Finance (No. 2) Act 2017

2017 CHAPTER 32

PART 1

DIRECT TAXES

Income tax: employment and pensions

1 Taxable benefits: time limit for making good

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

(2) In section 87 (cash equivalent of benefit of non-cash voucher)—

(a) in subsection (2)(b), for "to the person incurring it" substitute " , to the person incurring it, on or before 6 July following the relevant tax year ", and

(b) after subsection (2) insert—

"(2A) If the voucher is a non-cash voucher other than a cheque voucher, the relevant tax year is—

(a) the tax year in which the cost of provision is incurred, or

(b) if later, the tax year in which the employee receives the voucher.

(2B) If the voucher is a cheque voucher, the relevant tax year is the tax year in which the voucher is handed over in exchange for money, goods or services."

(3) In section 88(3) (time at which cheque voucher treated as handed over), at the beginning insert " For the purposes of subsection (2) and sections 87(2B) and 87A(6), ".

(4) In section 94(2) (cash equivalent of benefit of credit-token), in paragraph (b), for the words from "employee" to the end substitute "employee—

(i) to the person incurring it, and

(ii) on or before 6 July following the tax year which contains the occasion in question."

(5) In section 105(2) (cash equivalent of benefit of living accommodation costing £75,000 or less), in paragraph (b), after "made good" insert " , on or before 6 July following the tax year which contains the taxable period, ".

(6) In section 106(3) (cash equivalent of benefit of living accommodation costing over £75,000), in paragraph (a), for the words from "paid" to "exceeds" substitute "paid—

(i) by the employee,

(ii) in respect of the accommodation,

(iii) to the person providing it, and

(iv) on or before 6 July following the tax year which contains the taxable period,

exceeds ".

(7) In section 144 (deduction for payments for private use of car)—

(a) in subsection (1)(b), for "in" substitute " on or before 6 July following ",

(b) in subsection (2), after "paid" insert " as mentioned in subsection (1)(b) ", and

(c) in subsection (3), after "paid" insert " as mentioned in subsection (1)(b) ".

(8) In section 151(2) (when cash equivalent of benefit of car fuel is nil)—

(a) in the words before paragraph (a) omit "in the tax year in question",

(b) in paragraph (a), at the beginning insert " in the tax year in question, ", and

(c) in paragraph (b), at the end insert " on or before 6 July following that tax year ".

(9) In section 152(2) (car fuel: proportionate reduction of cash equivalent)—

(a) in the words before paragraph (a) omit "for any part of the tax year in question",

(b) in paragraph (a), at the beginning insert " for any part of the tax year in question, ",

(c) in paragraph (b), at the beginning insert " for any part of the tax year in question, ", and

(d) in paragraph (c)—

(i) after "employee", in the first place it occurs, insert "—

(i) for any part of the tax year in question,", and

(ii) for "and the employee does make good that expense" substitute ", and

(ii) the employee does make good that expense on or before 6 July following that tax year".

(10) In section 158 (reduction for payments for private use of van)—

(a) in subsection (1)(b), for "in" substitute " on or before 6 July following ",

(b) in subsection (2), after "paid" insert " as mentioned in subsection (1)(b) ", and

(c) in subsection (3), after "paid" insert " as mentioned in subsection (1)(b) ".

(11) In section 162(2) (when cash equivalent of benefit of van fuel is nil)—

(a) in the words before paragraph (a) omit "in the tax year in question",

(b) in paragraph (a), at the beginning insert " in the tax year in question, ", and

(c) in paragraph (b), at the end insert " on or before 6 July following that tax year ".

(12) In section 163(3) (van fuel: proportionate reduction of cash equivalent)—

(a) in the words before paragraph (a) omit "for any part of the tax year in question",

(b) in paragraph (a), at the beginning insert " for any part of the tax year in question, ",

(c) in paragraph (b), at the beginning insert " for any part of the tax year in question, ", and

(d) in paragraph (c)—

(i) after "employee", in the first place it occurs, insert "—

(i) for any part of the tax year in question,", and

(ii) for "and the employee does make good that expense" substitute ", and

(ii) the employee does make good that expense on or before 6 July following that tax year".

(13) In section 203(2) (cash equivalent of benefit treated as earnings), for "to the persons providing the benefit" substitute " , to the persons providing the benefit, on or before 6 July following the tax year in which it is provided ".

(14) The amendments made by this section have effect for the purpose of calculating income tax charged for the tax year 2017-18 or any subsequent tax year.

2 Taxable benefits: ultra-low emission vehicles

(1) ITEPA 2003 is amended as follows.

(2) In section 139 (car with a CO_2 emissions figure: the appropriate percentage), for subsections (1) to (6) substitute—

"(1) The appropriate percentage for a year for a car with a CO_2 emissions figure of less than 75 is determined in accordance with the following table.

Car	*Appropriate percentage*
Car with CO_2 emissions figure of 0	2%
Car with CO_2 emissions figure of 1 - 50	
Car with electric range figure of 130 or more	2%
Car with electric range figure of 70 - 129	5%
Car with electric range figure of 40 - 69	8%
Car with electric range figure of 30 - 39	12%
Car with electric range figure of less than 30	14%
Car with CO_2 emissions figure of 51 - 54	15%
Car with CO_2 emissions figure of 55 - 59	16%
Car with CO_2 emissions figure of 60 - 64	17%
Car with CO_2 emissions figure of 65 - 69	18%

Car with CO_2 emissions figure of 70 - 74	19%

(2) For the purposes of subsection (1) and the table, if a CO_2 emissions figure or an electric range figure is not a whole number, round it down to the nearest whole number.

(3) The appropriate percentage for a year for a car with a CO_2 emissions figure of 75 or more is whichever is the lesser of—

(a) 20% plus one percentage point for each 5 grams per kilometre driven by which the CO_2 emissions figure exceeds 75, and

(b) 37%.

(4) For the purposes of subsection (3), if a CO_2 emissions figure is not a multiple of 5, round it down to the nearest multiple of 5.

