit or the scale of its provision means it is impracticable to calculate the cost of providing it to each person to whom it is provided, the average cost per person of providing the benefit.

(6) For the purposes of subsection (5)(b), the average cost per person of providing a benefit is found by dividing the total cost of providing the benefit by the number of persons to whom the benefit is provided.

(7) Condition C is that the benefit is not provided pursuant to relevant salary sacrifice arrangements or any other contractual obligation.

(8) "Relevant salary sacrifice arrangements", in relation to the provision of a benefit to an employee or to a member of an employee's family or household, means arrangements (whenever made, whether before or after the employment began) under which the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of the benefit.

(9) Condition D is that the benefit is not provided in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.

(10) Condition E is that—

(a) the benefit cost of the benefit provided to the employee, or

(b) in a case where the benefit is provided to a member of the employee's family or household who is not an employee of the employer, the amount of the benefit cost allocated to the employee in accordance with section 323B(4),

does not exceed the employee's available exempt amount (see section 323B).

323B Section 323A: calculation of available exempt amount

(1) The "available exempt amount", in relation to an employee of an employer, is the amount found by deducting from the annual exempt amount the aggregate of—

(a) the benefit cost of eligible benefits provided earlier in the tax year by, or on behalf of, the employer to the employee, and

(b) any amounts allocated to the employee in accordance with subsection (4) in respect of eligible benefits provided earlier in the tax year by, or on behalf of, the employer to a member of the employee's family or household who was not at that time an employee of the employer.

(2) The annual exempt amount is £300.

(3) For the purposes of subsection (1) "eligible benefits" means benefits in respect of which conditions A to D in section 323A are met.

(4) The amount allocated to an employee of an employer in respect of a benefit provided to a person ("P") who—

(a) is a member of the employee's family or household, and

(b) is not an employee of the employer,

is the benefit cost of that benefit divided by the number of persons who meet the condition in subsection (5) and are members of P's family or household.

(5) This condition is met if the person is—

(a) a director or other office-holder of the employer,

(b) an employee of the employer who is a member of the family or household of a person within paragraph (a), or

(c) a former employee of the employer who—

(i) was a director or other office-holder at any time when the employer was a close company, or

(ii) is a member of the family or household of such a person.

(6) In this section "benefit cost" has the same meaning as in section 323A.

323C Power to amend sections 323A and 323B

(1) The Treasury may by regulations amend section 323A so as to alter the conditions which must be met for the exemption conferred by section 323A(1) to apply.

(2) Regulations under subsection (1) may include any amendment of section 323B that is appropriate in consequence of an amendment made under subsection (1).

(3) The Treasury must not make regulations under subsection (1) unless a draft of the regulations has been laid before and approved by a resolution of the House of Commons."

(3) In section 716 (alteration of amounts by Treasury order) in subsection (2), after paragraph (f) insert—

"(fa) section 323A(4) (trivial benefits provided by employers: cost of providing benefit),

(fb) section 323B(2) (trivial benefits provided by employers: annual exempt amount),".

(4) In section 717(4) (negative procedure not to apply to certain statutory instruments) after "other care: meaning of "eligible employee")," insert "section 323C(1) (trivial benefits provided by employers),".

(5) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

14 Travel expenses of workers providing services through intermediaries

(1) In Chapter 2 of Part 5 of ITEPA 2003 (deductions for employee's expenses), after section 339 insert—

"**339A Travel for necessary attendance: employment intermediaries**

(1) This section applies where an individual ("the worker")—

(a) personally provides services (which are not excluded services) to another person ("the client"), and

(b) the services are provided not under a contract directly between the client or a person connected with the client and the worker but under arrangements involving an employment intermediary.

This is subject to the following provisions of this section.

(2) Where this section applies, each engagement is for the purposes of sections 338 and 339 to be regarded as a separate employment.

(3) This section does not apply if it is shown that the manner in which the worker provides the services is not subject to (or to the right of) supervision, direction or control by any person.

(4) Subsection (3) does not apply in relation to an engagement if—

(a) Chapter 8 of Part 2 applies in relation to the engagement,

(b) the conditions in section 51, 52 or 53 are met in relation to the employment intermediary, and

(c) the employment intermediary is not a managed service company.

(5) This section does not apply in relation to an engagement if—

(a) Chapter 8 of Part 2 does not apply in relation to the engagement merely because the circumstances in section 49(1)(c) are not met,

(b) assuming those circumstances were met, the conditions in section 51, 52 or 53 would be met in relation to the employment intermediary, and

(c) the employment intermediary is not a managed service company.

(6) In determining for the purposes of subsection (4) or (5) whether the conditions in section 51, 52 or 53 are or would be met in relation to the employment intermediary—

(a) in section 51(1)—

(i) disregard "either" in the opening words, and

(ii) disregard paragraph (b) (and the preceding or), and

(b) read references to the intermediary as references to the employment intermediary.

(7) Subsection (8) applies if—

(a) the client or a relevant person provides the employment intermediary (whether before or after the worker begins to provide the services) with a fraudulent document which is intended to constitute evidence that, by virtue of subsection (3), this section does not or will not apply in relation to the services,

(b) that section is taken not to apply in relation to the services, and

(c) in consequence, the employment intermediary does not under PAYE regulations deduct and account for an amount that would have been deducted and accounted for under those regulations if this section had been taken to apply in relation to the services.

(8) For the purpose of recovering the amount referred to in subsection (7)(c) ("the unpaid tax")—

(a) the worker is to be treated as having an employment with the client or relevant person who provided the document, the duties of which consist of the services, and

(b) the client or relevant person is under PAYE regulations to account for the unpaid tax as if it arose in respect of earnings from that employment.

(9) In subsections (7) and (8) "relevant person" means a person, other than the client, the worker or a person connected with the employment intermediary, who—

(a) is resident, or has a place of business, in the United Kingdom, and

(b) is party to a contract with the employment intermediary or a person connected with the employment intermediary under or in consequence of which—

(i) the services are provided, or

(ii) the employment intermediary, or a person connected with the employment intermediary, makes payments in respect of the services.

(10) In determining whether this section applies, no regard is to be had to any arrangements the main purpose, or one of the main purposes, of which is to secure that this section does not to any extent apply.

(11) In this section—

"arrangements" includes any scheme, transaction or series of transactions, agreement or understanding, whether or not enforceable, and any associated operations;

"employment intermediary" means a person, other than the worker or the client, who carries on a business (whether or not with a view to profit and whether or not in conjunction with any other business) of supplying labour;

"engagement" means any such provision of service as is mentioned in subsection (1)(a);

"excluded services" means services provided wholly in the client's home;

"managed service company" means a company which—

(a) is a managed service company within the meaning given by section 61B, or

(b) would be such a company disregarding subsection (1)(c) of that section."

(2) In section 688A of ITEPA 2003 (managed service companies: recovery from other persons), in subsection (5), in the definition of "managed service company", after "section 61B" insert "but for the purposes of section 339A has the meaning given by subsection (11) of that section".

(3) After section 688A of ITEPA 2003 insert—

"**688B Travel expenses of workers providing services through intermediaries: recovery of unpaid tax**

(1) PAYE regulations may make provision for, or in connection with, the recovery from a director or officer of a company, in such circumstances as may be specified in the regulations, of amounts within any of subsections (2) to (5).

(2) An amount within this subsection is an amount that the company is to account for in accordance with PAYE regulations by virtue of section 339A(7) to (9) (persons providing fraudulent documents).

(3) An amount within this subsection is an amount which the company is to deduct and pay in accordance with PAYE regulations by virtue of section 339A in circumstances where—

(a) the company is an employment intermediary,

(b) on the basis that section 339A does not apply by virtue of subsection (3) of that section, the company has not deducted and paid the amount, but

(c) the company has not been provided by any other person with evidence from which it would be reasonable in all the circumstances to conclude that subsection (3) of that section applied (and the mere assertion by a person that the manner in which the worker provided the services was not subject to (or to the right of) supervision, direction or control by any person is not such evidence).

(4) An amount within this subsection is an amount that the company is to deduct and pay in accordance with PAYE regulations by virtue of section 339A in a case where subsection (4) of that section applies (services provided under arrangements made by intermediaries).

(5) An amount within this subsection is any interest or penalty in respect of an amount within any of subsections (2) to (4) for which the company is liable.

(6) In this section—

"company" includes a limited liability partnership;

"director" has the meaning given by section 67;

"employment intermediary" has the same meaning as in section 339A;

"officer", in relation to a company, means any manager, secretary or other similar officer of the company, or any person acting or purporting to act as such"

(4) In Part 4 of the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (payments, returns and information), after Chapter 3A insert—

"CHAPTER 3B

CERTAIN DEBTS OF COMPANIES UNDER SECTION 339A OF ITEPA (TRAVEL EXPENSES OF WORKERS PROVIDING SERVICES THROUGH EMPLOYMENT INTERMEDIARIES)

97ZG Interpretation of Chapter 3B: "relevant PAYE debt" and "relevant date"

(1) In this Chapter "relevant PAYE debt", in relation to a company means an amount within any of paragraphs (2) to (5).

(2) An amount within this paragraph is an amount that the company is to account for in accordance with these Regulations by virtue of section 339A(7) to (9) of ITEPA (persons providing fraudulent documents).

(3) An amount within this paragraph is an amount which a company is to deduct and pay in accordance with these Regulations by virtue of section 339A of ITEPA in circumstances where—

(a) the company is an employment intermediary,

(b) on the basis that section 339A of ITEPA does not apply by virtue of subsection (3) of that section the company has not deducted and paid the amount, but

(c) the company has not been provided by any other person with evidence from which it would be reasonable in all the circumstances to conclude that subsection (3) of that section applied (and the mere assertion by a person that the manner in which the worker provided the services was not subject to (or to the right of) supervision, direction or control by any person is not such evidence).

(4) An amount within this paragraph is an amount that the company is to deduct and pay in accordance with these Regulations by virtue of section 339A of ITEPA in a case where subsection (4) of that section applies (services provided under arrangements made by intermediaries).

(5) An amount within this paragraph is any interest or penalty in respect of an amount within any of paragraphs (2) to (4) for which the company is liable.

(6) In this Chapter "the relevant date" in relation to a relevant PAYE debt means the date on which the first payment is due on which PAYE is not accounted for.

97ZH Interpretation of Chapter 3B: general

In this Chapter—

"company" includes a limited liability partnership;

"director" has the meaning given by section 67 of ITEPA;

"personal liability notice" has the meaning given by regulation 97ZI(2);

"the specified amount" has the meaning given by regulation 97ZI(2)(a).

97ZI Liability of directors for relevant PAYE debts

(1) This regulation applies in relation to an amount of relevant PAYE debt of a company if the company does not deduct that amount by the time by which the company is required to do so.

(2) HMRC may serve a notice (a "personal liability notice") on any person who was, on the relevant date, a director of the company—

(a) specifying the amount of relevant PAYE debt in relation to which this regulation applies ("the specified amount"), and

(b) requiring the director to pay to HMRC—

(i) the specified amount, and

(ii) specified interest on that amount.

(3) The interest specified in the personal liability notice—

(a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of TMA, and

(b) is to run from the date the notice is served.

(4) A director who is served with a personal liability notice is liable to pay to HMRC the specified amount and the interest specified in the notice within 30 days beginning with the day the notice is served.

(5) If HMRC serve personal liability notices on more than one director of the company in respect of the same amount of relevant PAYE debt, the directors are jointly and severally liable to pay to HMRC the specified amount and the interest specified in the notices.

97ZJ Appeals in relation to personal liability notices

(1) A person who is served with a personal liability notice in relation to an amount of relevant PAYE debt of a company may appeal against the notice.

(2) A notice of appeal must—

(a) be given to HMRC within 30 days beginning with the day the personal liability notice is served, and

(b) specify the grounds of the appeal.

(3) The grounds of appeal are —

(a) that all or part of the specified amount does not represent an amount of relevant PAYE debt, of the company, to which regulation 97ZI applies, or

(b) that the person was not a director of the company on the relevant date.

(4) But a person may not appeal on the ground mentioned in paragraph (3)(a) if it has already been determined, on an appeal by the company, that—

(a) the specified amount is a relevant PAYE debt of the company, and

(b) the company did not deduct, account for, or (as the case may be) pay the debt by the time by which the company was required to do so.

(5) Subject to paragraph (6), on an appeal that is notified to the tribunal, the tribunal is to uphold or quash the personal liability notice.

(6) In a case in which the ground of appeal mentioned in paragraph (3)(a) is raised, the tribunal may also reduce or increase the specified amount so that it does represent an amount of relevant PAYE debt, of the company, to which regulation 97ZI applies.

97ZK Withdrawal of personal liability notices

(1) A personal liability notice is withdrawn if the tribunal quashes it.

(2) An officer of Revenue and Customs may withdraw a personal liability notice if the officer considers it appropriate to do so.

(3) If a personal liability notice is withdrawn, HMRC must give notice of that fact to the person upon whom the notice was served.

97ZL Recovery of sums due under personal liability notice: application of Part 6 of TMA

(1) For the purposes of this Chapter, Part 6 of TMA (collection and recovery) applies as if—

(a) the personal liability notice were an assessment, and

(b) the specified amount, and any interest on that amount under regulation 97ZI(2)(b)(ii), were income tax charged on the director upon whom the notice is served,

and that Part of that Act applies with the modification in paragraph (2) and any other necessary modifications.

(2) Summary proceedings for the recovery of the specified amount, and any interest on that amount under regulation 97ZI(2)(b)(ii), may be brought in England and Wales or Northern Ireland at any time before the end of the period of 12 months beginning with the day after the day on which the personal liability notice is served.

97ZM Repayment of surplus amounts

(1) This regulation applies if—

(a) one or more personal liability notices are served in respect of an amount of relevant PAYE debt of a company, and

(b) the amounts paid to HMRC (whether by directors upon whom notices are served or the company) exceed the aggregate of the specified amount and any interest on it under regulation 97ZI(2)(b)(ii).

(2) HMRC is to repay the difference on a just and equitable basis and without unreasonable delay.

(3) HMRC is to pay interest on any sum repaid.

(4) The interest—

(a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of ICTA, and

(b) is to run from the date the amounts paid to HMRC come to exceed the aggregate mentioned in subsection (1)(b).”

(5) The amendment made by subsection (4) is to be treated as having been made by the Commissioners for Her Majesty’s Revenue and Customs in exercise of the power conferred by section 688B of ITEPA 2003 (inserted by subsection (3)).

(6) The amendment made by subsection (1) has effect in relation to the tax year 2016-17 and subsequent tax years.

(7) The amendment made by subsection (4) has effect in relation to relevant PAYE debts that are to be deducted, accounted for or paid on or after 6 April 2016.

15 Taxable benefits: PAYE

In section 684 of ITEPA 2003 (PAYE regulations), in subsection (2), in item 1ZA(a), for “Chapters 3 and 5 to 10” substitute “Chapters 3 to 10”.

Employment income: other provision

16 Employee share schemes

Schedule 3 contains miscellaneous minor amendments relating to employee share schemes.

17 Securities options

(1) In section 418 of ITEPA 2003 (provisions related to Part 7 of ITEPA 2003), in subsection (1), omit “(but not securities options)”.

(2) In that section, after subsection (1) insert—

“(1A) But Chapters 1 and 10 of Part 3 do not have effect in relation to—

(a) the acquisition of employment-related securities options (within the meaning of Chapter 5 of Part 7), or

(b) chargeable events (within the meaning given by section 477) occurring in relation to such options.”

(3) In section 227 of that Act (scope of Part 4), in subsection (4), before paragraph (a) insert—

“(za) section 418(1A) (acquisition of, and chargeable events occurring in relation to, employment-related securities options);”.

(4) The amendments made by this section come into force on 6 April 2016.

18 Employment income provided through third parties

(1) Part 7A of ITEPA 2003 (employment income provided through third parties) is amended in accordance with subsections (2) and (3).

(2) In section 554Z2 (value of relevant step to count as employment income) after subsection (1) insert—

"(1A) Where the value of a relevant step would (apart from this subsection) count as employment income of more than one person—

(a) the value of the relevant step is to be apportioned between each of those persons on a just and reasonable basis, and

(b) subsection (1) applies as if the reference to the value of the relevant step in relation to A were a reference to so much of the value of the relevant step that is apportioned to A."

(3) In section 554Z8 (cases where consideration given for relevant step) in subsection (5), omit "and" at the end of paragraph (b) and after paragraph (c) insert ", and

(d) there is no connection (direct or indirect) between the payment and a tax avoidance arrangement."

(4) Paragraph 59 of Schedule 2 to FA 2011 (transitional provision relating to Part 7A of ITEPA 2003) is amended in accordance with subsections (5) to (7).