(5) In this section, an "electric range figure" is the number of miles which is the equivalent of the number of kilometres specified in an EC certificate of conformity, an EC type-approval certificate or a UK approval certificate on the basis of which a car is registered, as being the maximum distance for which the car can be driven in electric mode without recharging the battery."

(3) In section 140 (car without a CO_2 emissions figure: the appropriate percentage)—

(a) in subsection (2), in the table —

(i) for "23%" substitute " 24% ", and

(ii) for "34%" substitute " 35% ";

(b) in subsection (3)(a), for "16%" substitute " 2% ".

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

(a) for "23%" substitute " 24% ", and

(b) for "34%" substitute " 35% ".

(5) Omit subsection 170(3).

(6) The amendments made by this section have effect for the tax year 2020-21 and subsequent tax years.

3 Pensions advice

(1) In Chapter 9 of Part 4 of ITEPA 2003, after section 308B insert—

"**308C Provision of pensions advice: limited exemption**

(1) No liability to income tax arises in respect of—

(a) the provision of relevant pensions advice to an employee or former or prospective employee, or

(b) the payment or reimbursement of costs incurred, by or in respect of an employee or former or prospective employee, in obtaining relevant pensions advice,

if Condition A or B is met.

(2) But subsection (1) does not apply in relation to a person in a tax year so far as the value of the exemption in the person's case in that year exceeds £500.

(3) The "value of the exemption", in relation to a person and a tax year, is the amount exempted by subsection (1) from income tax in the person's case in that year, disregarding subsection (2) for this purpose.

(4) If in a tax year there is in relation to an individual more than one person who is an employer or former employer, subsections (1) to (3) apply in relation to the individual as employee or former or prospective employee of any one of those persons separately from their application in relation to the individual as employee or former or prospective employee of any other of those persons.

(5) "Relevant pensions advice", in relation to a person, means information, or advice, in connection with—

(a) the person's pension arrangements, or

(b) the use of the person's pension funds.

(6) Condition A is that the relevant pensions advice, or payment or reimbursement, is provided under a scheme that is open—

(a) to the employer's employees generally, or

(b) generally to the employer's employees at a particular location.

(7) Condition B is that the relevant pensions advice, or payment or reimbursement, is provided under a scheme that is open generally to the employer's employees, or generally to those of the employer's employees at a particular location, who—

(a) have reached the minimum qualifying age, or

(b) meet the ill-health condition.

(8) The "minimum qualifying age", in relation to an employee, means the employee's relevant pension age less 5 years.

(9) "Relevant pension age", in relation to an employee, means—

(a) where paragraph 22 or 23 of Schedule 36 to FA 2004 applies in relation to the employee and a registered pension scheme of which the employee is a member, the employee's protected pension age (see paragraph 22(8) and 23(8) of Schedule 36 to FA 2004), or

(b) in any other case, the employee's normal minimum pension age, as defined by section 279(1) of FA 2004.

(10) The "ill-health condition" is met by an employee if the employer is satisfied, on the basis of evidence provided by a registered medical practitioner, that the employee is (and will continue to be) incapable of carrying on his or her occupation because of physical or mental impairment."

(2) In section 228 of ITEPA 2003 (effect of exemptions on liability under provisions outside Part 2 of ITEPA 2003), in subsection (2), after paragraph (da) insert—

"(db) section 308C (provision of pensions advice),".

(3) Regulation 5 of the Income Tax (Exemption of Minor Benefits) Regulations 2002 (S.I. 2002/205) (exemption in respect of the provision of pensions advice) is revoked.

(4) In regulation 2 of the Income Tax (Exemption of Minor Benefits) (Amendment) Regulations 2004 (S.I. 2004/3087) omit the inserted regulation 5.

(5) The amendments made by this section have effect for the tax year 2017-18 and subsequent tax years.

4 Legal expenses etc

(1) ITEPA 2003 is amended as follows.

(2) In section 346 (deduction for employee liabilities)—

(a) in the heading, at the end insert " and expenses ",

(b) after paragraph B (in subsection (1)) insert—

> Payment of any costs or expenses not falling within paragraph B which are incurred in connection with the employee giving evidence about matters related to the employment in, or for the purposes of—
>
> (a) a proceeding or other process (whether or not involving the employee), or
>
> (b) an investigation (whether or not likely to lead to any proceeding or other process involving the employee).
>
> Payment of any costs or expenses not falling within paragraph B or BA which are incurred in connection with a proceeding or other process, or an investigation, in which—
>
> (a) acts of the employee related to the employment, or
>
> (b) any other matters related to the employment,
>
> are being or are likely to be considered.",

(c) in paragraph C(b) (in subsection (1)), after "B" insert " , BA or BB ",

(d) in subsection (2) for "or B" substitute " B, BA or BB ",

(e) in subsection (2A), for "paragraph A, B or C" substitute " any of paragraphs A to C ", and

(f) after subsection (3) insert—

"(4) In this section and section 349—

(a) "acts" includes failures to act and acts are "related to the employment" if the employee was acting—

(i) in the employee's capacity as holder of the employment, or

(ii) in any other capacity in which the employee was acting in the performance of the duties of the employment,

(b) "giving evidence" includes making a formal or informal statement or answering questions,

(c) "proceeding or other process" includes any civil, criminal or arbitration proceedings, any disciplinary or regulatory proceedings of any kind and any process operated for resolving disputes or adjudicating on complaints, and

(d) references to a proceeding or other process or an investigation include a reference to a proceeding or other process or an investigation that is likely to take place."

(3) In section 349 (section 346: meaning of "qualifying insurance contract"), in subsection (2)—

(a) after paragraph (c) insert—

"(ca) the payment of costs or expenses incurred in connection with an employee giving evidence about matters related to the employee's employment in, or for the purposes of—

(i) a proceeding or other process (whether or not involving the employee), or

(ii) an investigation (whether or not likely to lead to any proceeding or other process involving the employee),

(cb) the payment of any costs or expenses incurred in connection with a proceeding or other process, or an investigation, in which—

(i) acts of an employee related to the employment, or

(ii) any other matters related to the employment of an employee,

are being or are likely to be considered,", and

(b) in subsection (2)(d), after "(c)" insert " , (ca) or (cb) ".

(4) In section 409 (payments and benefits on termination of employment etc: exception for payments and benefits in respect of employee liabilities and indemnity insurance)—

(a) in the heading, for "employee liabilities" substitute " certain legal expenses etc ", and

(b) in subsection (3), at the end insert " or by the employer or former employer on behalf of the individual ".

(5) In section 410 (payments and benefits on termination of employment etc: exception for certain payments and benefits received by personal representatives of deceased individual)—

(a) in the heading for "employee liabilities" substitute " certain legal expenses etc ", and

(b) in subsection (3), at the end insert " or by the former employer on behalf of the individual's personal representatives ".

(6) In section 558 (deductions for liabilities of former employees: meaning of "deductible payment")—

(a) after paragraph B (in subsection (1)) insert—

Payment of any costs or expenses not falling within paragraph B which are incurred in connection with the former employee giving evidence about matters related to the former employment in, or for the purposes of—

(a) a proceeding or other process (whether or not involving the former employee), or

(b) an investigation (whether or not likely to lead to any proceeding or other process involving the former employee).

Payment of any costs or expenses not falling within paragraph B or BA which are incurred in connection with a proceeding or other process, or an investigation, in which—

(a) acts of the former employee related to the former employment, or

(b) any other matters related to the former employment,

are being or are likely to be considered.", and

(b) in paragraph C(b) (in subsection (1)), after "B" insert " , BA or BB ",

(c) in subsection (2), for "or B" substitute " B, BA or BB ",

(d) after subsection (3) insert—

"(4) In this section and section 560—

(a) "acts" includes failures to act and acts are "related to the former employment" if the former employee was acting—

(i) in the employee's capacity as holder of the former employment, or

(ii) in any other capacity in which the former employee was acting in the performance of the duties of that employment,

(b) "giving evidence" includes making a formal or informal statement or answering questions,

(c) "proceeding or other process" includes any civil, criminal or arbitration proceedings, any disciplinary or regulatory proceedings of any kind and any process operated for resolving disputes or adjudicating on complaints, and

(d) references to a proceeding or other process or an investigation include a reference to a proceeding or other process or an investigation that is likely to take place."

(7) In section 560 (section 558: meaning of "qualifying insurance contract"), in subsection (2)—

(a) after paragraph (c) insert—

"(ca) the payment of costs or expenses incurred in connection with a former employee giving evidence about matters related to the former employment in, or for the purposes of—

(i) a proceeding or other process (whether or not involving the former employee), or

(ii) an investigation (whether or not likely to lead to any proceeding or other process involving the former employee).

(cb) the payment of any costs or expenses incurred in connection with a proceeding or other process, or an investigation, in which—

(i) acts of a former employee related to the employment, or

(ii) any other matters related to the former employment of a former employee,

are being or are likely to be considered,", and

(b) in paragraph (d), after "(c)" insert " , (ca) or (cb) ".

(8) The amendments made by this section have effect in relation to the tax year 2017-18 and subsequent tax years.

5 Termination payments etc: amounts chargeable on employment income

(1) ITEPA 2003 is amended in accordance with subsections (2) to (9).

(2) In section 7(5) (list of provisions under which amounts are treated as earnings), before the "or" at the end of paragraph (c) insert—

"(ca) section 402B (termination payments, and other benefits, that cannot benefit from section 403 threshold),".

(3) Before section 403 (charge on payments and benefits in excess of £30,000 threshold) insert—

"402A **Split of payments and other benefits between sections 402B and 403**

(1) In this Chapter "termination award" means a payment or other benefit to which this Chapter applies because of section 401(1)(a).

(2) Section 402B (termination awards not benefiting from threshold treated as earnings) applies to termination awards to the extent determined under section 402C.

(3) Section 403 (charge on payment or benefit where threshold applies) applies to termination awards so far as they are not ones to which section 402B applies.

(4) Section 403 also applies to payments and other benefits to which this Chapter applies because of section 401(1)(b) or (c) (change in duties or earnings).

402B **Termination awards not benefiting from threshold to be treated as earnings**

(1) The amount of a termination award to which this section applies is treated as an amount of earnings of the employee, or former employee, from the employment.

(2) See also section 7(3)(b) and (5)(ca) (which cause amounts treated as earnings under this section to be included in general earnings).

(3) Section 403(3) (when benefits are received) does not apply in relation to payments or other benefits to which this section applies.

402C **The termination awards to which section 402B applies**

(1) This section has effect for the purpose of identifying the extent to which section 402B applies to termination awards in respect of the termination of the employment of the employee.

(2) In this section "relevant termination award" means a termination award that is neither—

(a) a redundancy payment, nor

(b) so much of an approved contractual payment as is equal to or less than the amount which would have been due if a redundancy payment had been payable.

(3) If the post-employment notice pay (see section 402D) in respect of the termination is greater than, or equal to, the total amount of the relevant termination awards in respect of the termination, section 402B applies to all of those relevant termination awards.

(4) If the post-employment notice pay in respect of the termination is less than the total amount of the relevant termination awards in respect of the termination but is not nil—

(a) section 402B applies to a part of those relevant termination awards, and

(b) the amount of that part is equal to the post-employment notice pay.

(5) Section 309(4) to (6) (meaning of "redundancy payment" and "approved contractual payment" etc) apply for the purposes of subsection (2) as they apply for the purposes of section 309.

402D **"Post-employment notice pay"**

(1) "The post-employment notice pay" in respect of a termination is (subject to subsection (11)) given by—

$$\left(\frac{\mathrm{BP} \times D}{P}\right) - T$$

where—

BP, D and P are given by subsections (3) to (7), and

T is the total of the amounts of any payment or benefit received in connection with the termination which—

(a) would fall within section 401(1)(a) but for section 401(3),

(b) is taxable as earnings under Chapter 1 of Part 3,

(c) is not pay in respect of holiday entitlement for a period before the employment ends, and

(d) is not a bonus payable for termination of the employment.

(2) If the amount given by the formula in subsection (1) is a negative amount, the post-employment notice pay is nil.