(5) In sub-paragraph (2) for the words from "the earnings" to the end substitute—

"(a) where sub-paragraph (2A) or (2B) applies, the earnings mentioned in sub-paragraph (1)(f)(i) or any return on those earnings mentioned in sub-paragraph (1)(f)(ii), and

(b) in any other case, the earnings mentioned in sub-paragraph (1)(f)(i)."

(6) After sub-paragraph (2) insert—

"(2A) This sub-paragraph applies where—

(a) the agreement mentioned in sub-paragraph (1)(d)(i) is made before 1 April 2017, and

(b) A or B pays, or otherwise accounts for, any tax as mentioned in sub-paragraph (1)(e) in accordance with that agreement.

(2B) This sub-paragraph applies where—

(a) the decision mentioned in sub-paragraph (1)(d)(ii) is made before 1 April 2017, and

(b) A or B pays, or otherwise accounts for, any tax as mentioned in sub-paragraph (1)(e) before 1 April 2017."

(7) At the end insert—

"(5) For the purposes of sub-paragraph (1)(e), a person is not to be regarded as having paid, or otherwise accounted for, any tax by reason only of making—

(a) a payment on account of income tax,

(b) a payment that is treated as a payment on account under section 223(3) of FA 2014 (accelerated payments), or

(c) a payment pending determination of an appeal made in accordance with section 55 of TMA 1970."

(8) In Schedule 2 to FA 2011, omit paragraph 64 (power to make provision dealing with interactions etc.).

(9) The amendment made by subsection (3) has effect in relation to payments made on or after 16 March 2016 by way of consideration for a relevant step (as defined in section 554A(2) of ITEPA 2003) taken on or after that date.

(10) The amendment made by subsection (7) has effect in relation to chargeable steps (as defined in paragraph 59(1)(a) of Schedule 2 to FA 2011) taken on or after 16 March 2016.

Pensions

19 Standard lifetime allowance from 2016-17

(1) Section 218 of FA 2004 (pension schemes etc: lifetime allowance) is amended in accordance with subsections (2) to (5).

(2) For subsections (2) and (3) (standard lifetime allowance is £1,250,000 but may be increased by Treasury order) substitute—

"(2) The standard lifetime allowance for the tax years 2016-17 and 2017-18 is £1,000,000.

(2A) The standard lifetime allowance for any later tax year ("the subsequent tax year") is the same as the standard lifetime allowance for the tax year immediately preceding the subsequent tax year, unless subsection (2C) provides for it to be higher.

(2B) Subsection (2C) applies if—

(a) the consumer prices index for the month of September in any tax year ("the prior tax year") is higher than it was for the previous September, and

(b) the prior tax year is the tax year 2017-18 or a later tax year.

(2C) The standard lifetime allowance for the tax year following the prior tax year is the standard lifetime allowance for the prior tax year—

(a) increased by the percentage increase in the index, and

(b) if the result is not a multiple of £100, rounded up to the nearest amount which is such a multiple.

(2D) The Treasury must before the tax year 2018-19, and before each subsequent tax year, make regulations specifying the amount given by subsections (2A) to (2C) as the standard lifetime allowance for the tax year concerned."

(3) After subsection (5BB) insert—

"(5BC) Where the operation of a lifetime allowance enhancement factor is provided for by any of sections 220, 222, 223 and 224 and the time mentioned in the definition of SLA in the section concerned fell within the period consisting of the tax year 2014-15 and the tax year 2015-16, subsection (4) has effect as if the amount to be multiplied by LAEF were £1,250,000 if that is greater than SLA.

(5BD) Where more than one lifetime allowance enhancement factor operates, subsection (5BC) does not apply if any of subsections (5A), (5B) and (5BA) applies."

(4) After subsection (5D) insert—

"(5E) Where benefit crystallisation event 7 occurs on or after 6 April 2016 by reason of the payment of a relevant lump sum death benefit in respect of the death of the individual during the period consisting of the tax year 2014-15 and the tax year 2015-16, the standard lifetime allowance at the time of the benefit crystallisation event is £1,250,000."

(5) After subsection (5E) insert—

"(5F) Where—

(a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2015 of sums or assets held for the purposes of an arrangement relating to the individual, and

(b) the individual died before 6 April 2012,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,800,000.

(5G) Where—

(a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2015 of sums or assets held for the purposes of an arrangement relating to the individual, and

(b) the individual died in the period consisting of the tax year 2012-13 and the tax year 2013-14,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,500,000.

(5H) Where—

(a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2016 of sums or assets held for the purposes of an arrangement relating to the individual, and

(b) the individual died in the period consisting of the tax year 2014-15 and the tax year 2015-16,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,250,000.

(5I) Where—

(a) benefit crystallisation event 5D occurs by reason of a person becoming entitled on or after 6 April 2016 to an annuity in respect of the individual, and

(b) the individual died in the period beginning with 3 December 2014 and ending with 5 April 2016,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,250,000."

(6) In section 280 of FA 2004 (abbreviations and general index for Part 4), in the entry for "standard lifetime allowance" for "and (3)" substitute "to (2C)".

(7) In section 282 of FA 2004 (orders and regulations under Part 4), after subsection (2) (negative procedure applies to instruments not approved in draft) insert—

"(3) Subsection (2) does not apply to an instrument containing only regulations under section 218(2D)."

(8) The amendments made by subsections (2) to (4) have effect for the tax year 2016-17 and subsequent tax years.

(9) The amendment made by subsection (5)—

(a) so far as it consists of the insertion of new subsections (5F) and (5G)—

(i) is to be treated as having come into force on 6 April 2015, and

(ii) has effect in relation to benefit crystallisation events occurring on or after that date, and

(b) so far as it consists of the insertion of new subsections (5H) and (5I)—

(i) is to be treated as having come into force on 6 April 2016, and

(ii) has effect in relation to benefit crystallisation events occurring on or after that date.

(10) Schedule 4 contains transitional and connected provision (including provision for "fixed protection 2016" and "individual protection 2016").

20 Pensions bridging between retirement and state pension

(1) In Part 1 of Schedule 28 to FA 2004 (registered pension schemes: the pension rules), paragraph 2 (meaning of "scheme pension") is amended in accordance with subsections (2) to (4).

(2) In sub-paragraph (4) (which specifies circumstances in which amount of scheme pension may go down and gives power to specify additional circumstances) omit paragraph (c) (reduction by reference to state retirement pensions for persons reaching pensionable age before 6 April 2016).

(3) Omit sub-paragraphs (4B), (5) and (5A) (interpretation of sub-paragraph (4)(c)).

(4) In sub-paragraph (8) (regulations under certain sub-paragraphs may make back-dated provision) omit "or (5)".

(5) In consequence of the amendments made by subsections (2) and (3)—

(a) in FA 2006, in Schedule 23 omit paragraph 20(2) and (3), and

(b) in FA 2013, omit section 51(2).

(6) Regulations under paragraph 2(4)(h) of Schedule 28 to FA 2004 (power to prescribe permitted reductions of scheme pensions, and to do so with back-dated effect) may provide for the coming into force of the amendments made by subsections (2) to (5), and—

(a) those amendments have effect in accordance with regulations under paragraph 2(4)(h) of that Schedule, and

(b) paragraph 2(8) of that Schedule (back-dating) applies for the purposes of regulations bringing the amendments into force only so as to permit the amendments to be given effect in relation to times not earlier than 6 April 2016.

21 Dependants' scheme pensions

(1) Part 2 of Schedule 28 to Part 4 of FA 2004 (pension death benefit rules) is amended as follows.

(2) In paragraph 16A (dependants' scheme pension: when limits in paragraphs 16B and 16C apply), after sub-paragraph (1) insert—

"(1A) Sub-paragraph (1) is subject to paragraphs 16AA and 16AB."

(3) After paragraph 16A insert—

"16AA Paragraphs 16B and 16C do not apply if—

(a) each benefit crystallisation event that has occurred in relation to the member by reference to arrangements relating to the member under the scheme is benefit crystallisation event 5B (having unused funds under a money purchase arrangement at age 75), or

(b) paragraph 12 of Schedule 36 (enhanced protection by reference to pre-6 April 2006 rights) applies in the case of the member immediately before the member's death.

16AB (1) Paragraph 16B does not apply if, at all times in the post-death year (as defined in that paragraph), the payable annual rate is less than the limit.

(2) Paragraph 16C does not apply in relation to a period of 12 months within paragraph (a) or (b) of paragraph 16C(1) if, at all times in that period of 12 months, the payable annual rate is less than the limit.

(3) "The payable annual rate", at any time, is arrived at as follows—

(a) identify each dependants' scheme pension payable in respect of the member under the scheme to which a dependant of the member is actually entitled at that time, and

(b) identify the annual rate at which each pension identified at paragraph (a) is payable at that time, and

(c) if only one pension is identified at paragraph (a), the payable annual rate is the annual rate identified at paragraph (b), and

(d) if two or more pensions are identified at paragraph (a), the payable annual rate is the total of the annual rates identified at paragraph (b).

(4) "The limit", at any time, is—

(a) the general limit at that time (see paragraph 16AC), or,

(b) if higher, the personal limit at that time (see paragraph 16AD).

16AC (1) This paragraph applies for the purposes of paragraph 16AB(4).

(2) "The general limit" at a time in the tax year 2016-17 is £25,000.

(3) "The general limit" at a time in a later tax year ("year T")—

(a) is given by—

$$G + (G \times U\%)$$

where G is the general limit at times in the tax year ("year P") that precedes year T, or

(b) if the amount given by paragraph (a) is not a multiple of £100, is that amount rounded up to the nearest amount that is such a multiple.

(4) See paragraph 16AE for the meaning of U%.

16AD (1) This paragraph applies for the purposes of paragraph 16AB(4).

(2) "The personal limit" at a time in the tax year in which the member dies is arrived at as follows—

(a) identify each scheme pension under the scheme to which the member is actually or prospectively entitled immediately before the member's death, and

(b) as regards each pension identified at paragraph (a)—

(i) if it is one to which the member is actually entitled immediately before the member's death, identify the annual rate at which it is payable immediately before the member's death, or

(ii) if it is one to which the member is prospectively entitled immediately before the member's death, identify the annual rate at which it would have been payable immediately before the member's death had the member been actually entitled to it immediately before the member's death, and

(c) if only one pension is identified at paragraph (a), the personal limit is the annual rate identified at paragraph (b), and

(d) if two or more pensions are identified at paragraph (a), the personal limit is the total of the annual rates identified at paragraph (b).

(3) "The personal limit" at a time in a tax year ("year S") later than the tax year in which the member dies—

(a) is given by—

$$L + (L \times U\%)$$

where L is the personal limit at times in the tax year ("year P") that precedes year S, or

(b) if the amount given by paragraph (a) is not a multiple of £100, is that amount rounded up to the nearest amount that is such a multiple.

(4) See paragraph 16AE for the meaning of U%.

(5) If the scheme is a public service pension scheme, ignore any abatement when identifying at sub-paragraph (2)(b) the annual rate of any scheme pension under the scheme.

16AE (1) In paragraphs 16AC(3) and 16AD(3), U% means the highest of—

(a) 5%,

(b) CPI% (see sub-paragraph (2)), and

(c) RPI% (see sub-paragraph (3)).

(2) If the consumer prices index for September in year P is higher than the consumer prices index for September in the tax year preceding year P, CPI % is the percentage increase in the index (but is otherwise 0%).

(3) If the retail prices index for September in year P is higher than the retail prices index for September in the tax year preceding year P, RPI% is the percentage increase in the index (but is otherwise 0%).

(4) In this paragraph "year P" has the same meaning as in paragraph 16AC or (as the case may be) paragraph 16AD."

(4) In paragraph 16B (limit in post-death year)—

(a) in sub-paragraph (3)(c), for "amounts" substitute "uprated amounts (see sub-paragraph (6))", and

(b) after sub-paragraph (5) insert—

"(6) The "uprated amount" of a lump sum is the amount of the lump sum increased by the higher of C% and R%, where—

(a) if the consumer prices index for the month in which the member dies is higher than it was for the month in which the member became entitled to the lump sum, C% is the percentage increase in the index (but is otherwise 0%), and

(b) if the retail prices index for the month in which the member dies is higher than it was for the month in which the member became entitled to the lump sum, R% is the percentage increase in the index (but is otherwise 0%)."

(5) In paragraph 16C (limit in subsequent years)—

(a) in sub-paragraph (3)(a), omit "period of",

(b) in sub-paragraph (3)(b), for "subsection" substitute "sub-paragraph",

(c) for sub-paragraphs (4) and (5) substitute—

"(4) The condition is that if the annual rate of a pension payable under the pension scheme to a dependant of the member is increased at any time in the period of 12 months in question—

(a) the dependant is at that time one of a group of at least 20 pensioner members of the pension scheme, and

(b) all the pensions being paid under the pension scheme to pensioner members of that group are at that time increased at the same rate.",

(d) in sub-paragraph (6)—

(i) for "month period" substitute "months", and

(ii) for the words after "increased by" substitute "the permitted margin.",

(e) in sub-paragraph (8)(a), for "end of the post-death year" substitute "member's death",

(f) in sub-paragraph (8)(b), after "first month" insert "ending after the start",

(g) in sub-paragraph (11), for "opening month" substitute "month in which the member died", and

(h) omit sub-paragraphs (13) and (14).

(6) The amendments made by this section are treated as having come into force on 6 April 2016.

(7) The amendments made by subsections (2) to (4), so far as they relate to paragraph 16B of Schedule 28 to FA 2004, have effect where the last day of "the post-death year" (see sub-paragraph (1) of that paragraph) is 6 April 2016 or any later day.

(8) The following amendments—

(a) the amendments made by subsections (2) to (4), so far as they relate to paragraph 16C of Schedule 28 to FA 2004, and

(b) the amendments made by subsection (5),

have effect where the last day of "the 12 months in question" (see sub-paragraph (1) of that paragraph) is 6 April 2016 or any later day.

22 Pension flexibility

Schedule 5 makes amendments in connection with pension flexibility.

23 Netherlands Benefit Act for Victims of Persecution 1940-1945

(1) After section 642 of ITEPA 2003 insert—

"**642A Netherlands Benefit Act for Victims of Persecution 1940-1945**

No liability to income tax arises on a pension, annuity, allowance or other payment provided in accordance with the provisions of the scheme established under the law of the Netherlands and known as *Wet uitkeringen vervolgingsslachtoffers 1940-1945*."

(2) The amendment made by this section has effect for the tax year 2016-17 and subsequent tax years.

Trading and other income

24 Fixed-rate deductions for use of home for business purposes

(1) In Part 2 of ITTOIA 2005 (trading income), Chapter 5A (trade profits: deductions allowable at a fixed rate) is amended as follows.

(2) Section 94H (use of home for business purposes) is amended as follows.

(3) In subsection (1), for the words from "in respect of" to the end substitute "in respect of—

(a) the use of the person's home for the purposes of the trade, or

(b) where the person is a firm, the use of a partner's home for those purposes."

(4) In subsection (4), for the words from "work done" to the end substitute "qualifying work".

(5) After subsection (4) insert—

"(4A) Qualifying work" means—

(a) work done by the person, or any employee of the person, in the person's home wholly and exclusively for the purposes of the trade, or

(b) where the person is a firm, work done by a partner, or any employee of the firm, in the partner's home wholly and exclusively for those purposes.

(4B) Where more than one person does qualifying work in the same home at the same time, any hour spent wholly and exclusively on that work is to be taken into account only once for the purposes of subsection (4)."

(6) In subsection (5), after "person" insert ", or, where the person is a firm, a partner of the firm,".

(7) After subsection (5) insert—

"(5A) Where a firm makes a deduction for a period under this section in respect of the use of a partner's home for the purposes of a trade, the only deduction which the firm may make for the period in respect of the use of any other partner's home for those purposes is a deduction under this section."

(8) Section 94I (premises used both as a home and as business premises) is amended as follows.

(9) In subsection (1)(b), for "used by the person as a home," substitute "used as a home by—

(i) the person carrying on the trade, or

(ii) where that person is a firm, a partner of the firm,".

(10) After subsection (6) insert—

"(6A) Where a person makes a deduction for a period under this section in respect of expenses incurred in relation to premises falling within subsection (1)(b), the only deduction which the person may make for the period in respect of expenses incurred in relation to any other premises falling within subsection (1)(b) is a deduction under this section."

(11) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

25 Averaging profits of farmers etc

(1) Chapter 16 of Part 2 of ITTOIA 2005 (averaging profits of farmers and creative artists) is amended as specified in subsections (2) to (7).

(2) In section 221 (claim for averaging of fluctuating profits)—

(a) in subsection (2), at the beginning insert "For the purposes of section 222 (two-year averaging)";

(b) after that subsection insert—

"(2A) For the purposes of section 222A (five-year averaging), a trade, profession or vocation is a "qualifying trade, profession or vocation" if it falls within subsection (2)(a) or (b).";

(c) in subsection (3), for "this purpose" substitute "the purpose of subsection (2)".