(3) Subject to subsections (5) and (6)—

BP is the employee's basic pay (see subsection (7)) from the employment in respect of the last pay period of the employee to end before the trigger date,

P is the number of days in that pay period, and

D is the number of days in the post-employment notice period.

(4) See section 402E for the meaning of "trigger date" and "post-employment notice period".

(5) If there is no pay period of the employee which ends before the trigger date then—

BP is the employee's basic pay from the employment in respect of the period starting with the first day of the employment and ending with the trigger date,

P is the number of days in that period, and

D is the number of days in the post-employment notice period.

(6) If the last pay period of the employee to end before the trigger date is a month, the minimum notice (see section 402E) is given by contractual terms and is expressed to be a whole number of months, and the post-employment notice period is equal in length to the minimum notice or is otherwise a whole number of months, then—

BP is the employee's basic pay from the employment in respect of the last pay period of the employee to end before the trigger date,

P is 1, and

D is the length of the post-employment notice period expressed in months.

(7) In this section "basic pay" means—

(a) employment income of the employee from the employment but disregarding—

(i) any amount received by way of overtime, bonus, commission, gratuity or allowance,

(ii) any amount received in connection with the termination of the employment,

(iii) any amount treated as earnings under Chapters 2 to 10 of Part 3 (the benefits code) or which would be so treated apart from section 64,

(iv) any amount which is treated as earnings under Chapter 12 of Part 3 (amounts treated as earnings),

(v) any amount which counts as employment income by virtue of Part 7 (income relating to securities and securities options), and

(vi) any employment-related securities that constitute earnings under Chapter 1 of Part 3 (earnings), and

(b) any amount which the employee has given up the right to receive but which would have fallen within paragraph (a) had the employee not done so.

(8) In subsection (7) "employment-related securities" has the same meaning as it has in Chapter 1 of Part 7 (see section 421B).

(9) The Treasury may by regulations amend this section for the purpose of altering the meaning of "basic pay".

(10) A statutory instrument containing regulations under subsection (9) may not be made unless a draft of it has been laid before, and approved by a resolution of, the House of Commons.

(11) Where the purpose, or one of the purposes, of any arrangements is the avoidance of tax by causing the post-employment notice pay calculated under

subsection (1) to be less than it would otherwise be, the post-employment notice pay is to be treated as the amount which the post-employment notice pay would have been but for the arrangements.

(12) In subsection (11) "arrangements" includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.

402E **Meaning of "trigger date" and "post-employment notice period" in section 402D**

(1) Subsections (2) and (4) to (6) have effect for the purposes of section 402D (and subsection (4) has effect also for the purposes of this section).

(2) The "trigger date" is—
- (a) if the termination is not a notice case, the last day of the employment, and
- (b) if the termination is a notice case, the day the notice is given.

(3) For the purposes of this section, the termination is a "notice case" if the employer or employee gives notice to the other to terminate the employment, and here it does not matter—
- (a) whether the notice is more or less than, or the same as, the minimum notice, or
- (b) if the employment ends before the notice expires.

(4) The "minimum notice" is the minimum notice required to be given by the employer to terminate the employee's employment by notice in accordance with the law and contractual terms effective—
- (a) where the termination is not a notice case—
  - (i) immediately before the employment ends, or
  - (ii) where the employment ends by agreement entered into after the start of the employment, immediately before the agreement is entered into, and
- (b) where the termination is a notice case, immediately before the notice is given.

(5) The "post-employment notice period" is the period—
- (a) beginning at the end of the last day of the employment, and
- (b) ending with the earliest lawful termination date.

(But see subsection (8) for provision about limited-term contracts.)

(6) If the earliest lawful termination date is, or precedes, the last day of the employment, the number of days in the post-employment notice period is nil.

(7) "The earliest lawful termination date" is the last day of the period which—
- (a) is equal in length to the minimum notice, and
- (b) begins at the end of the trigger date.

(8) In the case of a contract of employment which is a limited-term contract and which does not include provision for termination by notice by the employer, the post-employment notice period is the period—

(a) beginning at the end of the last day of the employment, and

(b) ending with the day of the occurrence of the limiting event.

(9) If, in a case to which subsection (8) applies, on the last day of the employment the day of the occurrence of the limiting event is not ascertained or ascertainable (because, for example, the limiting event is the performance of a task), then subsection (8) has effect as if for paragraph (b) there were substituted—

"(b) ending with the day on which notice would have expired if the employer had, on the last day of the employment, given to the employee the minimum notice required to terminate the contract under section 86 of the Employment Rights Act 1996 (assuming that that section applies to the employment)."

(10) In this section "limited-term contract" and "limiting event" have the same meaning as in the Employment Rights Act 1996 (see section 235(2A) and (2B))."

(4) In section 403 (charges on payments and benefits which can benefit from threshold)—

(a) in subsection (1), for "Chapter" substitute " section ",

(b) in subsection (3), after "Chapter" insert " (but see section 402B(3)) ",

(c) in subsection (4), for the words from "when" to "exceeds" substitute "when aggregated with—

(a) other payments or benefits in respect of the employee or former employee that are payments or benefits to which this section applies, and

(b) other payments or benefits in respect of the employee or former employee that are payments or benefits—

(i) received in the tax year 2017-18 or an earlier tax year, and

(ii) to which this Chapter applied in the tax year of receipt,

it exceeds ",

(d) in subsection (5)(a), for "Chapter" substitute " section ",

(e) in subsection (6), after "employment income" insert " or, as the case may be, in relation to whom section 402B(1) provides for an amount to be treated as an amount of earnings ", and

(f) in the heading, at the end insert " where threshold applies ".

(5) In section 404 (how the threshold applies)—

(a) in subsection (3)(b) (meaning of "termination or change date"), for "this Chapter" substitute " section 403 ", and

(b) after subsection (5) insert—

"(6) In subsection (3)(b), the reference to a payment or other benefit to which section 403 applies includes a reference to a payment or other benefit—

(a) received in the tax year 2017-18 or an earlier tax year, and

(b) to which this Chapter applied in the tax year of receipt."

(6) After section 404A insert—

"**404B Power to vary threshold**

(1) The Treasury may by regulations amend the listed provisions by substituting, for the amount for the time being mentioned in those provisions, a different amount.

(2) The listed provisions are—

subsections (1), (4) and (5) of section 403, and

subsections (1), (4) and (5) of section 404 and its heading.

(3) Regulations under this section may include transitional provision.

(4) A statutory instrument containing regulations under this section which reduce the mentioned amount may not be made unless a draft of it has been laid before, and approved by a resolution of, the House of Commons."

(7) In section 406 (exception in cases of death, injury or disability)—

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

(b) after that subsection insert—

"(2) Although "injury" in subsection (1) includes psychiatric injury, it does not include injured feelings."

(8) In section 414(2) (proportionate reduction for foreign service in certain cases), for "otherwise count as employment income under this Chapter" substitute "otherwise—

(a) be treated as earnings by section 402B(1), or

(b) count as employment income as a result of section 403".

(9) In section 717(4) (regulations etc not subject to negative procedure), before "or section 681F(3)" insert " , section 402D(10) (meaning of basic pay for purpose of calculating charge on termination award), section 404B(4) (reduction of tax-free threshold for employment-termination etc payments) ".

(10) The amendments made by this section have effect for the tax year 2018-19 and subsequent tax years.

6 PAYE settlement agreements

(1) In Chapter 5 of Part 11 of ITEPA 2003 (PAYE settlement agreements), in sections 703(a) and 704(1)(a), for "an officer of Revenue and Customs" substitute " Her Majesty's Revenue and Customs ".

(2) The amendment made by this section has effect in relation to the tax year 2018-19 and subsequent tax years.

[F1]7 Money purchase annual allowance

. . . . . .

Textual Amendments

F1 S. 7 omitted (for the tax year 2023-24 and subsequent tax years) by virtue of Finance (No. 2) Act 2023 (c. 30), **s. 21(3)(4)**

Income tax: investments

8 Dividend nil rate for tax year 2018-19 etc

(1) In section 13A of ITA 2007 (income charged at the dividend nil rate), for "£5000", in each place, substitute " £2000 ".

(2) The amendments made by this section have effect for the tax year 2018-19 and subsequent tax years.

9 Life insurance policies: recalculating gains on part surrenders etc

(1) ITTOIA 2005 is amended as follows.

(2) After section 507 (method for making periodic calculations in part surrender or assignment cases) insert—

"**507A Recalculating gains under section 507**

(1) An interested person may apply to an officer of Revenue and Customs for a review of a calculation under section 507 on the ground that the gain arising from it is wholly disproportionate.

(2) For the purposes of this section an interested person in relation to a calculation under section 507 is a person who would be liable for all or any part of the amount of tax that would be chargeable under this Chapter if the gain were not recalculated.

(3) Applications under subsection (1) must be—
- (a) made in writing, and
- (b) received by an officer of Revenue and Customs within—
  - (i) the four tax years following the tax year in which the gain arose, or
  - (ii) such longer period as the officer may agree.

(4) In considering whether the gain is wholly disproportionate, the officer may take into account (as well as the amount of the gain) any factor which the officer considers appropriate including, so far as the officer considers it appropriate to do so—
- (a) the economic gain on the rights surrendered or assigned,
- (b) the amount of the premiums paid under the policy or contract,
- (c) the amount of tax that would be chargeable under this Chapter if the gain were not recalculated.

(5) If, following an application under subsection (1), an officer considers that the gain arising from the calculation under section 507 is wholly disproportionate, the officer must recalculate the gain on a just and reasonable basis.

(6) Following a recalculation under subsection (5), references in this Chapter (but excluding this section) to a calculation under section 507 are to be regarded as references to a recalculation under this section.

(7) Following a recalculation under subsection (5), an officer of Revenue and Customs must notify the interested person of the result of the recalculation.

(8) If two or more persons are interested persons in relation to a calculation under section 507—

(a) an application under subsection (1) may be made only by all the interested persons jointly, and

(b) subsection (7) applies as if the reference to the interested person were a reference to each of the interested persons.

(9) Following a recalculation under subsection (5), all necessary adjustments and repayments of income tax are to be made.

(10) No recalculation is to be made under this section if the gain mentioned in subsection (1) arises as a result of one or more transactions which form part of arrangements, the main purpose, or one of the main purposes, of which is to obtain a tax advantage for any person.

(11) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

"tax advantage" has the meaning given by section 1139 of CTA 2010."

(3) After section 512 (available premium left for relevant transaction in certain part surrender or assignment cases) insert—

"**512A Recalculating gains under section 511**

(1) An interested person may apply to an officer of Revenue and Customs for a review of a calculation under section 511 on the ground that the gain arising from it is wholly disproportionate.

(2) For the purposes of this section an interested person in relation to a calculation under section 511 is a person who would be liable for all or any part of the amount of tax that would be chargeable under this Chapter—

(a) if the gain were not recalculated, or

(b) if all rights under the policy or contract had been surrendered immediately after the surrender or assignment of rights which gave rise to the calculation.

(3) Applications under subsection (1) must be—

(a) made in writing, and

(b) received by an officer of Revenue and Customs within—

(i) the four tax years following the tax year in which the gain arose, or

(ii) such longer period as the officer may agree.

(4) In considering whether the gain is wholly disproportionate, the officer may take into account (as well as the amount of the gain) any factor which the officer considers appropriate including, so far as the officer considers it appropriate to do so—

(a) the economic gain on the rights surrendered or assigned,

(b) the amount of the premiums paid under the policy or contract,

(c) the amount of tax that would be chargeable under this Chapter if the gain were not recalculated.

(5) If, following an application under subsection (1), an officer considers that the gain arising from the calculation under section 511 is wholly disproportionate, the officer must recalculate the gain on a just and reasonable basis.

(6) Following a recalculation under subsection (5), references in this Chapter (but excluding this section) to a calculation under section 511 are to be regarded as references to a recalculation under this section.

(7) Following a recalculation under subsection (5), an officer of Revenue and Customs must notify the interested person of the result of the recalculation.