(3) After section 222 insert—

"**222A Circumstances in which claim for five-year averaging may be made**

(1) An averaging claim may be made under this section in relation to five consecutive tax years in which a taxpayer is or has been carrying on the qualifying trade, profession or vocation if the volatility condition in subsection (2) is met.

(2) The volatility condition is that—

(a) one of the following is less than 75% of the other—

(i) the average of the relevant profits of the first four tax years to which the claim relates;

(ii) the relevant profits of the last of the tax years to which the claim relates; or

(b) the relevant profits of one or more (but not all) of the five tax years to which the claim relates are nil.

(3) Any of the first four tax years to which an averaging claim under this section relates may be a tax year in relation to which an averaging claim under this section or section 222 has already been made.

(4) An averaging claim ("the subsequent claim") may not be made under this section if an averaging claim in respect of the trade, profession or vocation has already been made under this section or section 222 in relation to a tax year which is later than the last of the tax years to which the subsequent claim relates.

(5) An averaging claim may not be made under this section in relation to the tax year in which the taxpayer starts, or permanently ceases, to carry on the trade, profession or vocation.

(6) An averaging claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the last of the tax years to which the claim relates.

(7) But see section 225(4) (extended time limit if profits adjusted for some other reason)."

(4) In section 222 (circumstances in which claim may be made)—

(a) in the heading, after "claim" insert "for two-year averaging";

(b) in subsection (1), after "made" insert "under this section";

(c) for subsection (2) substitute—

"(2) The earlier of the two years to which an averaging claim under this section relates may be a tax year in relation to which an averaging claim under this section or section 222A has already been made.";

(d) in subsection (3)—

(i) after "made", in the first place, insert "under this section";

(ii) after "made", in the second place, insert "under this section or section 222A";

(e) in subsection (4), after "made" insert "under this section";

(f) in subsection (5), after "averaging claim" insert "under this section".

(5) In section 223 (adjustment of profits)—

(a) in subsection (2), for "second of the two tax years" substitute "last of the two or five tax years";

(b) for subsection (3) substitute—

"(3) The amount of the adjusted profits of each of the tax years to which the claim relates is the average of the relevant profits of those tax years.";

(c) omit subsection (4).

(6) In section 224 (effect of adjustment)—

(a) in subsection (4), for "either" substitute "any";
(b) in subsection (6), for "second of the two tax years" substitute "last of the two or five tax years".

(7) In section 225 (effect of later adjustment of profits), in subsection (1), for "either or both" substitute "any one or more".

(8) In section 31C of ITTOIA 2005 (excluded provisions), in subsection (6), for "section 221" substitute "Chapter 16".

(9) In section 1025 of ITA 2007 (meaning of "modified net income"), in subsection (2)(d), for "the earlier of the tax years" substitute "any earlier tax year".

(10) In paragraph 3 of Schedule 1B to TMA 1970 (relief for fluctuating profits of farmers etc)—
(a) in sub-paragraph (1), for the words from "for two" to the end substitute—
"(a) in the case of a two-year claim, for two consecutive years of assessment, and
(b) in the case of a five-year claim, for five consecutive years of assessment.";
(b) in sub-paragraph (2), for "the later year" substitute "the last of the two or five years";
(c) in sub-paragraph (3), for "the earlier year", where it occurs first, substitute "an earlier year";
(d) in sub-paragraph (5)—
(i) for "the earlier year" substitute "an earlier year";
(ii) for "the later year" substitute "the last of the two or five years";
(e) after sub-paragraph (6) insert—

"(7) In this paragraph—
"two-year claim" means a claim under section 222 of ITTOIA 2005;
"five-year claim" means a claim under section 222A of ITTOIA 2005."

(11) In paragraph 4 of Schedule 1B to TMA 1970 (relief claimed by virtue of section 224(4) of ITTOIA 2005)—
(a) in sub-paragraph (1)—
(i) after "for two" insert "or five";
(ii) omit "("the earlier year" and "the later year")";
(iii) for "either" substitute "any";
(b) in sub-paragraph (2), for "the later year" substitute "the last of the two or five years";
(c) in sub-paragraph (3), for "the earlier year", where it occurs first, substitute "an earlier year";
(d) in sub-paragraph (5)—
(i) for "the earlier year" substitute "an earlier year";
(ii) for "the later year" substitute "the last of the two or five years".

(12) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

26 Relief for finance costs related to residential property businesses

(1) In ITTOIA 2005, for sections 274A and 274B and the preceding italic heading (tax reductions for non-deductible costs of dwelling-related loans: individuals, and accumulated or discretionary trust income) substitute—

"Tax reductions for non-deductible costs of a dwelling-related loan

274A Reduction for individuals: entitlement

(1) If for a tax year an individual has—

(a) a relievable amount in respect of a property business, or

(b) two or more relievable amounts each in respect of a different property business,

the individual is entitled to relief under this section for that year in respect of that relievable amount or (as the case may be) each of those relievable amounts.

(2) An individual has a relievable amount for a tax year in respect of a property business if for that year the individual has any one or more of the following in respect of that business—

(a) a current-year amount;

(b) a current-year estate amount;

(c) a brought-forward amount.

(3) An individual's relievable amount for a tax year in respect of a property business is the total of—

(a) the individual's current-year amount (if any) for that year in respect of that business,

(b) the individual's current-year estate amounts (if any) for that year in respect of that business, and

(c) the individual's brought-forward amount (if any) for that year in respect of that business.

(4) An individual has a current-year amount for a tax year in respect of a property business if—

(a) an amount ("A") would be deductible in calculating the profits for income tax purposes of that business for that year but for section 272A,

(b) the individual is liable for income tax on N% of those profits, where N is a number—

(i) greater than 0, and

(ii) less than or equal to 100, and

(c) that liability is not under Chapter 6 of Part 5 (estate income),

in which event the individual's current-year amount for that tax year in respect of that business is equal to N% of A.

(5) An individual has a current-year estate amount for a tax year ("the current year"), in respect of a property business and a particular deceased person's estate, if—

(a) an amount ("A") would, but for section 272A, be deductible in calculating the profits for income tax purposes of that business for a particular tax year ("the profits year"), whether that year is the current year or an earlier tax year,

(b) the personal representatives of the deceased person are liable for income tax on N% of those profits, where N is a number—

(i) greater than 0, and

(ii) less than or equal to 100,

(c) the individual is liable for income tax on estate income treated under Chapter 6 of Part 5 as arising in the current year from an interest in the estate, and

(d) the basic amount of that estate income consists of, or includes, an amount representative of E% of the personal representatives' N% of the profits of the business for the profits year, where E is a number—

(i) greater than 0, and

(ii) less than or equal to 100,

in which event the individual's current-year estate amount for the current tax year, in respect of that business and estate and the profits year, is equal to E % of N% of A.

(6) As to whether an individual has a brought-forward amount for a tax year in respect of a property business, see section 274AA(4).

(7) In this section and section 274AA—

"estate income", and

"basic amount" in relation to any estate income,

have the same meaning as in Chapter 6 of Part 5 (see sections 649 and 656(4)).

274AA Reduction for individuals: calculation

(1) This section applies if for a tax year an individual is entitled to relief under section 274A in respect of a relievable amount or in respect of each of two or more relievable amounts, and in the following subsections of this section "relievable amount" means that relievable amount or (as the case may be) any of those relievable amounts.

(2) In respect of a relievable amount, the actual amount on which relief for the year is to be given is (subject to subsection (3)) the amount ("L") that is the lower of—

(a) the relievable amount, and

(b) the total of—

(i) the profits for income tax purposes of the property business concerned for the year after any deduction under section 118 of ITA 2007 ("the adjusted profits") or, if less, the share (if any) of the adjusted profits on which the individual is liable to income tax otherwise than under Chapter 6 of Part 5, and

(ii) so much (if any) of the relievable amount as consists of current-year estate amounts.

(3) If S is greater than the individual's adjusted total income for the year ("ATI"), the actual amount on which relief for the year is to be given in respect of a relievable amount is given by—

$$\frac{\text{ATI}}{\text{S}} \times \text{L}$$

where—

S is the total obtained by identifying the amount that is L for each relievable amount and then finding the total of the amounts identified, and

L has the same meaning as in subsection (2).

(4) Where—

(a) a relievable amount,

is greater than—

(b) the actual amount on which relief for the year is to be given in respect of the relievable amount,

the difference is the individual's brought-forward amount for the following tax year in respect of the property business concerned.

(5) The amount of the relief for the year in respect of a relievable amount is given by—

$$\text{AA} \times \text{BR}$$

where—

AA is the actual amount on which relief for the year is to be given in respect of the relievable amount, and

BR is the basic rate of income tax for the year,

(6) For the purposes of this section, an individual's adjusted total income for a tax year is identified as follows—

Step 1

Identify the individual's net income for the year (see Step 2 of the calculation in section 23 of ITA 2007).

Step 2

Exclude from that net income—

(a) so much of it as is within section 18(3) or (4) of ITA 2007 (income from savings), and

(b) so much of it as is dividend income.

Step 3

Reduce what is left after Step 2 of this calculation by the amount of any allowances deducted for the year in the individual's case at Step 3 of the calculation in section 23 of ITA 2007. The result is the individual's adjusted total income for the year.

274B Reduction for accumulated or discretionary trust income: entitlement

(1) If for a tax year the trustees of a settlement have—

(a) a relievable amount in respect of a property business, or

(b) two or more relievable amounts each in respect of a different property business,

the trustees of the settlement are entitled to relief under this section for that year in respect of that relievable amount or (as the case may be) each of those relievable amounts.

(2) The trustees of a settlement have a relievable amount for a tax year in respect of a property business if for that year the trustees of the settlement have a current-year amount, or brought-forward amount, in respect of that business (or have both).

(3) In the case of trustees of a settlement, their relievable amount for a tax year in respect of a property business is the total of—

(a) their current-year amount (if any) for that year in respect of that business, and

(b) their brought-forward amount (if any) for that year in respect of that business.

(4) The trustees of a settlement have a current-year amount for a tax year in respect of a property business if—

(a) an amount ("A") would be deductible in calculating the profits for income tax purposes of that business for that year but for section 272A,

(b) the trustees of the settlement are liable for income tax on N% of those profits, where N is a number—

(i) greater than 0, and

(ii) less than or equal to 100, and

(c) in relation to the trustees of the settlement, that N% of those profits is accumulated or discretionary income,

in which event the current-year amount of the trustees of the settlement for that tax year in respect of that business is equal to N% of A.

(5) As to whether the trustees of a settlement have a brought-forward amount for a tax year in respect of a property business, see section 274C(3).

(6) In this section and section 274C "accumulated or discretionary income" has the meaning given by section 480 of ITA 2007.

274C Reduction for accumulated or discretionary trust income: calculation

(1) This section applies if for a tax year the trustees of a settlement are entitled to relief under section 274B in respect of a relievable amount or in respect of each of two or more relievable amounts, and in the following subsections of this section "relievable amount" means that relievable amount or (as the case may be) any of those relievable amounts.

(2) The amount of the relief in respect of a relievable amount is given by—

$$L \times BR$$

where—

BR is the basic rate of income tax for the year, and

L is the lower of—

(a) the relievable amount, and

(b) the profits for income tax purposes of the property business concerned for the year after any deduction under section 118 of ITA 2007 ("the adjusted profits") or, if less, the share of the adjusted profits—

(i) on which the trustees of the settlement are liable for income tax, and

(ii) which, in relation to the trustees of the settlement, is accumulated or discretionary income.

(3) Where L in the case of a relievable amount is less than the relievable amount, the difference between them is the brought-forward amount of the trustees of the settlement for the following tax year in respect of the property business concerned."

(2) In consequence of the amendment made by subsection (1), in F(No.2)A 2015 omit section 24(5).

27 Individual investment plans of deceased investors

(1) In Chapter 3 of Part 6 of ITTOIA 2005 (power to exempt income from individual investment plans from income tax), after section 694 insert—

"**694A Deceased investors**

(1) In section 694(1) "income of an individual from investments under a plan" includes—

(a) income (of any person) from administration-period investments under a plan, and

(b) income (of any person) from the estate of a deceased person ("D") where the whole or any part of the income of D's personal representatives is income from administration-period investments under a plan.

(2) For the purposes of sections 694(3)(a) and (4) and 695(1) "individual", in relation to investments that are administration-period investments, includes—

(a) the personal representatives of the deceased individual concerned, and

(b) any other person on whose directions plan managers agree to act in relation to the investments.

(3) In sections 699 and 701 "investor" includes a person entitled to an exemption given by investment plan regulations by virtue of subsection (1) of this section.

(4) Investments are "administration-period investments" if—

(a) an individual dies, and

(b) immediately before the individual's death—

(i) the investments were held under a plan,

(ii) the individual was entitled to the income from the investments, and

(iii) as a result of investment plan regulations, the individual's income from investments under the plan was exempt from income tax (either wholly or to an extent specified in the regulations).

(5) Investments are also "administration-period investments" if (directly or indirectly) they represent investments that are administration-period investments as a result of subsection (4).

(6) Investment plan regulations may provide that investments are administration-period investments as a result of subsection (4) or (5) only at times specified in, or ascertained in accordance with, the regulations.

(7) Provision under subsection (6) may (in particular) be framed by reference to the completion of the administration of a deceased individual's estate.

(8) In the application of subsection (7) in relation to Scotland, the reference to the completion of the administration is to be read in accordance with section 653(2)."

(2) In section 151(2) of TCGA 1992 (Chapter 3 of Part 6 of ITTOIA 2005 applies with modifications in relation to regulations giving relief from capital gains tax in respect of investments under plans)—

(a) in the words before paragraph (a), for "section 694(1) to (2)" substitute "sections 694(1) to (2) and 694A(1)", and

(b) after paragraph (a) insert—

"(aa) section 694A(2) applies also for the purposes of subsection (1) of this section,

(ab) the reference in section 694A(3) to section 694A(1) is to be read as a reference to paragraph (aa) of this subsection,

(ac) the reference in section 694A(4)(b)(iii) to the individual's income from investments under the plan being exempt from income tax is to be read as a reference to the individual being entitled to relief from capital gains tax in respect of the investments,".

(3) In section 62 of TCGA 1992 (death: general provisions), after subsection (4) (acquisition of asset as legatee) insert—

"(4A) The Treasury may by regulations make provision having effect in place of subsection (4)(b) above in a case where there has been a time when the personal representatives—

(a) held the asset acquired by the legatee, and

(b) would, if they had disposed of the asset at that time—

(i) by way of a bargain at arm's length, and

(ii) otherwise than to a legatee,

have been entitled as a result of regulations under section 151 (investments under plans) to relief from capital gains tax in respect of any chargeable gain accruing on the disposal.

(4B) Provision made by regulations under subsection (4A) above may (in particular) treat a person who acquires an asset as legatee as doing so at a time or for a consideration, or at a time and for a consideration, ascertained as specified by the regulations."

(4) In consequence of subsection (2)(a), in FA 2011 omit section 40(6)(a).

Reliefs: enterprise investment scheme, venture capital trusts etc

28 EIS, SEIS and VCTs: exclusion of energy generation

(1) In section 192(1) of ITA 2007 (meaning of "excluded activities": EIS and SEIS), for paragraphs (ka) to (kc) substitute—

"(ka) generating or exporting electricity or making electricity generating capacity available,

(kb) generating heat,

(kc) generating any form of energy not within paragraph (ka) or (kb),

(kd) producing gas or fuel, and".

(2) In section 303(1) of ITA 2007 (meaning of "excluded activities": VCTs), for paragraphs (ka) to (kc) substitute—

"(ka) generating or exporting electricity or making electricity generating capacity available,

(kb) generating heat,

(kc) generating any form of energy not within paragraph (ka) or (kb),

(kd) producing gas or fuel, and".

(3) In consequence of subsection (1), ITA 2007 is amended as follows—

(a) in section 192(2)—

(i) for paragraph (g) substitute "and

(g) section 198A (export of electricity).";

(ii) omit paragraph (h);

(b) in section 198A—

(i) in the heading, omit "subsidised generation or";

(ii) omit subsections (3) to (9);

(c) omit section 198B.

(4) In consequence of subsection (2), ITA 2007 is amended as follows—

(a) in section 303(2)—

(i) for paragraph (g) substitute "and

(g) section 309A (export of electricity).";

(ii) omit paragraph (h);

(b) in section 309A—

(i) in the heading, omit "subsidised generation or";

(ii) omit subsections (3) to (9);

(c) omit section 309B.

(5) The amendments made by subsections (1) and (3) have effect in relation to shares issued on or after 6 April 2016.

(6) The amendments made by subsections (2) and (4) have effect in relation to relevant holdings issued on or after 6 April 2016.