(8) If two or more persons are interested persons in relation to a calculation under section 511—

(a) an application under subsection (1) may be made only by all the interested persons jointly, and

(b) subsection (7) applies as if the reference to the interested person were a reference to each of the interested persons.

(9) Following a recalculation under subsection (5), all necessary adjustments and repayments of income tax are to be made.

(10) No recalculation is to be made under this section if the gain mentioned in subsection (1) arises as a result of one or more transactions which form part of arrangements, the main purpose, or one of the main purposes, of which is to obtain a tax advantage for any person.

(11) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

"tax advantage" has the meaning given by section 1139 of CTA 2010."

(4) In section 538 (recovery of tax from trustees), after subsection (6) insert—

"(7) Subsection (8) applies where—

(a) an individual has recovered an amount from trustees under this section, and

(b) subsequently the individual's liability to tax under this Chapter has been reduced (or removed) as a result of a recalculation under section 507A or 512A.

(8) The individual must repay to the trustees the amount (if any) by which the recovered amount exceeds the individual's revised entitlement.

(9) In subsection (8) the individual's revised entitlement is the amount to which the individual is entitled under this section calculated by reference to the individual's liability to tax under this Chapter as reduced (or removed) as a result of the recalculation under section 507A or 512A."

(5) The amendments made by subsection (4) have effect in relation to amounts recovered before, as well as after, the day on which this Act is passed.

10 Personal portfolio bonds

In section 520 of ITTOIA 2005 (property categories), after subsection (4) insert—

"(5) The Treasury may by regulations—

(a) amend the table in subsection (2) by adding, removing or amending a category of property;

(b) add, remove or amend a definition relating to any category of property in that table; and

(c) make consequential amendments.

(6) A statutory instrument containing regulations under this section which have the effect of removing a category of property from the table in subsection (2)—

(a) must be laid before the House of Commons; and

(b) ceases to have effect at the end of the period of 28 days beginning with the day on which it was made, unless it is approved during that period by a resolution of the House of Commons.

(7) In reckoning the period of 28 days, no account is to be taken of any time during which Parliament is dissolved or prorogued, or during which the House of Commons is adjourned for more than four days."

11 EIS and SEIS: the no pre-arranged exits requirement

(1) ITA 2007 is amended as follows.

(2) In section 177 (EIS: the no pre-arranged exits requirement), for subsection (2) substitute—

"(2) The arrangements referred to in subsection (1)(a) do not include—

(a) any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in section 247(1), or

(b) any arrangements with a view to any shares in the issuing company being exchanged for, or converted into, shares in that company of a different class."

(3) In section 257CD (SEIS: the no pre-arranged exits requirement), for subsection (2) substitute—

"(2) The arrangements referred to in subsection (1)(a) do not include—

(a) any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in section 257HB(1), or

(b) any arrangements with a view to any shares in the issuing company being exchanged for, or converted into, shares in that company of a different class."

(4) The amendments made by this section have effect in relation to shares issued on or after 5 December 2016.

12 VCTs: follow-on funding

(1) ITA 2007 is amended as follows.

(2) In section 326 (restructuring to which sections 326A and 327 apply)—

(a) in the heading to section 326, for "section 327 applies" substitute " sections 326A, 327 and 327A apply ";

(b) in subsection (1), for "Sections 326A and 327 apply" substitute " Sections 326A, 327 and 327A apply ".

(3) After section 327 insert—

"**327A Follow-on funding**

(1) Subsections (2) and (3) apply where—

(a) this section applies (see section 326(1)),

(b) the acquisition by the new company of all the old shares, which is provided for by the arrangements mentioned in section 326(1), takes place, and

(c) the acquisition falls within section 326(2).

(2) If, after the acquisition, another company makes an investment in the new company, section 280C (the permitted maximum age condition) has effect in relation to that investment as if—

(a) in subsection (4)(a) the reference to a relevant investment having been made in the relevant company before the end of the initial investing period included a reference to a relevant investment having been made in the old company before the acquisition and before the end of the initial investing period, and

(b) in subsection (6)(a) the reference to relevant investments made in the relevant company included a reference to relevant investments made in the old company before the acquisition.

(3) In relation to any relevant holding issued by the new company after the acquisition, section 294A (the permitted company age requirement) has effect as if—

(a) in subsection (3)(a) the reference to a relevant investment having been made in the relevant company before the end of the initial investing period included a reference to a relevant investment having been made in the old company before the acquisition and before the end of the initial investing period, and

(b) in subsection (5)(a) the reference to relevant investments made in the relevant company included a reference to relevant investments made in the old company before the acquisition.

(4) In subsection (3) "relevant holding" has the same meaning as in Chapter 4."

(4) The amendments made by this section have effect—

(a) for the purposes of section 280C of ITA 2007, in relation to investments made on or after 6 April 2017;

(b) for the purposes of section 294A of ITA 2007, in relation to relevant holdings issued on or after 6 April 2017.

13 VCTs: exchange of non-qualifying shares and securities

(1) Section 330 of ITA 2007 (power to facilitate company reorganisations etc involving exchange of shares) is amended as follows.

(2) After subsection (1) insert—

"(1A) The Treasury may by regulations make provision for the purposes of this Part for cases where—

(a) a holding of shares or securities that does not meet the requirements of Chapter 4 is exchanged for other shares or securities not meeting those requirements, and

(b) the exchange is made for genuine commercial reasons and does not form part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax."

(3) In subsection (2), for "subsection (1)" substitute " subsections (1) and (1A) ".

(4) In subsection (3), for "The regulations" substitute " Regulations under subsection (1) ".

(5) After subsection (3) insert—

"(3A) Regulations under subsection (1A) may, among other things, make provision—

(a) for the new shares or securities to be treated in any respect in the same way as the original shares and securities for any period;

(b) as to when the new shares or securities are to be regarded as having been acquired;

(c) as to the valuation of the original or the new shares or securities."

(6) In subsection (4), for "The regulations" substitute " Regulations under this section ".

(7) In subsection (6). in paragraph (c), at the beginning insert " in the case of regulations under subsection (1) ".

14 Social investment tax relief

Schedule 1 makes provision about income tax relief for social investments.

15 Business investment relief

(1) Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.

(2) In section 809VC (qualifying investments), in subsection (1)(a), after "issued to" insert " or acquired by ".

(3) In section 809VD (condition relating to qualifying investments)—

(a) in subsection (1), omit the "or" at the end of paragraph (b) and after that paragraph insert—

"(ba) an eligible hybrid company, or";

(b) in subsection (2)(b), for "2" substitute " 5 ";

(c) in subsection (3)(c), for "2" substitute " 5 ";

(d) after subsection (3) insert—

"(3A) A company is an "eligible hybrid company" if—

(a) it is a private limited company,

(b) it is not an eligible trading company or an eligible stakeholder company,

(c) it carries on one or more commercial trades or is preparing to do so within the next 5 years,

(d) it holds one or more investments in eligible trading companies or is preparing to do so within the next 5 years, and

(e) carrying on commercial trades and making investments in eligible trading companies are all or substantially all of what it does (or of what it is reasonably expected to do once it begins operating).";

(e) in subsection (4), for "reference in subsection (3)" substitute " references in subsections (3) and (3A) ";

(f) in subsection (5)(a), for "2" substitute " 5 ".

(4) In section 809VE (commercial trades), after subsection (5) insert—

"(6) A company which is a partner in a partnership is not to be regarded as carrying on a trade carried on by the partnership."

(5) In section 809VH (meaning of "potentially chargeable event")—

(a) in subsection (1)(a), after "eligible stakeholder company" insert " nor an eligible hybrid company ";

(b) in subsection (1)(d), for "2-year" substitute " 5-year ";

(c) in subsection (2), for paragraph (b) substitute—

"(b) the value is received from any person in circumstances that are directly or indirectly attributable to the investment, and";

(d) omit subsection (4);

(e) in subsection (5)—

(i) for "2-year" substitute " 5-year ";

(ii) in paragraph (a), for "2" substitute " 5 ";

(f) in subsection (6), omit the "or" at the end of paragraph (b) and after that paragraph insert—

"(ba) it is an eligible hybrid company but is not trading and—

(i) it holds no investments in eligible trading companies, or

(ii) none of the eligible trading companies in which it holds investments is trading, or";

(g) in subsection (10)(b), after "eligible stakeholder company" insert " or an eligible hybrid company ".

(6) In section 809VJ (grace period), after subsection (2) insert—

"(2A) But subsection (2B) applies instead of subsections (1) and (2) where the potentially chargeable event is a breach of the 5-year start-up rule by virtue of section 809VH(5)(b).

(2B) The grace period allowed for the steps mentioned in section 809VI(2)(a) and (2)(b) is the period of 2 years beginning with the day on which a relevant person first became aware or ought reasonably to have become aware of the potentially chargeable event referred to in subsection (2A)."

(7) In section 809VN (order of disposals etc), in subsections (1)(c) and (5)(a) and (b), after "eligible stakeholder company" insert " or eligible hybrid company ".

(8) The amendments made by this section have effect where the relevant event as defined in section 809VA of ITA 2007 occurs on or after 6 April 2017.

Income tax: trading and property businesses

16 Calculation of profits of trades and property businesses

Schedule 2 contains provision about the calculation of the profits of a trade, profession or vocation or a property business, in particular the calculation of profits on the cash basis.

17 Trading and property allowances

Schedule 3 contains provision about a trading allowance and a property allowance giving relief from income tax.

Corporation tax

18 Carried-forward losses

(1) Schedule 4 makes provision about corporation tax relief for losses and other amounts that are carried forward.

(2) The Commissioners for Her Majesty's Revenue and Customs may by regulations made by statutory instrument make provision consequential on any provision made by Schedule 4.

(3) Regulations under subsection (2)—

(a) may make provision amending or modifying any provision of the Taxes Acts (including any provision inserted by Schedule 4),

(b) may make incidental, supplemental, transitional, transitory or saving provision, and

(c) may make different provision for different purposes.

(4) A statutory instrument containing regulations under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.

(5) In this section "the Taxes Acts" has the same meaning as in the Taxes Management Act 1970 (see section 118(1) of that Act).

19 Losses: counteraction of avoidance arrangements

(1) Any loss-related tax advantage that would (in the absence of this section) arise from relevant tax arrangements is to be counteracted by the making of such adjustments as are just and reasonable.

(2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of—

(a) an assessment,

(b) the modification of an assessment,

(c) amendment or disallowance of a claim,

or otherwise.

(3) For the purposes of this section arrangements are "relevant tax arrangements" if conditions A and B are met.

(4) Condition A is that the purpose, or one of the main purposes, of the arrangements is to obtain a loss-related tax advantage.

(5) Condition B is that it is reasonable to regard the arrangements as circumventing the intended limits of relief under the relevant provisions or otherwise exploiting shortcomings in the relevant provisions.

(6) In determining whether or not condition B is met all the relevant circumstances are to be taken into account, including whether the arrangements include any steps that—

(a) are contrived or abnormal, or

(b) lack a genuine commercial purpose.

(7) In this section "loss-related tax advantage" means a tax advantage as a result of a deduction (or increased deduction) under a provision mentioned in subsection (8).

(8) The provisions are—

[[F2](za) section 2A(1) of TCGA 1992 (allowable capital losses);**]**

(a) sections 457, 459, 461, 462, 463B, 463G and 463H of CTA 2009 (non-trading deficits from loan relationships);

(b) section 753 of CTA 2009 (non-trading losses on intangible fixed assets);

(c) section 1219 of CTA 2009 (management expenses etc);

(d) sections 37, 45, 45A, 45B and 45F of CTA 2010 (deductions in respect of trade losses);

(e) section 62(3) of CTA 2010 (losses of a UK property business);

(f) Part 5 of CTA 2010 (group relief);

(g) Part 5A of CTA 2010 (group relief for carried-forward losses);

(h) sections 303B, 303C and 303D of CTA 2010 (non-decommissioning losses of ring-fence trades);

(i) sections 124A, 124B and 124C of FA 2012 (carried-forward BLAGAB trade losses).