29 EIS and VCTs: definition of certain periods

(1) In section 175A of ITA 2007 (EIS: the permitted maximum age requirement)—

(a) in subsection (7) for the words from "five" to the end substitute "relevant five year period.";

(b) after that subsection insert—

"(7A) Subject to subsection (7B), the relevant five year period is the five year period which ends immediately before the beginning of the last accounts filing period.

(7B) If the last accounts filing period ends more than 12 months before the issue date, the relevant five year period is the five year period which ends 12 months before the issue date."

(2) In section 252A of ITA 2007 (EIS: meaning of "knowledge-intensive company")—

(a) in subsection (4), in the definition of "the relevant three preceding years", for the words from "means" to the end substitute "means, subject to subsection (4A), the three consecutive years the last of which ends immediately before the beginning of the last accounts filing period.";

(b) after that subsection insert—

"(4A) If the last accounts filing period ends more than 12 months before the date on which the relevant shares are issued, the relevant three preceding years are the three consecutive years the last of which ends 12 months before the date on which the relevant shares are issued."

(3) In section 280C of ITA 2007 (VCTs: the permitted maximum age condition)—

(a) in subsection (8) for the words from "five" to the end substitute "relevant five year period.";

(b) after that subsection insert—

"(8A) Subject to subsection (8B), the relevant five year period is the five year period which ends immediately before the beginning of the last accounts filing period.

(8B) If the last accounts filing period ends more than 12 months before the investment date, the relevant five year period is the five year period which ends 12 months before the investment date."

(4) In section 294A of ITA 2007 (VCTs: the permitted company age requirement)—

(a) in subsection (7) for the words from "five" to the end substitute "relevant five year period.";

(b) after that subsection insert—

"(7A) Subject to subsection (7B), the relevant five year period is the five year period which ends immediately before the beginning of the last accounts filing period.

(7B) If the last accounts filing period ends more than 12 months before the investment date, the relevant five year period is the five year period which ends 12 months before the investment date."

(5) In section 331A of ITA 2007 (VCTs: meaning of "knowledge-intensive company")—

(a) in subsection (5), in the definition of "the relevant three preceding years", for the words from "means" to the end substitute "means, subject to subsection (5A), the three consecutive years the last of which ends immediately before the beginning of the last accounts filing period.";

(b) after that subsection insert—

"(5A) If the last accounts filing period ends more than 12 months before the applicable time, the relevant three preceding years are the three consecutive years the last of which ends 12 months before the applicable time."

(6) The amendments made by this section are to be treated as always having had effect; but this is subject to section 30.

30 EIS and VCTs: election

(1) If a company ("the relevant company") makes an election for this section to apply, then—

(a) the amendments made by subsection (1) of section 29 do not apply in relation to shares issued by the relevant company in the material period,

(b) the amendments made by subsection (2) of that section do not apply for the purposes of determining whether, at the date of issue of any shares issued by the company in the material period, the company is a knowledge-intensive company for the purposes of Part 5 of ITA 2007,

(c) the amendments made by subsection (3) of that section do not apply in relation to investments made in the relevant company in the material period,

(d) the amendments made by subsection (4) of that section do not apply for the purposes of determining whether the requirement of section 294A of ITA 2007 is met in relation to any holding of shares or securities issued by the relevant company in the material period, and

(e) the amendments made by subsection (5) of that section do not apply for the purposes of determining whether, at any time in the material period which is the applicable time within the meaning given by section 331A of ITA 2007, the relevant company is a knowledge-intensive company for the purposes of Part 6 of ITA 2007.

(2) Amendments that by reason of an election under this section do not apply in relation to particular shares or investments or for particular purposes are also to be treated as never having applied in relation to those shares or investments or for those purposes.

(3) Any election under this section must be made in writing and signed by a director of the relevant company.

(4) Where a company has made an election under this section—

(a) it must include a statement that the election has been made in any compliance statement subsequently provided by it under section 204(2) of ITA 2007 in respect of an issue of shares made by it in the material period, and

(b) it must provide a copy of the election to each company to which it has issued shares or securities in the material period.

(5) An election under this section is irrevocable.

(6) In this section "the material period" means the period beginning with 18 November 2015 (the date when F(No. 2)A 2015 was passed) and ending with 5 April 2016.

31 VCTs: requirements for giving approval

(1) Section 274 of ITA 2007 (requirements for the giving of approval) is amended as follows.

(2) In the table in subsection (2), after the entry beginning "The 70% eligible shares condition" insert—

"The non-qualifying investments condition	The company has not made and will not make, in the relevant period, an investment which is neither of the following— (a) an investment that on the date it is made is included in the company's qualifying holdings; (b) an investment falling within subsection (3A)."

(3) In subsection (3), in each of paragraphs (f), (g) and (h), for "(3A)" substitute "(3ZA)".

(4) After subsection (3) insert—

"(3ZA) In the second column of the table in subsection (2), in the entries for the investment limits condition, the permitted maximum age condition and the no business acquisition condition, any reference to an investment made by the company in a company does not include an investment falling within subsection (3A)."

(5) In subsection (3A)—

(a) for the words from "In the second" to "does not include" substitute "An investment made by a company ("the investor") falls within this subsection if it is";

(b) in paragraph (c) for "the company" substitute "the investor";

(c) after paragraph (c) insert—

"(d) money in the investor's possession;

(e) a sum owed to the investor which—

(i) under section 285(4)(b) (read with section 285(5) and (6)) is to be regarded as an investment of the investor, and

(ii) is such that the investor's right mentioned in section 285(5)(a) may be exercised on 7 days' notice given by the investor."

(6) After subsection (3A) insert—

"(3B) In subsection (3A), any reference to a thing which may be done on 7 days' notice includes a case where that thing may be done—

(a) on less than 7 days' notice, or

(b) without notice."

(7) In subsection (5)—

(a) after paragraph (b) insert—

"(ba) amend or repeal subsection (3B) in consequence of any provision made under paragraph (b),";

(b) in paragraph (c) for the words from "made by" to "(3A)" substitute "falling within subsection (3A) may be held by the company".

(8) The amendments made by this section have effect in relation to investments made on or after 6 April 2016.

Reliefs: peer-to-peer lending

32 Income tax relief for irrecoverable peer-to-peer loans

(1) ITA 2007 is amended as follows.

(2) After section 412 insert—

"**CHAPTER 1A**

IRRECOVERABLE PEER-TO-PEER LOANS

The relief

412A Relief for irrecoverable peer-to-peer loans

(1) A person ("L") is entitled to relief under this section if—

(a) L has made a peer-to-peer loan ("the relevant loan"),

(b) the loan was made through an operator,

(c) L has not assigned the right to recover the principal of the loan, and

(d) any outstanding amount of the principal of the loan has, on or after 6 April 2015, become irrecoverable.

(2) But if the outstanding amount became irrecoverable before 6 April 2016 L is entitled to relief under this section only on the making of a claim.

(3) The relief is given by deducting the outstanding amount in calculating L's net income for the tax year in which the amount became irrecoverable (see Step 2 of the calculation in section 23).

(4) The deduction under this section is to be made only from income arising from the payment to L of interest on—

(a) the relevant loan, and

(b) any other loan within subsection (5) or (6).

(5) A loan is within this subsection if—

(a) it is a peer-to-peer loan made by L, and

(b) it was made through the operator through whom the relevant loan was made.

(6) A loan is within this subsection if—

(a) the loan was made by someone other than L,

(b) the right to receive interest on the loan has been assigned to L,

(c) the right was assigned through the operator through whom the relevant loan was made, and

(d) either—

(i) L is a person within paragraph (a), (b) or (c) of section 412I(4), or

(ii) the recipient of the loan is a person within one of those paragraphs and the loan is a personal or small loan.

(7) The amount deducted under this section is limited in accordance with section 25(4) and (5).

(8) In this section "irrecoverable" means irrecoverable other than by legal proceedings or by the exercise of any right granted by way of security for the loan.

412B Claims for additional relief: sideways relief

(1) A person ("L") may make a claim for relief under this section if—

(a) L is entitled to relief under section 412A in respect of any outstanding amount of the principal of a loan ("the relevant loan"), but

(b) in the tax year in relation to which L is entitled to that relief ("the relevant year")—

(i) L has no income of the kind mentioned in section 412A(4) from which to deduct the outstanding amount, or

(ii) L has insufficient income of that kind to enable the outstanding amount to be deducted in full under that section.

(2) The claim is for the outstanding amount or (in a case within subsection (1)(b)(ii)) the part of the outstanding amount not capable of being deducted under section 412A to be deducted under this section in calculating L's net income for the relevant year.

(3) The deduction under this section is to be made only from income arising from the payment to L of interest on loans within subsection (4) or (5).

(4) A loan is within this subsection if—

(a) it is a peer-to-peer loan made by L, and

(b) it was made through an operator who is not the operator through whom the relevant loan was made.

(5) A loan is within this subsection if—

(a) the loan was made by someone other than L,

(b) the right to receive interest on the loan has been assigned to L,

(c) that right was assigned through an operator who is not the operator through whom the relevant loan was made, and

(d) either—

(i) L is a person within paragraph (a), (b) or (c) of section 412I(4), or

(ii) the recipient of the loan is a person within one of those paragraphs and the loan is a personal or small loan.

(6) The amount deducted under this section is limited in accordance with section 25(4) and (5).

412C Claims for additional relief: carry-forward relief

(1) A person ("L") may make a claim for relief under this section if—

(a) L is entitled to relief under section 412A in respect of any outstanding amount of the principal of a loan ("the relevant loan"), but

(b) in the tax year in relation to which L is entitled to that relief ("the relevant year")—

(i) L has no income of the kind mentioned in section 412A(4) or section 412B(3) from which to deduct the outstanding amount, or

(ii) L has insufficient income of that kind to enable the outstanding amount to be deducted in full under those sections.

(2) The claim is for the outstanding amount or (in a case within subsection (1)(b)(ii)) the part of the outstanding amount not capable of being deducted under sections 412A and 412B to be deducted under this section in calculating L's net income for the four tax years following the relevant year.

(3) The deduction under this section is to be made only from income arising from the payment to L of interest on—

(a) the relevant loan, and

(b) any other loan within subsection (4) or (5).

(4) A loan is within this subsection if—

(a) it is a peer-to-peer loan made by L, and

(b) it was made through an operator (whether or not that operator is the operator through whom the relevant loan was made).

(5) A loan is within this subsection if—

(a) the loan was made by someone other than L,

(b) the right to receive interest on the loan has been assigned to L,

(c) that right was assigned through an operator (whether or not that operator is the operator through whom the relevant loan was made), and

(d) either—

(i) L is a person within paragraph (a), (b) or (c) of section 412I(4), or

(ii) the recipient of the loan is a person within one of those paragraphs and the loan is a personal or small loan.

(6) This section needs to be read with section 412D (how relief works).

412D How carry-forward relief works

(1) This subsection explains how deductions are to be made under section 412C.

The amount to be deducted at any step is limited in accordance with section 25(4) and (5).

Step 1 Deduct the outstanding amount or (in a case within section 412C(1)(b)(ii)) the part of the outstanding amount not capable of being deducted under sections 412A and 412B from the lending income for the first tax year following the relevant year.

Step 2 Deduct from the lending income for the second tax year following the relevant year any part of the outstanding amount not previously deducted.

Step 3 Apply Step 2 in relation to the lending income for the third and fourth tax years following the relevant year, stopping if all of the outstanding amount is deducted.

(2) In this section—

"lending income" means income of a kind mentioned in section 412C(3);

"relevant year" has the meaning given by section 412C(1)(b).

Supplementary provisions

412E Subsequent recovery of peer-to-peer loans

(1) This section applies where—

(a) any amount of the principal of a loan has been deducted under this Chapter in calculating a person's net income for a tax year, and

(b) the person subsequently recovers that amount or any part of it.

(2) The amount recovered is to be treated for the purposes of this Act as if it were interest on the loan paid to the person at the time it was recovered.

(3) For the purposes of this section, a person is to be treated as recovering an amount if the person (or any other person at his or her direction) receives any money or money's worth—

(a) in satisfaction of the person's right to recover that amount, or

(b) in consideration of the person's assignment of the right to recover it;

and where a person assigns such a right otherwise than by way of a bargain made at arm's length the person shall be treated as receiving money or money's worth equal to the market value of the right at the time of the assignment.

412F Assigned loans treated as made by the assignee etc

(1) This section applies where—

(a) a person ("A") is assigned the right to recover the principal of a loan,

(b) the right is assigned through an operator ("O"),

(c) A makes a payment in consideration of the assignment, and

(d) A does not further assign the right.

(2) The loan is to be treated for the purposes of section 412A(1) as—

(a) having been made by A, and

(b) having been made through O.

(3) The amount (if any) of the principal of the loan which is treated as irrecoverable may not exceed the amount which is arrived at by—

(a) taking the amount of the payment mentioned in subsection (1)(c), and

(b) deducting any amount of the principal of the loan previously recovered by A.

412G Nominees etc

For the purposes of this Chapter—

(a) a loan or a payment made by or to a nominee or bare trustee for a person is treated as made by or to that person, and

(b) a right assigned by or to a nominee or bare trustee for a person is treated as assigned by or to that person.

412H Interaction with other reliefs

(1) Subsection (2) applies in relation to a loan if any person has obtained income tax relief (other than under this Chapter) which is properly attributable to the loan.

(2) The amount (if any) of the principal of the loan which is treated as irrecoverable may not exceed the amount which is arrived at by—

(a) taking the amount of the principal of the loan, and

(b) deducting the amount of the relief mentioned in subsection (1).

Interpretation

412I Meaning of "loan", "peer-to-peer loan" and related terms

(1) This section applies for the purposes of this Chapter.

(2) "Loan" means a loan of money which—

(a) is made on genuine commercial terms, and

(b) is not part of a scheme or arrangement the main purpose or one of the main purposes of which is to obtain a tax advantage (within the meaning given by section 208 of the FA 2013).

(3) A loan is a "peer-to-peer loan" only if it meets—

(a) Condition A or B, and

(b) Condition C.

(4) Condition A is that the person who made the loan is—

(a) an individual,

(b) a partnership which consists of—

(i) two or three persons, and

(ii) at least one person who is not a body corporate, or

(c) an unincorporated body of persons which—

(i) is not a partnership, and

(ii) consists of at least one person who is not a body corporate.

(5) Condition B is that—

(a) the recipient of the loan is a person within paragraph (a), (b) or (c) of subsection (4), and

(b) the loan is a personal or small loan.

(6) Condition C is that, assuming interest were paid on the loan, the person who made the loan would (except for this Chapter) be liable for income tax charged on the interest.

(7) "Personal loan" means a loan which is not used wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the recipient of the loan.

(8) "Small loan" means a loan of £25,000 or less.

412J Meaning of "operator" and related terms

(1) This section applies for the purposes of this Chapter.

(2) "Operator" means a person who—

(a) has permission under Part 4A of FISMA 2000 to carry on a regulated activity specified in Article 36H of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (operating an electronic system in relation to lending), or

(b) has been granted equivalent permission under the law of a territory outside the United Kingdom that is within the European Economic Area.

(3) A loan is "made through" an operator if the person who makes the loan and the recipient of the loan enter the agreement under which the loan is made at the invitation of the operator.

(4) A right is "assigned through" an operator if the person who assigns the right and the person to whom the right is assigned enter the agreement under which the assignment takes effect at the invitation of the operator.

(5) A person is not to be treated as having entered an agreement at the invitation of an operator if the operator made the invitation otherwise than in the course of carrying on the activity to which the permission mentioned in subsection (2)(a) or (b) relates."

(3) In section 24(1) (list of reliefs deductible at Step 2 of the calculation of income tax liability), in paragraph (b), at the appropriate place insert—

"Chapter 1A of Part 8 (irrecoverable peer-to-peer loans),".

(4) In section 25(3) (list of provisions requiring reliefs to be deducted from particular components of income etc) at the appropriate place insert—

"sections 412A(4), 412B(3) and 412C(3) (relief for irrecoverable peer-to-peer loans only against interest on certain loans),".

Transactions in securities

33 Transactions in securities: company distributions

(1) Chapter 1 of Part 13 of ITA 2007 (transactions in securities) is amended as follows.

(2) In section 684 (person liable to counteraction), in subsection (1)—

(a) in the opening words, after "a person" insert "("the party")";

(b) in paragraph (c), omit "the person in being a party to";

(c) in paragraph (d), for "the person" substitute "the party or any other person".

(3) In that section, in subsection (2)—

(a) in paragraph (c), omit the final "and";

(b) after paragraph (d) insert—

"(e) a repayment of share capital or share premium, and

(f) a distribution in respect of securities in a winding up."

(4) In section 685 (receipt of consideration in connection with distribution by or assets of close company)—

(a) in subsection (2)—

(i) in the opening words, for "the person" substitute "a relevant person";

(ii) in the words after paragraph (c), after "and" insert "the relevant person";

(b) in subsection (3)—

(i) in paragraph (a), for "the person" substitute "a relevant person";

(ii) in paragraph (c), for "the person" substitute "the relevant person";

(c) after subsection (3) insert—

"(3A) In subsections (2) and (3) "relevant person" means—

(a) the party, or

(b) any person other than the party in relation to whom the condition in section 684(1)(d) is met."

(d) omit subsection (6);

(e) after subsection (7) insert—

"(7A) The references in subsection (4)(a)(i) and (ii) to assets do not include assets shown to represent return of sums paid by subscribers on the issue of securities merely because the law of the country in which the company is incorporated allows assets of that description to be available for distribution by way of dividend.

(7B) The references in subsections (4)(a)(i) and (5)(a) to assets which are available for distribution by way of dividend by the company include assets which are available for distribution to the company by way of dividend by any other company it controls."

(5) In section 686 (excluded circumstances: fundamental change of ownership)—

(a) in subsection (1)(a), for the words from "the person" to "party")" substitute "the party";

(b) for subsections (2) to (5) substitute—

"(2) There is a fundamental change of ownership of the close company if, as a result of the transaction or transactions in securities, the condition in subsection (3) is met.

(3) The condition in this subsection is that the original shareholder or original shareholders taken together with any associate or associates—

(a) do not directly or indirectly hold more than 25% of the ordinary share capital of the close company,

(b) do not directly or indirectly hold shares in the close company carrying an entitlement to more than 25% of the distributions which may be made by the close company, and

(c) do not directly or indirectly hold shares in the close company carrying more than 25% of the total voting rights in the close company.

(4) In this section "original shareholder" means a person who, immediately before the transaction in securities (or the first of the transactions in securities), held any ordinary share capital of the close company.

(5) For the purposes of this section, shares of or share capital in the close company which are held by a person controlled by an original shareholder, or by two or more original shareholders taken together, count as shares or share capital held by that original shareholder or those original shareholders."

(6) In section 687 (income tax advantage)—

(a) in subsection (1), in the opening words, for "the person" substitute "a person";

(b) in subsection (2)—

(i) after "to the person" insert "or an associate of the person";

(ii) for "the relevant consideration is received" substitute "Condition A or B in section 685 is met".

(7) In section 713 (interpretation), at the appropriate place insert—

""associate" is to be construed in accordance with section 681DL, but as if subsection (4) of that section also included, as persons associated with each other, a person as trustee of a settlement and an individual, where one or more beneficiaries of the settlement are connected or associated with the individual;".

(8) The amendments made by this section have effect in relation to—

(a) a transaction occurring on or after 6 April 2016, or

(b) a series of transactions any one or more of which occurs on or after that date.

(9) Accordingly, Chapter 1 of Part 13 of ITA 2007 has effect without the amendments made by this section in relation to a tax advantage obtained on or after 6 April 2016 in consequence of—

(a) a transaction occurring before that date, or

(b) a series of transactions all of which occur before that date.

(10) Where—

(a) before 6 April 2016 a person provides particulars to the Commissioners for Her Majesty's Revenue and Customs under section 701 of ITA 2007 in respect of a transaction or transactions,

(b) on the basis of Chapter 1 of Part 13 of ITA 2007 as it has effect apart from this section, notification is given under section 701 of that Act that no counteraction notice ought to be served about the transaction or transactions,

(c) the transaction, or any one or more of the transactions, occurs on or after 6 April 2016, and

(d) the person would, but for the notification, be liable for counteraction of an income tax advantage from the transaction or transactions under Chapter 1 of Part 13 of ITA 2007 as amended by this section,

the notification is void and section 702(2) of ITA 2007 does not apply in relation to the transaction or transactions.

34 Transactions in securities: procedure for counteraction of advantage

(1) Chapter 1 of Part 13 of ITA 2007 (transactions in securities) is amended as follows.

(2) For section 695 (preliminary notification) substitute—

"**695 Notice of enquiry**

(1) An officer of Revenue and Customs may enquire into a transaction or transactions if—

(a) the officer has reason to believe that section 684 (person liable to counteraction of income tax advantage) may apply to a person ("the taxpayer") in respect of the transaction or transactions, and

(b) the officer notifies the taxpayer of his intention to do so.

(2) The notification may be given at any time not more than 6 years after the end of the tax year to which the income tax advantage in question relates."

(3) Omit sections 696 and 697 (opposed notifications).

(4) In section 698 (counteraction notices), for subsection (1) substitute—

"(1) If on an enquiry under section 695 an officer of Revenue and Customs determines that section 684 applies to the taxpayer, the income tax advantage in question is to be counteracted by adjustments, unless the officer is of the opinion that no counteraction is required."

(5) In that section, for subsection (5) substitute—

"(5) An assessment may be made in accordance with a counteraction notice at any time (without regard to any time limit on making the assessment that would otherwise apply)."

(6) After that section insert—

"**698A No-counteraction notices**

(1) If on an enquiry under section 695 an officer of Revenue and Customs is of the opinion that no counteraction is required, the officer must serve notice

on the person (a "no-counteraction notice") stating that no counteraction is required and why.

(2) The taxpayer may apply to the tribunal for a direction requiring an officer of Revenue and Customs to issue one of the following within a specified period—

(a) a counteraction notice;

(b) a no-counteraction notice.

(3) Any such application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).

(4) The tribunal must give the direction applied for unless satisfied that there are reasonable grounds for not serving either a counteraction notice or a no-counteraction notice within a specified period."

(7) In section 684 (person liable to counteraction), for subsection (4) substitute—

"(4) This section is subject to no-counteraction notices issued under section 698A."

(8) The amendments made by this section have effect in relation to—

(a) a transaction occurring on or after 6 April 2016, or

(b) a series of transactions any one or more of which occurs on or after that date.

(9) Accordingly, Chapter 1 of Part 13 of ITA 2007 has effect without the amendments made by this section in relation to a tax advantage obtained on or after 6 April 2016 in consequence of—

(a) a transaction occurring before that date, or

(b) a series of transactions all of which occur before that date.

35 Distributions in a winding up

(1) In Chapter 3 of Part 4 of ITTOIA 2005 (dividends and other distributions from UK resident companies), after section 396A insert—

"**396B Distributions in a winding up**

(1) For the purposes of this Chapter, a distribution made to an individual in respect of share capital in the winding up of a UK resident company is a distribution of the company if—

(a) Conditions A to D are met, and

(b) the distribution is not excluded (see subsection (7)).

(2) Condition A is that, immediately before the winding up, the individual has at least a 5% interest in the company.

(3) Condition B is that the company—

(a) is a close company when it is wound up, or

(b) was a close company at any time in the period of two years ending with the start of the winding up.

(4) Condition C is that, at any time within the period of two years beginning with the date on which the distribution is made—

(a) the individual carries on a trade or activity which is the same as, or similar to, that carried on by the company or an effective 51% subsidiary of the company,

(b) the individual is a partner in a partnership which carries on such a trade or activity,

(c) the individual, or a person connected with him or her, is a participator in a company in which he or she has at least a 5% interest and which at that time—

(i) carries on such a trade or activity, or

(ii) is connected with a company which carries on such a trade or activity, or

(d) the individual is involved with the carrying on of such a trade or activity by a person connected with the individual.

(5) Condition D is that it is reasonable to assume, having regard to all the circumstances, that—

(a) the main purpose or one of the main purposes of the winding up is the avoidance or reduction of a charge to income tax, or

(b) the winding up forms part of arrangements the main purpose or one of the main purposes of which is the avoidance or reduction of a charge to income tax.

(6) The circumstances referred to in subsection (5) include in particular the fact that Condition C is met.

(7) A distribution to an individual is excluded if or to the extent that—

(a) the amount of the distribution does not exceed the amount that would result in no gain accruing for the purposes of capital gains tax, or

(b) the distribution is a distribution of irredeemable shares.

(8) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable;

"effective 51% subsidiary" has the meaning given by section 170(7) of TCGA 1992;

"participator" has the meaning given by section 454 of CTA 2010.

(9) For the purposes of this section, an individual has at least a 5% interest in a company if—

(a) at least 5% of the ordinary share capital of the company is held by the individual, and

(b) at least 5% of the voting rights in the company are exercisable by the individual by virtue of that holding.

(10) For the purposes of subsection (9) if an individual holds any shares in a company jointly or in common with one or more other persons, he or she is to be treated as sole holder of so many of them as is proportionate to the value of his or her share (and as able to exercise voting rights by virtue of that holding)."

(2) In Chapter 4 of Part 4 of ITTOIA 2005 (dividends from non-UK resident companies), after section 404 insert—

"**404A Distributions in a winding up**

(1) For the purposes of this Chapter, a distribution made to an individual in respect of share capital in a winding up of a non-UK resident company is a dividend of the company if—

(a) Conditions A to D are met, and

(b) the distribution is not excluded (see subsection (7)).

(2) Condition A is that, immediately before the winding up, the individual has at least a 5% interest in the company.

(3) Condition B is that the company—

(a) is a close company when it is wound up, or

(b) was a close company at any time in the period of two years ending with the start of the winding up.

(4) Condition C is that, at any time within the period of two years beginning with the date on which the distribution is made—

(a) the individual carries on a trade or activity which is the same as, or similar to, that carried on by the company or an effective 51% subsidiary of the company,

(b) the individual is a partner in a partnership which carries on such a trade or activity,

(c) the individual, or a person connected with him or her, is a participator in a company in which he or she has at least a 5% interest and which at that time—

(i) carries on such a trade or activity, or

(ii) is connected with a company which carries on such a trade or activity, or

(d) the individual is involved with the carrying on of such a trade or activity by a person connected with the individual.

(5) Condition D is that it is reasonable to assume, having regard to all the circumstances, that—

(a) the main purpose or one of the main purposes of the winding up is the avoidance or reduction of a charge to income tax, or

(b) the winding up forms part of arrangements the main purpose or one of the main purposes of which is the avoidance or reduction of a charge to income tax.

(6) The circumstances referred to in subsection (5) include in particular the fact that Condition C is met.

(7) A distribution to an individual is excluded if or to the extent that—

(a) the amount of the distribution does not exceed the amount that would result in no gain accruing for the purposes of capital gains tax, or

(b) the distribution is a distribution of irredeemable shares.

(8) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable;

"close company" includes a company which would be a close company if it were a UK resident company;

"effective 51% subsidiary" has the meaning given by section 170(7) of TCGA 1992;

"participator" has the meaning given by section 454 of CTA 2010.

(9) For the purposes of this section, a person has at least a 5% interest in a company if—

(a) at least 5% of the ordinary share capital of the company is held by the individual, and

(b) at least 5% of the voting rights in the company are exercisable by the individual by virtue of that holding.

(10) For the purposes of subsection (9) if an individual holds any shares in a company jointly or in common with one or more other persons, he or she is to be treated as sole holder of so many of them as is proportionate to the value of his or her share (and as able to exercise voting rights by virtue of that holding)."

(3) The amendments made by this section have effect in relation to distributions made on or after 6 April 2016.

Disguised fees and carried interest

36 Disguised investment management fees

(1) Section 809EZA of ITA 2007 (disguised investment management fees: charge to income tax) is amended as specified in subsections (2) and (3).

(2) In subsection (3)—

(a) in paragraph (a), for "performs" substitute "at any time performs or is to perform";

(b) omit paragraph (b);

(c) in paragraph (c), for "the scheme" substitute "an investment scheme".

(3) After subsection (6) insert—

"(7) The reference in subsection (6)(a) to a collective investment scheme includes—

(a) arrangements which permit an external investor to participate in investments acquired by the collective investment scheme without participating in the scheme itself, and

(b) arrangements under which sums arise to an individual performing investment management services in respect of the collective investment scheme without those sums arising from the scheme itself."

(4) In section 809EZE of that Act (interpretation), in subsection (1), in paragraph (a) of the definition of "external investor", for "performs" substitute "at any time performs or is to perform".

(5) The amendments made by this section have effect in relation to sums arising on or after 6 April 2016 (whenever the arrangements under which the sums arise were made).

37 Income-based carried interest

(1) In Chapter 5E of Part 13 of ITA 2007 (tax avoidance: disguised investment management fees), in section 809EZB(1) (meaning of "management fee"), for paragraph (c) substitute—

"(c) carried interest which is not income-based carried interest (see sections 809EZC and 809EZD for carried interest, and Chapter 5F for income-based carried interest)."

(2) After Chapter 5E of Part 13 of ITA 2007 insert—

"CHAPTER 5F

INCOME-BASED CARRIED INTEREST

Income-based carried interest

809FZA Overview

(1) This Chapter determines when carried interest arising to an individual from an investment scheme is "income-based carried interest" for the purposes of Chapter 5E (and, in particular, section 809EZB(1)(c)).

(2) Section 809FZB contains the general rule, under which the extent to which carried interest is income-based carried interest depends on the average holding period of the investment scheme.

(3) Sections 809FZC to 809FZP contain further provision relating to average holding periods.

(4) Sections 809FZQ and 809FZR contain a particular rule for direct lending funds.

(5) Sections 809FZS and 809FZT contain an exception to the general rule for carried interest which is conditionally exempt from income tax.

(6) Sections 809FZU to 809FZZ contain supplementary and interpretative provision.

(7) Nothing in this Chapter affects the liability to any tax of—

(a) the investment scheme, or

(b) external investors in the investment scheme.

809FZB Income-based carried interest: general rule

(1) "Income-based carried interest" is the relevant proportion of a sum of carried interest arising to an individual from an investment scheme.

(2) The relevant proportion is determined by reference to the investment scheme's average holding period as follows.

Average holding period	*Relevant proportion*
Less than 36 months	100%
At least 36 months but less than 37 months	80%
At least 37 months but less than 38 months	60%
At least 38 months but less than 39 months	40%
At least 39 months but less than 40 months	20%
40 months or more	0%

(3) This section is subject to the following provisions of this Chapter.

Average holding period

809FZC Average holding period

(1) The average holding period of an investment scheme, in relation to a sum of carried interest, is the average length of time for which relevant investments have been held for the purposes of the scheme.

(2) In this section, "relevant investments" means investments—

(a) which are made for the purposes of the scheme, and

(b) by reference to which the carried interest is calculated.

(3) The average holding period is calculated by reference to the time the carried interest arises.

(4) It is calculated as follows.

Step 1

For each relevant investment, multiply the value invested at the time the investment was made by the length of time for which the investment has been held.

Step 2

Add together the amounts produced under *step 1* in respect of all relevant investments.

Step 3

Divide the amount produced under *step 2* by the total value invested in all relevant investments.

(5) Disregard intermediate holdings or intermediate holding structures (including intermediate investment schemes) by or through which investments are made or held—

(a) when identifying, for the purpose of determining the average holding period of an investment scheme, what relevant investments are held for the purposes of an investment scheme, and

(b) for any other purpose relating to the determination of the average holding period.

This is subject to the following provisions of this Chapter.

(6) In this section, references to the length of time for which a relevant investment has been held are—

(a) in the case of an investment which has been disposed of before the carried interest arises, references to the time for which it was held before being disposed of, and

(b) in any other case, references to the time for which it has been held up to the time the carried interest arises.

(7) For the purposes of this Chapter, carried interest which is deferred carried interest in relation to a person within the meaning of section 103KG of TCGA 1992 is to be treated as arising to that person at the time it would have arisen had it not been deferred as specified in section 103KG(3)(a) or (b) of that Act.

(8) Sections 809FZD to 809FZP apply for the purposes of determining the average holding period of an investment scheme.

Average holding period: disposals

809FZD Disposals

(1) An investment or part of an investment is disposed of where—

(a) there is a disposal of the investment or the part of the investment for the purposes of the investment scheme,

(b) there is a disposal for the purposes of the investment scheme of an intermediate holding or intermediate holding structure (including an intermediate investment scheme) by or through which the investment is held, or

(c) in any other case, there is a deemed disposal under subsection (2).

(2) There is a deemed disposal of an investment or part of an investment under this subsection where—

(a) under any arrangements—

(i) the scheme in substance closes its position on the investment or the part of the investment, or

(ii) the scheme ceases to be exposed to risks and rewards in the respect of the investment or the part of the investment, and

(b) it is reasonable to suppose that the arrangements were designed to secure that result.

(3) In the case of a disposal of part of a holding of securities in a company which are of the same class, suppose for the purposes of determining which investments have been disposed of that the disposal affects the securities in the order in which they were acquired (that is, on a first in first out basis).

(4) The references in subsection (1)(a) and (b) to a disposal are to something which is a disposal for the purposes of TCGA 1992; but for the purposes of subsection (1)(a) disregard section 116 of TCGA 1992 (which disapplies sections 127 to 130 of that Act in relation to qualifying corporate bonds).

809FZE Part disposals

(1) Where there is a disposal of part of an investment, the part disposed of and the part not disposed of are to be treated as two separate investments which were made at the same time.

(2) The value of each of those two separate investments is the appropriate proportion of the value first invested in the whole investment.

(3) The appropriate proportion is the proportion of the value of the part in question to the value of the whole investment at the time of the disposal.

(4) The disposal of part of an asset includes the disposal of an interest in or right over the asset (and "part disposed of" is to be construed accordingly).

809FZF Unwanted short-term investments

(1) The making and disposal of an investment for the purposes of an investment scheme are to be disregarded if—

(a) the investment is an unwanted short-term investment, and

(b) the unwanted short-term investment is excludable.

(2) An investment is an unwanted short-term investment where—

(a) the investment is made as part of a transaction under which one or more other investments are made for the purposes of the scheme,

(b) the value of the investment does not exceed that of the other investments taken together,

(c) it is reasonable to suppose that the investment had to be made in order for the other investments to be made,

(d) at the time the investment is made, managers of the scheme have a firm, settled and evidenced intention to dispose of the investment for the purposes of the scheme within the relevant period,

(e) the investment is disposed of for the purposes of the scheme within the relevant period, and

(f) any profit resulting from the disposal has no bearing on whether a sum of carried interest arises or on the amount of any sum of carried interest which does arise.

(3) An unwanted short-term investment is excludable if it constitutes—

(a) an investment in land,

(b) an investment in securities in an unlisted company,

(c) the making of a direct loan where the other investments specified in subsection (2)(b) are shares or other securities in an unlisted company, or

(d) the making of a direct loan which is a qualifying loan within the meaning given by section 809FZR(2).

(4) In subsection (2)(e) "relevant period" means—

(a) for an investment within subsection (3)(a), 12 months;

(b) for an investment within subsection (3)(b) or (c), 6 months;

(c) for an investment within subsection (3)(d), 120 days.

(5) But if at any time it becomes reasonable to suppose that, when the scheme ceases to invest, 25% or more of the capital of the investment scheme will have been invested in unwanted short-term investments which are excludable, subsection (1) does not apply to any investment made subsequently for the purposes of the scheme.

Average holding period: derivatives and hedging

809FZG Derivatives

(1) A derivative contract entered into for the purposes of an investment scheme is an investment, subject to the following provisions of this section.

(2) The value invested in the derivative contract is—

(a) where the contract is an option, the cost of acquiring the option (whether from the grantor or another person),

(b) where the contract is a future, the price specified in the contract for the underlying subject matter, or

(c) where the contract is a contract for differences, the notional principal of the contract.

(3) But where entering into a derivative contract constitutes a deemed disposal of an investment or part of an investment by virtue of section 809FZD(2)(a)(ii)—

(a) the derivative contract is not an investment, and

(b) the subsequent disposal of the derivative contract without a corresponding disposal of the investment or part investment is to be regarded as the making of a new investment to the extent that the scheme becomes materially exposed to risks and rewards in respect of the investment or part investment.

(4) For the purposes of this Chapter, references to disposal, in the case of a derivative contract, include any of the following events (to the extent that the event is not otherwise a disposal under section 809FZD(1) or (2))—

(a) the expiry of the contract,

(b) the termination of the contract (whether or not in accordance with its terms),

(c) the disposal, substantial variation, loss or cancellation of the investment scheme's rights under the contract, and

(d) in the case of a derivative contract which is an option, the exercise of the option,

but do not include the renewal of the contract with the same counterparty on substantially the same terms.

(5) The substantial variation of an investment scheme's rights under a derivative contract constitutes (in addition to the disposal of the contract as originally entered into (see subsection (4)(c)) a new investment consisting of the contract as varied.

809FZH Hedging: exchange gains and losses

(1) This section applies where—

(a) an investment scheme has a hedging relationship between a relevant instrument and a relevant investment, and

(b) the hedging relationship relates to exchange gains or losses.

(2) In this section—

"relevant instrument" means a derivative contract or a liability representing a loan relationship, and

"relevant investment" means—

(a) where the relevant instrument is a derivative contract, an investment made for the purposes of the scheme or a liability representing a loan relationship;

(b) where the relevant instrument is a liability representing a loan relationship, an investment made for the purposes of the scheme.

(3) An investment scheme has a hedging relationship between a relevant instrument and a relevant investment if or to the extent that—

(a) the instrument and the investment are designated by the scheme as a hedge, or

(b) in any other case, the instrument is intended to act as a hedge of exposure to—

(i) changes in fair value of the investment or an identified portion of the investment, or

(ii) variability in cash flows,

where the exposure is attributable to exchange gains or losses and could affect profit or loss of the investment scheme.

(4) Entering into the hedging relationship is not a deemed disposal of the relevant investment under section 809FZD(2).

(5) The relevant instrument is not an investment for the purposes of the investment scheme to the extent that the conditions in subsection (3)(a) and (b) are met.

(6) But the termination of the hedging relationship is the making of an investment constituting the relevant instrument if or to the extent that that instrument continues to subsist.

809FZI Hedging: interest rates

(1) This section applies where an investment scheme has a hedging relationship between—

(a) an interest rate contract, and

(b) a qualifying investment held for the purposes of the fund.

(2) An investment scheme has a hedging relationship between an interest rate contract and a qualifying investment if or to the extent that—

(a) the interest rate contract and the investment are designated by the scheme as a hedge, or

(b) in any other case, the interest rate contract is intended to act as a hedge of exposure to—

(i) changes in fair value of the investment or an identified portion of the investment, or

(ii) variability in cash flows,

where the exposure is attributable to interest rates and could affect profit or loss of the investment scheme.

(3) Entering into the hedging relationship is not a deemed disposal of the relevant investment under section 809FZD(2).

(4) The interest rate contract is not an investment for the purposes of the investment scheme to the extent that the conditions in subsection (2)(a) and (b) are met.

(5) But the termination of the hedging relationship is the making of an investment constituting the interest rate contract if or to the extent that the interest rate contract continues to subsist.

(6) In this section "qualifying investment" means—

(a) money placed at interest,

(b) securities (excluding shares issued by companies),

(c) alternative finance arrangements, and

(d) a liability representing a loan relationship.

Average holding period: aggregation of acquisitions and disposals

809FZJ Significant interests

(1) Where an investment scheme has a controlling interest in a trading company or the holding company of a trading group—

(a) any investment made for the purposes of the scheme in that company after the time when the controlling interest was acquired is to be regarded as having been made at that time, and

(b) any disposal for the purposes of the scheme of an investment in the company after the time the controlling interest was acquired is to be regarded as not being made until a relevant disposal is made.

(2) In subsection (1)(b) "relevant disposal", in relation to a company, means a disposal which (apart from subsection (1)) has the effect that the investment scheme ceases to have a 40% interest in the company.

(3) For the purposes of this section, in determining whether an investment scheme has a controlling interest or a 40% interest in a company, any share capital of the company which is held for the purposes of an associated investment scheme is to be regarded as held for the purposes of the investment scheme.

809FZK Venture capital funds

(1) Where a venture capital fund has a relevant interest in a trading company or the holding company of a trading group—

(a) any venture capital investment made for the purposes of the scheme in the company after the time the relevant interest was acquired (and before a relevant disposal) is to be regarded as having been made at the time the relevant interest was acquired, and

(b) any disposal for the purposes of the scheme of a venture capital investment in the company after that time is to be regarded as not being made until—

(i) a relevant disposal is made, or

(ii) the scheme director condition ceases to be met.

(2) For the purposes of subsection (1) a venture capital fund has a relevant interest in a company if —

(a) by virtue of its venture capital investments the fund has at least a 5% interest in the company, or

(b) venture capital investments held for the purposes of the scheme in the company have a value of more than £1 million.

(3) For the purposes of subsection (1) "relevant disposal" means a disposal which (apart from subsection (1)) has the effect that the venture capital fund has disposed of more than 80% of the greatest amount invested at any one time in the company for the purposes of the fund.

(4) In this Chapter, "venture capital fund" means an investment scheme in relation to which the condition in subsection (5) is met.

(5) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—

(a) at least two-thirds of the total value invested for the purposes of the scheme will be invested in venture capital investments, and

(b) at least two-thirds of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more.

(6) In determining whether subsection (5)(b) is met in relation to an investment scheme, apply the rule in subsection (1) to the scheme.

(7) In this section, "venture capital investment", in relation to an investment scheme, means an investment in a trading company or the holding company of a trading group where—

(a) at the time the investment is made the company is unlisted and is likely to remain so,

(b) at least 75%of the total value of the investment is invested in—

(i) newly issued shares or

(ii) newly issued securities convertible into shares,

(c) the investment is used in a trade carried on by the trading company or the trading group—

(i) to support its growth, or

(ii) for the development of new products or services,

and is not used directly or indirectly to acquire shares in the company which are not newly issued,

(d) if the investment is the first investment made in the company for the purposes of the scheme, the trading company or group has not carried on that trade for more than 7 years, and

(e) the scheme director condition is met.

(8) In this Chapter, the scheme director condition, in relation to an investment scheme and a company, is that—

(a) the scheme (or the scheme and one or more investment schemes acting together) are entitled to appoint a director ("the scheme director") of—

(i) the company, or

(ii) a company which controls the company, and

(b) the scheme director is entitled to exercise rights within subsection (9).

(9) Those rights are rights which—

(a) are rights conferred under contractual arrangements—

(i) to which some or all of the investors in the company are parties, and

(ii) which it would be reasonable to suppose would not otherwise be capable of being exercised by the scheme director,

(b) relate to the conduct of the business and affairs of the company, and

(c) are at least equivalent to the rights which it is reasonable to suppose a prudent investor would have obtained on making an investment in the company at arm's length of the same size and nature as that held in the company for the purposes of the investment scheme.

(10) In determining whether the condition in subsection (2)(a) or (b) is met in relation to a venture capital fund, any share capital of a company which is held for the purposes of an associated investment scheme is to be regarded as held for the purposes of the venture capital fund.

809FZL Significant equity stake funds

(1) Where a significant equity stake fund has a significant equity stake investment in a trading company or the holding company of a trading group—

(a) any investment made for the purposes of the fund in that company made after the time the significant equity stake investment was acquired is to be regarded as having been made at that time, and

(b) any disposal for the purposes of the fund of an investment in the company after that time is to be regarded as not being made until—

(i) a relevant disposal is made, or

(ii) the scheme director condition ceases to be met.

(2) In subsection (1)(b) "relevant disposal" means a disposal which (apart from subsection (1)) has the effect that the significant equity stake fund ceases to have a 15% interest in the company.

(3) In this Chapter, "significant equity stake fund" means an investment scheme—

(a) which is not a venture capital fund, and

(b) in relation to which the condition in subsection (4) is met.

(4) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—

(a) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are significant equity stake investments, and

(b) more than 50% of that value will be invested in investments which are held for 40 months or more.

(5) In determining whether subsection (4)(b) is met in relation to an investment scheme, apply the rule in subsection (1) to the scheme.

(6) In this section, "significant equity stake investment", in relation to an investment scheme, means an investment in a trading company or the holding company of a trading group where—

(a) at the time the investment is made, the company is unlisted and likely to remain so,

(b) by virtue of the investment (on its own or with other investments) the scheme has a 20% interest in the company, and

(c) the scheme director condition is met.

(7) For the purposes of this section, in determining whether a significant equity stake fund has an interest of a particular percentage in a company, any share capital of the company which is held for the purposes of an associated investment scheme is to be regarded as held for the purposes of the significant equity stake fund.

809FZM Controlling equity stake funds

(1) Where a controlling equity stake fund has a 25% interest in a trading company or the holding company of a trading group—

(a) any investment made for the purposes of the controlling equity stake fund in the company after the time the 25% interest was acquired is to be regarded as having been made at that time, and

(b) any disposal for the purposes of the controlling equity stake fund of an investment in the company after that time is to be regarded as not being made until a relevant disposal is made.

(2) In subsection (1)(b), "relevant disposal", in relation to a company, means a disposal which (apart from subsection (1)) has the effect that the controlling equity stake fund ceases to have a 25% interest in the company.

(3) In this Chapter, "controlling equity stake fund" means an investment scheme—

(a) which is not a venture capital fund or significant equity stake fund, and

(b) in relation to which the condition in subsection (4) is met.

(4) The condition is that when the scheme starts to invest it is reasonable to suppose that, over the investing life of the scheme—

(a) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are controlling interests in trading companies or holding companies of trading groups, and

(b) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more.

(5) In determining whether subsection (4)(b) is met in relation to an investment scheme, apply the rule in subsection (1) to the scheme.

(6) For the purposes of this section, in determining whether a controlling equity stake fund has a controlling interest or an interest of a particular percentage in a company, any share capital of the company which is held for the purposes of an associated investment scheme is to be regarded as held for the purposes of the controlling equity stake fund.

809FZN Real estate funds

(1) Where a real estate fund has a major interest in any land—

(a) any investment made for the purposes of the fund in that land after the time the major interest was acquired is to be regarded as having been made at that time, and

(b) any disposal for the purposes of the fund of an investment in the land after that time is to be regarded as not being made until a relevant disposal is made.

(2) In subsection (1)(b) "relevant disposal" means a disposal which (apart from subsection (1)) has the effect that the real estate fund has disposed of more than 50% of the greatest amount invested at any one time in the land for the purposes of the real estate fund.

(3) Where a real estate fund has a major interest in any land ("the original land") and subsequently acquires a major interest in any adjacent land—

(a) the acquisition is an investment in the original land for the purposes of subsection (1)(a), and

(b) after the acquisition, the adjacent land is to be regarded as part of the original land for the purposes of subsections (1) and (2).

(4) In this Chapter, "real estate fund" means an investment scheme—

(a) which is not a venture capital fund, significant equity stake fund or controlling equity stake fund, and

(b) in relation to which the condition in subsection (5) is met.

(5) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—

(a) more than 50% of the total value invested for the purposes of the scheme will be invested in land, and

(b) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more.

(6) In determining whether subsection (5)(b) is met in relation to an investment scheme, apply the rule in subsection (1) to the scheme.

809FZO Funds of funds

(1) Section 809FZC(5) (disregard of intermediate holdings and holding structures) does not apply to an investment made for the purposes of a fund of

funds in a collective investment scheme (and, accordingly, such an investment is regarded as an investment in the collective investment scheme itself).

(2) Subsection (1) does not apply in relation to a fund of funds in relation to a collective investment scheme if it is reasonable to suppose that the main purpose or one of the main purposes of the making of any investment in any collective investment scheme for the purposes of the fund of funds is to reduce the proportion of carried interest arising to any person which is income-based carried interest.

(3) Where by virtue of subsection (1) a fund of funds has a significant investment in a collective investment scheme ("the underlying scheme")—

(a) any qualifying investment made for the purposes of the fund in the underlying scheme after the time the significant investment was acquired is to be regarded as having been made at that time, and

(b) any disposal for the purposes of the fund of a qualifying investment in the underlying scheme after that time is to be regarded as not being made until a relevant disposal is made.

(4) In subsection (3)(b) "relevant disposal", in relation to an underlying scheme, means a disposal which (apart from subsection (3)) has the effect that—

(a) the fund of funds has (by virtue of disposals of its interest in the underlying scheme) disposed of at least 50% of the greatest amount invested for its purposes at any one time in the underlying scheme, or

(b) the fund of fund's investment in the underlying scheme is worth less than whichever is the greater of—

(i) £1 million, or

(ii) 5% of the total value of the investments made before the disposal for the purposes of the fund of funds in the underlying scheme.

(5) In this Chapter, "fund of funds" means an investment scheme in relation to which the condition in subsection (6) is met.

(6) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—

(a) substantially all of the total value invested for the purposes of the scheme will be invested in collective investment schemes of which the scheme holds less than 50% by value,

(b) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more, and

(c) more than 75% of the total value invested in the scheme will be invested by external investors.

(7) In determining whether subsection (6)(b) is met in relation to an investment scheme, apply the rule in subsection (3) to the scheme.

(8) In this section, "significant investment", in relation to a collective investment scheme, means—

(a) an investment of a least £1 million in the scheme, or

(b) an investment of at least 5% of the total amounts raised or to be raised from external investors in the scheme.

(9) In this section, "qualifying investment" means an investment made for the purposes of an investment scheme in a collective investment scheme ("the underlying scheme") where—

(a) the investment is held on the same terms as other investments made by external investors in the underlying scheme,

(b) the fund of funds, together with any connected funds, does not hold more than 30% by value of the underlying scheme,

(c) the underlying scheme has not made an investment in the fund of funds,

(d) no person providing investment management services to the underlying scheme provides investment management services to the fund of funds, and

(e) it is reasonable to suppose that the investment in the underlying scheme is not part of arrangements the main purpose or one of the main purposes of which is to reward any person involved in providing investment management services to the underlying scheme or a scheme connected with that underlying scheme.

809FZP Secondary funds

(1) Section 809FZC(5) (disregard of intermediate holdings and holding structures) does not apply to investments acquired for the purposes of a secondary fund in a collective investment scheme (and, accordingly, such an investment is regarded as an investment in the collective investment scheme itself).

(2) Subsection (1) does not apply in relation to a secondary fund in relation to a collective investment scheme if it is reasonable to suppose that the main purpose or one of the main purposes of the making of any investment in any collective investment scheme for the purposes of the secondary fund is to reduce the proportion of carried interest arising to any person which is income-based carried interest.

(3) Where by virtue of subsection (1) a secondary fund has a significant investment in a collective investment scheme ("the underlying scheme")—

(a) any qualifying investment acquired for the purposes of the fund in the underlying scheme after the time when the significant investment is acquired is to be regarded as having been made at that time, and

(b) any disposal for the purposes of the fund of a qualifying investment in the underlying scheme after that time is to be regarded as not being made until a relevant disposal is made.

(4) In subsection (3)(b) "relevant disposal" means a disposal which (apart from subsection (3)) has the effect that—

(a) the secondary fund has (by virtue of disposals of its interest in the underlying scheme) disposed of at least 50% of the greatest amount invested for its purposes at any one time in the underlying scheme, or

(b) the secondary fund's investment in the underlying scheme is worth less than whichever is the greater of—

(i) £1 million, or

(ii) 5% of the total value of the investments held immediately before the disposal for the purposes of the secondary fund in the underlying scheme.

(5) In this Chapter, "secondary fund" means an investment scheme in relation to which the condition in subsection (6) is met.

(6) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—

(a) substantially all of the total value invested for the purposes of the scheme will be in the acquisition of investments in, or the acquisition of portfolios of investments from, unconnected collective investment schemes,

(b) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more, and

(c) more than 75% of the total amount invested in the scheme will be invested by external investors.

(7) In determining whether subsection (6)(b) is met in relation to an investment scheme, apply the rule in subsection (3) to the scheme.

(8) In this section, "significant interest", in relation to a collective investment scheme, means—

(a) an investment of at least £1 million in the scheme, or

(b) an investment of at least 5% of the total amounts raised or to be raised from external investors in the scheme.

(9) In this section, "qualifying investment" means an investment in a collective investment scheme ("the underlying scheme") acquired for the purposes of a secondary fund where—

(a) the investment acquired was originally made on the same terms as investments in the underlying scheme made by external investors,

(b) the terms on which the investment was acquired or investments made in the underlying scheme were made by external investors have not significantly changed since the investment was acquired,

(c) the secondary fund, together with any connected funds, does not hold more than 30% by value of the underlying scheme,

(d) no person providing investment management services to the underlying scheme provides investment management services to the secondary fund, and

(e) it is reasonable to suppose that the investment in the underlying scheme is not part of arrangements the main purpose or one of the main purposes of which is to reward any person involved in providing investment management services to the underlying scheme or a scheme connected with that underlying scheme.

Direct lending funds

809FZQ Direct lending funds

(1) Carried interest arising from an investment scheme which is a direct lending fund is income-based carried interest in its entirety.

Subsections (2) to (4) apply for the purposes of this Chapter.

(2) A direct lending fund is an investment scheme—

(a) which is not a venture capital fund, significant equity stake fund, controlling equity stake fund or real estate fund, and

(b) in relation to which it is reasonable to suppose that, when the scheme ceases to invest, a majority of the investments made for the purposes of the scheme (calculated by reference to value invested) will have been direct loans made by the scheme.

(3) An investment scheme makes a direct loan if for the purposes of the scheme money is advanced at interest or for any other return determined by reference to the time value of money.

(4) The acquisition of a direct loan is to be regarded as the making of a direct loan if the loan is acquired within the period of 120 days beginning with the day on which the money is first advanced.

809FZR Direct lending funds: exception

(1) Section 809FZQ does not apply to carried interest arising from a direct lending fund if—

(a) the fund is a limited partnership,

(b) the carried interest is a sum falling within section 809EZD(2) or (3), and

(c) it is reasonable to suppose that, when investments cease to be made for the purposes of the fund, at least 75% of the direct loans made by the fund (calculated by reference to value advanced) will have been qualifying loans.

(2) In this section "qualifying loan" means a direct loan made by an investment scheme where—

(a) the borrower is not connected with the investment scheme,

(b) the money is advanced under a genuine commercial loan agreement negotiated at arm's length,

(c) repayments are fixed and determinable,

(d) maturity is fixed,

(e) the scheme has the positive intention and ability to hold the loan to maturity, and

(f) the relevant term of the loan is at least four years.

(3) In this section "relevant term", in relation to a loan, means the period which—

(a) begins with the time when the money is advanced, and

(b) ends with the time by which, under the terms of the loan, at least 75% of the principal due under the loan must be repaid.

(4) For the purposes of determining the average holding period of a scheme, where—

(a) a qualifying loan made by an investment scheme is repaid by the borrower to any extent before the end of 40 months from the time the loan is made, and

(b) it is reasonable to suppose that the borrower's decision to repay was not affected by considerations relating to the application of this Chapter,

the loan is, to the extent it is repaid by the borrower before the end of 40 months from the time it is made, to be treated as held for 40 months.

(5) In determining for the purposes of subsection (1)(b) whether a sum falls within section 809EZD(2) or (3), read section 809EZD(4)(b) as if the reference to 6% were to 4%.

(6) Section 809FZB applies to carried interest to which, by virtue of subsection (1), section 809FZQ does not apply.

Conditionally exempt carried interest

809FZS Conditionally exempt carried interest

(1) Carried interest which—

(a) arises to an individual from an investment scheme, and

(b) is conditionally exempt from income tax,

is to be treated as if it were not income-based carried interest to any extent.

(2) Carried interest is conditionally exempt from income tax if Conditions A to D are met.

(3) Condition A is that the carried interest arises to the individual in the period of—

(a) four years beginning with the day on which the scheme starts to invest, or

(b) ten years beginning with that day if the carried interest is calculated on the realisation model.

(4) Condition B is that the carried interest would, apart from this section, be income-based carried interest to any extent.

(5) Condition C is that it is reasonable to suppose that, were the carried interest to arise to the individual at the relevant time (but by reference to the same relevant investments), it would not be income-based carried interest to any extent.

(6) The "relevant time" is whichever is the earliest of—

(a) the time when it is reasonable to suppose that the investment scheme will be wound up;

(b) the end of the period of four years beginning with the time when it is reasonable to suppose that the scheme will cease to invest;

(c) the end of the period of—

(i) four years beginning with the day on which the sum of carried interest arises to the individual, or

(ii) ten years beginning with that day if the carried interest was calculated on the realisation model;

(d) the end of the period of four years beginning with the end of the period by reference to which the amount of the carried interest was determined.

(7) Subsection (5) does not affect what would otherwise be the time at which an investment is disposed of for the purposes of this Chapter.

(8) Condition D is that the individual makes a claim under this section for the carried interest to be conditionally exempt from income tax.

809FZT Carried interest which ceases to be conditionally exempt

(1) Carried interest which is conditionally exempt from income tax ceases to be conditionally exempt from income tax at whichever is the earliest of—

(a) the time when the investment scheme is wound up;

(b) the end of the period of four years beginning with the time the scheme ceases to invest;

(c) the end of the period of—

(i) four years beginning with the day on which the sum of carried interest arises to the individual, or

(ii) ten years beginning with that day if the carried interest was calculated on the realisation model;

(d) the end of the period of four years beginning with the end of the period by reference to which the amount of the carried interest is determined;

(e) the time at which Condition C in section 809FZS(5) ceases to be met.

(2) Carried interest which ceases to be conditionally exempt from income tax is to be treated as having been income-based carried interest at the time it arose to the individual if or to the extent that, had it arisen to the individual at the time it ceased to be conditionally exempt (but in relation to the same relevant investments) it would have been income-based carried interest.

(3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (2).

(4) Any amount paid by way of capital gains tax in respect of carried interest which is conditionally exempt from income tax is to be treated as if it had been paid in respect of any income tax liability arising under subsection (2).

Supplementary

809FZU Employment-related securities

This Chapter does not apply in relation to carried interest arising to an individual in respect of employment-related securities as defined by section 421B(8) of ITEPA 2003.

809FZV "Loan to own" investments

(1) This section applies where—

(a) an investment scheme acquires a debt,

(b) the debt is to any extent uncollectable or otherwise impaired,

(c) the debt is acquired at a discount with a view to securing direct or indirect ownership of any assets which are—

(i) owned by a company which is the debtor in respect of the debt, or

(ii) subject to a security interest in respect of the debt, and

(d) the fund acquires ownership of the assets within three months of the acquisition of the debt.

(2) For the purposes of this Chapter—

(a) the debt and the assets are to be treated as a single investment, and

(b) the value invested in that single investment is the amount paid for the debt.

(3) In this section "security interest" means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any obligation.

809FZW Anti-avoidance

(1) For the purposes mentioned in subsection (2), no regard is to be had to any arrangements the main purpose of which, or one of the main purposes of which, is to reduce the proportion of carried interest which is income-based carried interest.

(2) The purposes referred to in subsection (1) are—

(a) determining the average holding period, or

(b) determining whether an investment scheme is a venture capital fund, significant equity stake fund, controlling equity stake fund, real estate fund, fund of funds or secondary fund.

(3) In determining to what extent carried interest is income-based carried interest, no regard is to be had to any arrangements the main purpose, or one of the main purposes, of which is to secure that section 809EZA(1) (charge to income tax) does not apply in relation to some or all of the carried interest.

809FZX Treasury regulations

(1) The Treasury may by regulations make—

(a) provision relating to the calculation of the average holding period in some or all cases;

(b) provision repealing, or restricting the application of, section 809FZU (employment-related securities).

(2) The provision referred to in subsection (1)(a) includes in particular—

(a) provision for a method of calculating that period which is different from that in section 809FZC;

(b) provision as to what is and is not to be regarded as an investment;
(c) provision as to when an investment is to be regarded as made or disposed of;
(d) anti-avoidance provision.

(3) Regulations under this section may—
(a) amend this Chapter;
(b) make different provision for different purposes;
(c) contain incidental, supplemental, consequential and transitional provision and savings.

809FZY "Reasonable to suppose"

(1) For the purposes of this Chapter, in determining what it is reasonable to suppose in relation to an investment scheme, regard is to be had to all the circumstances.

(2) Those circumstances include in particular any prospectus or other document which—
(a) is made available to external investors in the investment scheme, and
(b) on which external investors may reasonably be supposed to have relied or been able to rely.

Interpretation

809FZZ Interpretation of Chapter 5F

(1) In this Chapter—

"5% interest", "15% interest", "20% interest", "25% interest" and "40% interest" are to be construed in accordance with subsection (4);

"act together": two or more investment schemes act together in relation to a company if—
(a) they enter into contractual arrangements (with or without other persons) in relation to the conduct of the company's affairs,
(b) the arrangements are negotiated on arm's length terms, and
(c) the investment schemes act together to secure greater control or influence over the company's affairs than they would be able to secure individually;

"alternative finance arrangements" has the same meaning as in Part 6 of CTA 2009 (see section 501(2) of that Act);

"arrangements" has the same meaning as in Chapter 5E (see section 809EZE);

"associated": two (or more) investment schemes are "associated if—
(a) the same or substantially the same individuals provide investment management services to both schemes;
(b) the investment schemes have the same or substantially the same investments, and

(c) the schemes act together in relation to all or substantially all of the investments they acquire;

"carried interest" has the same meaning as in section 809EZB (see sections 809EZC and 809EZD);

"collective investment scheme" has the same meaning as in Chapter 5E (see section 809EZE);

"connected" and "unconnected" are to be construed in accordance with subsections (6) and (7);

"contract for differences" has the same meaning as in Part 7 of CTA 2009 (see section 582 of that Act);

"controlling equity stake fund" has the meaning given in section 809FZM;

"controlling interest" has the meaning given in subsection (3);

"derivative contract" has the same meaning as in Part 7 of CTA 2009 (but see below);

"designated" has the same meaning as for accounting purposes;

"direct lending fund" and "direct loan" have the meanings given in section 809FZQ;

"exchange gain or loss" is to be construed in accordance with section 475 of CTA 2009;

"external investor" has the same meaning as in Chapter 5E (see section 809EZE);

"fund of funds" has the meaning given in section 809FZO;

"future" has the same meaning as in Part 7 of CTA 2009 (see section 581 of that Act);

"interest rate contract" means—

(a) a derivative contract whose underlying subject-matter is, or includes, interest rates, or

(b) a swap contract in which payments fall to be made by reference to a rate of interest;

"investing life" is to be construed in accordance with subsection (2);

"investment" does not include—

(a) cash awaiting investment, or

(b) cash representing the proceeds of the disposal of an investment, where the cash is to be distributed as soon as reasonably practicable to investors in the scheme;

"investment scheme" has the same meaning as in Chapter 5E (see section 809EZA(6));

"limited partnership" means—

(a) a limited partnership registered under the Limited Partnerships Act 1907,

(b) a limited liability partnership formed under the Limited Liability Partnerships Act 2000 or the Limited Liability Partnerships Act (Northern Ireland) 2002 (c.12 (N.I.)), or

(c) a firm or entity of a similar character to any of those mentioned in paragraph (a) or (b) formed under the law of a country or territory outside the United Kingdom;

"loan relationship" has the meaning given by section 302 of CTA 2009 (but see below);

"major interest", in relation to land, has the meaning given by section 96 of the Value Added Tax Act 1994;

"option" has the same meaning as in Part 7 of CTA 2009, disregarding section 580(2) of that Act;

"real estate fund" has the meaning given by section 809FZN;

"realisation model": a sum of carried interest is calculated on the "realisation model" if it falls within section 809EZD(2) or (3) (disregarding section 809EZD(2)(b) and (3)(b));

"scheme director condition" has the meaning given by section 809FZK(8) and (9);

"secondary fund" has the meaning given by section 809FZP;

"significant equity stake fund" has the meaning given by section 809FZL;

"sum" has the same meaning as in Chapter 5E (see section 809EZB(3));

"trading company" and "trading group" have the meanings given by paragraphs 20 and 21 of Schedule 7AC to TCGA 1992;

"underlying subject matter" has the same meaning as in Part 7 of CTA 2009;

"unlisted": a company is unlisted if—

(a) no shares of any class issued by the company are listed on any stock exchange, and

(b) there are no other trading arrangements in place in respect of shares of any class issued by the company;

"venture capital fund" has the meaning given by section 809FZK.

(2) In this Chapter—

(a) references to when a scheme starts or ceases to invest are to the time when investments start or cease to be made for the purposes of the scheme, and

(b) references to the investing life of the scheme are to the time between when a scheme starts and ceases to invest.

(3) For the purposes of this Chapter, an investment scheme has a controlling interest in a company if share capital of the company is held for the purposes of the scheme which—

(a) amounts to more than 50% of the ordinary share capital of the company, and

(b) carries an entitlement to more than 50% of—

(i) voting rights in the company,

(ii) profits available for distribution to shareholders, and

(iii) assets of the company available for distribution to shareholders in a winding-up.

(4) For the purposes of this Chapter, an investment scheme has an interest of a particular percentage in a company (for example, a 40% interest) if share capital of the company is held for the purposes of the scheme which—

(a) amounts to at least that percentage of the ordinary share capital of the company, and

(b) carries an entitlement to at least that percentage of—

(i) voting rights in the company,

(ii) profits available for distribution to shareholders, and

(iii) assets of the company available for distribution to shareholders in a winding-up.

(5) For the purposes of subsections (3) and (4) any share capital held by a company controlled by an investment scheme is to be regarded as held for the purposes of the investment scheme.

(6) For the purposes of this Chapter, an investment scheme (A) is connected with another investment scheme or person (B) if—

(a) A directly or indirectly has control of B, or

(b) the same person, directly or indirectly, has control of A and B.

(7) For the purposes of subsection (6) "control"—

(a) in the case of control of a company, is to be read in accordance with sections 450 and 451 of CTA 2010;

(b) in the case of control of a partnership, has the meaning given in section 995(3);

(c) in the case of control of an investment scheme which is not a company or partnership, or of any other person which is not a company or partnership, means the ability to secure that the affairs of that scheme or other person are conducted in accordance with one's wishes.

(8) For the purposes of the definition of "derivative contract", read Part 7 of CTA 2009 as if—

(a) references to a company were references to an investment scheme, and

(b) references to a contract of a company were references to a contract for the purposes of an investment scheme.

(9) For the purposes of the definition of "loan relationship", read Part 5 of CTA 2009 as if—

(a) references to a company were references to an investment scheme, and

(b) references to a loan relationship of a company were references to a loan relationship for the purposes of an investment scheme."

(3) In section 2 of ITA 2007 (overview), in subsection (13), after paragraph (hb) insert—

"(hc) income-based carried interest (Chapter 5F),".

(4) The amendments made by this section have effect in relation to sums of carried interest arising on or after 6 April 2016 (whenever the arrangements under which the sums arise were made).

38 Income-based carried interest: persons coming to the UK

(1) In section 809EZA of ITA 2007 (disguised investment management fees: charge to income tax), after subsection (2) insert—

"(2A) Subsection (2B) applies instead of subsections (1) and (2) where—

(a) one or more disguised fees arise to an individual in a tax year ("the relevant tax year") from one or more investment schemes (whether or not by virtue of the same arrangements),

(b) the disguised fees consist of carried interest which is income-based carried interest,

(c) the individual is UK resident in the relevant tax year,

(d) before the relevant tax year, the individual was not UK resident for a period of at least five consecutive tax years ("the period of non-residence"), and

(e) either—

(i) the relevant tax year is the first tax year immediately after the end of the period of non-residence, or

(ii) the relevant tax year is the second, third, or fourth tax year after the end of that period and the individual has been UK resident in all the intervening tax years.

(2B) To the extent that the income-based carried interest arises by virtue of pre-arrival services, the individual is liable for income tax for the relevant tax year in respect of it as if—

(a) in relation to pre-arrival services performed in the United Kingdom—

(i) the individual were carrying on a trade for the relevant year consisting of the performance of those services,

(ii) the income-based carried interest, so far as arising by virtue of those services, were profits of that trade, and

(iii) the individual were the person receiving or entitled to those profits, and

(b) in relation to pre-arrival services performed outside the United Kingdom—

(i) the individual were carrying on a trade for the relevant tax year consisting of the performance of those services,

(ii) the income-based carried interest, so far as arising by virtue of those services, were profits of that trade, and

(iii) the individual were the person receiving or entitled to those profits.

(2C) In subsection (2B) "pre-arrival services" means investment management services performed before the end of the period of non-residence."

(2) The amendment made by this section has effect in relation to sums of carried interest arising on or after 6 April 2016 (whenever the arrangements under which the sums arise were made).

Deduction at source

39 Deduction of income tax at source

Schedule 6 contains provisions about deduction of income tax at source.

40 Deduction of income tax at source: intellectual property

(1) Part 15 of ITA 2007 (deduction from other payments connected with intellectual property) is amended as specified in subsections (2) and (3).

(2) In section 906 (certain royalties etc where usual place of abode of owner is abroad), for subsections (1) to (3) substitute—

"(1) This section applies to any payment made in a tax year where condition A or condition B is met.

(2) Condition A is that—

(a) the payment is a royalty, or a payment of any other kind, for the use of, or the right to use, intellectual property (see section 907),

(b) the usual place of abode of the owner of the intellectual property is outside the United Kingdom, and

(c) the payment is charged to income tax or corporation tax.

(3) Condition B is that—

(a) the payment is a payment of sums payable periodically in respect of intellectual property,

(b) the person entitled to those sums ("the assignor") assigned the intellectual property to another person,

(c) the usual place of abode of the assignor is outside the United Kingdom, and

(d) the payment is charged to income tax or corporation tax."

(3) For section 907 substitute—

"**907 Meaning of "intellectual property"**

(1) In section 906 "intellectual property" means—

(a) copyright of literary, artistic or scientific work,

(b) any patent, trade mark, design, model, plan, or secret formula or process,

(c) any information concerning industrial, commercial or scientific experience, or

(d) public lending right in respect of a book.

(2) In this section "copyright of literary, artistic or scientific work" does not include copyright in—

(a) a cinematographic film or video recording, or

(b) the sound-track of a cinematographic film or video recording, except so far as it is separately exploited."

(4) The amendments made by subsections (2) and (3) have effect in respect of payments made on or after 28 June 2016.

(5) In determining whether section 906 of ITA 2007 applies to a payment, no regard is to be had to any arrangements the main purpose of which, or one of the main purposes of which, is to avoid the effect of the amendments made by this section.

(6) Where arrangements are disregarded under subsection (5) in relation to a payment which—

(a) is made before 28 June 2016, and
(b) is due on or after that day,

the payment is to be regarded for the purposes of section 906 of ITA 2007 as made on the date on which it is due.

(7) In determining the date on which a payment is due for the purposes of subsection (6), disregard the arrangements referred to in that subsection.

(8) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable and whether entered into before, or on or after, 28 June 2016).

41 Deduction of income tax at source: intellectual property - tax avoidance

(1) In Part 15 of ITA 2007 (deduction of income tax at source), after section 917 insert—

"Tax avoidance

917A Tax avoidance arrangements

(1) This section applies if and to the extent that—
(a) a person ("the payer") makes an intellectual property royalty payment,
(b) the payment is received by a person ("the payee") who is connected with the payer, and
(c) the payment is made under DTA tax avoidance arrangements.

(2) Any duty under Chapter 6 or 7 to deduct a sum representing income tax at any rate applies without regard to any double taxation arrangements.

(3) Any income tax deducted by virtue of subsection (2) may not be set off under section 967 or 968 of CTA 2010.

(4) In this section—

"arrangements" (except in the phrase "double taxation arrangements") includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable;

"DTA tax avoidance arrangements" means arrangements where, having regard to all the circumstances, it is reasonable to conclude that—
(a) the main purpose, or one of the main purposes, of the arrangements was to obtain a tax advantage by virtue of any provisions of a double taxation arrangement, and
(b) obtaining that tax advantage is contrary to the object and purpose of those provisions;

"intellectual property royalty payment" means a payment referred to in section 906(2)(a) or (3)(a);

"receive" means receive—
(a) directly or indirectly;
(b) by one payment or by a series of payments;

"tax advantage" is to be construed in accordance with section 208 of FA 2013.

(5) For the purposes of this section the payer is connected with the payee if the participation condition is met as between them.

(6) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (5) as for the purposes of section 147(1)(b) of that Act, but as if references to the actual provision were to the provision made or imposed between the payer and the payee in respect of the arrangements under which the payment is made."

(2) The amendment made by this section has effect in respect of a payment made on or after 17 March 2016 under arrangements entered into at any time (including arrangements entered into before that date).

(3) In relation to payments made (under any such arrangements) on or after 17 March 2016 and on or before the day on which this Act is passed, section 917A of ITA 2007 as inserted by subsection (1) has effect as if the definition of "intellectual property royalty payment" in that section were as follows—

""intellectual property royalty payment" means—

(a) a payment of a royalty or other sum in respect of the use of a patent,

(b) a payment specified in section 906(1)(a) (as originally enacted), or

(c) a payment which is a "qualifying annual payment" for the purposes of Chapter 6 by virtue of section 899(3)(a)(ii) (royalties etc from intellectual property);".

(4) In relation to payments made (under any such arrangements) on or after 28 June 2016 and on or before the day on which this Act is passed, section 917A of ITA 2007 as inserted by subsection (1) has effect as if "intellectual property royalty payment" also included (so far as it would not otherwise do so) any payments referred to in section 906(2)(a) or (3)(a) of ITA 2007 as substituted by section 40.

Receipts from intellectual property

42 Receipts from intellectual property: territorial scope

(1) In section 577 of ITTOIA 2005 (territorial scope of Part 5 charges), at the end insert—

"(5) See also section 577A (territorial scope of Part 5 charges: receipts from intellectual property)."

(2) After that section insert—

"**577A Territorial scope of Part 5 charges: receipts from intellectual property**

(1) References in section 577 to income which is from a source in the United Kingdom include income arising where—

(a) a royalty or other sum is paid in respect of intellectual property by a person who is non-UK resident, and

(b) the payment is made in connection with a trade carried on by that person through a permanent establishment in the United Kingdom.

(2) Subsection (3) applies where a royalty or other sum is paid in respect of intellectual property by a person who is non-UK resident in connection with a trade carried on by that person only in part through a permanent establishment in the United Kingdom.

(3) The payment referred to in subsection (2) is to be regarded for the purposes of subsection (1)(b) as made in connection with a trade carried on through a permanent establishment in the United Kingdom to such extent as is just and reasonable, having regard to all the circumstances.

(4) In determining for the purposes of section 577 whether income arising is from a source in the United Kingdom, no regard is to be had to arrangements the main purpose of which, or one of the main purposes of which, is to avoid the effect of the rule in subsection (1).

(5) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"intellectual property" has the same meaning as in section 579;

"permanent establishment"—

(a) in relation to a company, is to be read (by virtue of section 1007A of ITA 2007) in accordance with Chapter 2 of Part 24 of CTA 2010, and

(b) in relation to any other person, is to be read in accordance with that Chapter but as if references in that Chapter to a company were references to that person."

(3) The amendments made by subsections (1) and (2) have effect in relation to royalties or other sums paid in respect of intellectual property on or after 28 June 2016.

(4) It does not matter for the purposes of subsection (4) of section 577A of ITTOIA 2005 (as inserted by this section) whether the arrangements referred to in that subsection are entered into before, or on or after, 28 June 2016.

(5) Where arrangements are disregarded under subsection (4) of section 577A of ITTOIA 2005 (as inserted by this section) in relation to a payment of a royalty or other sum which—

(a) is made before 28 June 2016, but

(b) is due on or after that day,

the payment is to be regarded for the purposes of subsection (1) of that section as made on the date on which it is due.

(6) In determining the date on which a payment is due for the purposes of subsection (5), disregard the arrangements referred to in that subsection.

(7) Where—

(a) an intellectual property royalty payment within the meaning of section 917A of ITA 2007 is made on or after 28 June 2016,

(b) the payment is made under arrangements (within the meaning of that section) entered into before that day,

(c) the arrangements are not DTA tax avoidance arrangements for the purposes of that section,

(d) it is reasonable to conclude that the main purpose, or one of the main purposes, of the arrangements was to obtain a tax advantage by virtue of any provisions of a foreign double taxation arrangement, and

(e) obtaining that tax advantage is contrary to the object and purpose of those provisions,

the arrangements are to be regarded as DTA tax avoidance arrangements for the purposes of section 917A of ITA 2007 in relation to the payment.

(8) In subsection (7)—

"foreign double taxation arrangement" means an arrangement made by two or more territories outside the United Kingdom with a view to affording relief from double taxation in relation to tax chargeable on income (with or without other tax relief);

"tax advantage" is to be construed in accordance with section 208 of FA 2013 but as if references in that section to "tax" were references to tax chargeable on income under the law of a territory outside the United Kingdom.

(9) Where—

(a) a royalty is paid on or after 28 June 2016,

(b) the right in respect of which the royalty is paid was created or assigned before that day,

(c) section 765(2) of ITTOIA 2005 does not apply in relation to the payment, and

(d) it is reasonable to conclude that the main purpose, or one of the main purposes, of any person connected with the creation or assignment of the right was to take advantage, by means of that creation or assignment, of the law of any territory giving effect to Council Directive 2003/49/EC of 3rd June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different member States,

section 758 of ITTOIA 2005 does not apply in relation to the payment.

43 Receipts from intellectual property: diverted profits tax

(1) Part 3 of FA 2015 (diverted profits tax) is amended as follows.

(2) In section 79 (charge to tax), at the end insert—

"(6) But banking surcharge profits and notional banking surcharge profits, to the extent that they are determined by reference to notional PE profits (or what would have been notional PE profits) for an accounting period, do not include any amount which is (or would have been) included in notional PE profits for that period by virtue of section 88(5)(b)."

(3) In section 88 (which relates to the calculation of taxable diverted profits), for subsection (5) substitute—

"(5) Notional PE profits", in relation to an accounting period, means an amount equal to the sum of—

(a) the amount of profits (if any) which would have been the chargeable profits of the foreign company for that period, attributable (in accordance with sections 20 to 32 of CTA 2009) to the avoided PE, had the avoided PE been a permanent establishment in the United Kingdom through which the foreign company carried on the trade mentioned in section 86(1)(b), and

(b) an amount equal to the total of royalties or other sums which are paid by the foreign company during that period in connection with that trade in circumstances where the payment avoids the application of section 906 of ITA 2007 (duty to deduct tax).

(5A) For the purposes of subsection (5)(b) a payment of a royalty or other sum avoids the application of section 906 of ITA 2007 if—

(a) that section does not apply in relation to the payment, but

(b) that section would have applied in relation to the payment had the avoided PE been a permanent establishment in the United Kingdom through which the foreign company carried on the trade mentioned in section 86(1)(b).”

(4) In section 100 (credit for UK or foreign tax on same profits), for the heading substitute “Credits for tax on the same profits”.

(5) In section 100, after subsection (2) insert—

“(2A) Subsection (2)(b) does not allow a credit against a liability to diverted profits tax if or to the extent that the liability arises by virtue of section 88(5)(b) (payments of royalties etc).”

(6) In section 100, after subsection (4) insert—

“(4A) Subsection (4B) applies where—

(a) a company’s notional PE profits for an accounting period include an amount under section 88(5)(b) determined by reference to a royalty or other sum,

(b) the company’s liability to diverted profits tax for the accounting period is determined by reference to taxable diverted profits calculated under section 91(4) or (5), and

(c) those taxable diverted profits include an amount of relevant taxable income referred to in section 91(4)(b) or (5)(b) determined by reference to the same royalty or other sum.

(4B) A credit equal to the company’s liability to diverted profits tax for that accounting period which arises by virtue of section 88(5)(b) in respect of the royalty or other sum, to the extent that it is included in relevant taxable income for the purposes of section 91(4)(b) or (5)(b), is allowed against the company’s total liability to diverted profits tax for that period.

(4C) Subsection (4D) applies where—

(a) by reason of the payment of a royalty or other sum a company’s liability to diverted profits tax for an accounting period includes liability arising by virtue of section 88(5)(b),

(b) the royalty or other sum is paid to a person who is resident in a country or territory outside the United Kingdom, and

(c) under any relevant provision relief would have been due to that person had the avoided PE been a permanent establishment in the United Kingdom through which the company carried on the trade mentioned in section 86(1)(b).

(4D) Such credit as is just and reasonable having regard to the amount of the relief referred to in subsection (4C)(c) is allowed against the company's liability to diverted profits tax.

(4E) In subsection (4C)(c) "relevant provision" means—

(a) the provision of a double taxation arrangement (as defined by section 2(4) of TIOPA 2010), or

(b) section 758 of ITTOIA 2005 (exemption for certain interest and royalty payments)."

(7) The amendments made by this section have effect in relation to accounting periods ending on or after 28 June 2016.

(8) For the purposes of section 88(5)(b) of FA 2015 as substituted by this section, a royalty or other sum which would not otherwise be regarded as paid during an accounting period ending on or after 28 June 2016 is to be regarded as so paid if—

(a) for the purposes of section 906 of ITA 2007 it is regarded as paid on a date during that period by virtue of section 40(6), or

(b) for the purposes of section 577A(1) of ITTOIA 2005 it is regarded as paid on a date during that period by virtue of section 42(5).

Supplementary welfare payments: Northern Ireland

44 Tax treatment of supplementary welfare payments: Northern Ireland

(1) In this section "supplementary welfare payment" means a payment made under regulations under—

(a) Article 135(1)(a) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)) ("the Order") (discretionary support),

(b) Article 137 of the Order (payments to persons suffering financial disadvantage), or

(c) any provision (including future provision) of the Order which enables provision to be made for payments to persons who suffer financial disadvantage as a result of relevant housing benefit changes.

(2) In subsection (1)(c) "relevant housing benefit changes" means changes to social security benefits consisting of or including changes contained in the Housing Benefit (Amendment) Regulations (Northern Ireland) 2016 (S.R. (N.I.) 2016 No. 258).

(3) The Treasury may by regulations amend any provision of Chapters 1 to 5 of Part 10 of ITEPA 2003 so as to—

(a) provide that no liability to income tax arises on supplementary welfare payments of a specified description;

(b) impose a charge to income tax under Part 10 of ITEPA 2003 on payments of a specified description made under regulations under Article 137 of the Order (payments to persons suffering financial disadvantage).

(4) The regulations may make—

(a) different provision for different cases;

(b) incidental or supplementary provision;

(c) consequential provision (which may include provision amending any provision made by or under the Income Tax Acts).

(5) Regulations made before 6 April 2017 may, so far as relating to the tax year 2016-17, have effect in relation to times before they are made.

(6) Regulations under this section are to be made by statutory instrument.

(7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(8) In section 655(2) of ITEPA 2003 (other provisions about the taxation of social security payments) after the entry relating to section 782 of ITTOIA 2005 insert "; section 44 of FA 2016 (tax treatment of supplementary welfare payments: Northern Ireland)."