(9) In this section—

"arrangements" includes any agreement, understanding, scheme transaction or series of transactions (whether or not legally enforceable);

"tax advantage" has the meaning given by section 1139 of CTA 2010.

(10) This section has effect in relation to a tax advantage that relates (or would apart from this section relate) to an accounting period beginning on or after 1 April 2017 (regardless of when the arrangements in question were made).

(11) Where a tax advantage would (apart from this subsection) relate to an accounting period beginning before 1 April 2017 and ending on or after that date ("the straddling period")—

(a) so much of the straddling period as falls before 1 April 2017, and so much of that period as falls on or after that date, are treated as separate accounting periods, and

(b) the extent (if any) to which the tax advantage relates to the second of those accounting periods is to be determined by apportioning amounts—

(i) in accordance with section 1172 of CTA 2010 (time basis), or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(12) In the case of a tax advantage as a result of a deduction (or increased deduction) under—

(a) section 463H of CTA 2009,

(b) section 62(3) of CTA 2010,

(c) section 303B, 303C or 303D of CTA 2010, or

(d) section 124A or 124C of FA 2012,

subsections (10) and (11) have effect as if the references to 1 April 2017 were to 13 July 2017.

[[F3](13) In the case of a tax advantage as a result of a deduction (or increased deduction) under section 2A(1) of TCGA 1992, subsections (10) and (11) have effect as if the references to 1 April 2017 were to 1 April 2020.**]**

Textual Amendments

F2 S. 19(8)(za) inserted (with effect in relation to accounting periods beginning on or after 1.4.2020 of the amending Act) by Finance Act 2020 (c. 14), **Sch. 4 paras. 23(2)**, 42 (with Sch. 4 paras. 43-46)

F3 S. 19(13) inserted (with effect in relation to accounting periods beginning on or after 1.4.2020 of the amending Act) by Finance Act 2020 (c. 14), **Sch. 4 paras. 23(3)**, 42 (with Sch. 4 paras. 43-46)

20 Corporate interest restriction

Schedule 5 makes provision about the amounts that may be brought into account for the purposes of corporation tax in respect of interest and other financing costs.

21 Museum and gallery exhibitions

Schedule 6 makes provision about relief in respect of the production of museum and gallery exhibitions.

22 Grassroots sport

(1) CTA 2010 is amended as follows.

(2) In section 1(2) (overview of Act)—

(a) omit the "and" at the end of paragraph (g), and

(b) after that paragraph insert—

"(ga) relief for expenditure on grassroots sport (see Part 6A), and".

(3) In section 99(1) (group relief: losses and other amounts which may be surrendered), after paragraph (d) insert—

"(da) amounts allowable as qualifying expenditure on grassroots sport (see Part 6A),".

(4) In section 105(4) (group relief: order in which amounts are treated as surrendered)—

(a) after paragraph (a) insert—

"(aa) second, expenditure within section 99(1)(da),",

(b) in paragraph (b), for "second" substitute " third ",

(c) in paragraph (c), for "third" substitute " fourth ", and

(d) in paragraph (d), for "fourth" substitute " fifth ".

(5) After Part 6 insert—

"PART 6A

RELIEF FOR EXPENDITURE ON GRASSROOTS SPORT

217A **Relief for expenditure on grassroots sport**

(1) A payment made by a company which is qualifying expenditure on grassroots sport (and which is not refunded) is allowed as a deduction in accordance with this section from the company's total profits in calculating the corporation tax chargeable for the accounting period in which the payment is made.

(2) The deduction is from the company's total profits for the accounting period after any other relief from corporation tax other than—

(a) relief under Part 6,

(b) group relief, and

(c) group relief for carried-forward losses.

(3) If the company is a qualifying sport body at the time of the payment, a deduction is allowed for the amount of the payment.

See section 217C for the meaning of "qualifying sport body".

(4) If the company is not a qualifying sport body at the time of the payment, a deduction is allowed—

(a) if the payment is to a qualifying sport body, for the amount of the payment, and

(b) if the payment does not fall within paragraph (a) (a "direct payment"), in accordance with subsections (7) and (8).

(5) If at any time on or after 1 April 2017 the company receives income for use for charitable purposes which are purposes for facilitating participation in amateur eligible sport, a deduction is allowed only if, and in so far as, the payment exceeds an amount which is equal to the amount of that income which—

(a) the company does not have to bring into account for corporation tax purposes, and

(b) has not previously been taken into account under this subsection to disallow a deduction under this Part of all or any part of a payment.

See section 217B(3) for the meaning of terms used in this subsection.

(6) But in any case, the amount of the deduction is limited to the amount that reduces the company's taxable total profits for the accounting period to nil.

(7) If the total of all the direct payments made by the company in the accounting period is equal to or less than the maximum deduction for direct payments, a deduction is allowed under subsection (4)(b) in respect of that total.

(8) If the total of all the direct payments made by the company in the accounting period is more than the maximum deduction for direct payments, a deduction is allowed under subsection (4)(b) in respect of so much of that total as does not exceed the maximum deduction for direct payments.

(9) The maximum deduction for direct payments is £2,500 or, if the accounting period is shorter than 12 months, a proportionately reduced amount.

(10) The Treasury may by regulations amend subsection (9) by substituting a higher amount for the amount for the time being specified there.

217B **Meaning of qualifying expenditure on grassroots sport**

(1) For the purposes of this Part, a payment is qualifying expenditure on grassroots sport if—

(a) it is expenditure incurred for charitable purposes which are purposes for facilitating participation in amateur eligible sport, and

(b) apart from this Part, no deduction from total profits, or in calculating any component of total profits, would be allowed in respect of the payment.

For the meaning of charitable purposes, see sections 2, 7 and 8 of the Charities Act 2011.

(2) Where expenditure is incurred for both—

(a) charitable purposes which are purposes for facilitating participation in amateur eligible sport, and

(b) other purposes,

then, for the purposes of subsection (1), it is to be apportioned between the purposes in paragraph (a) and the purposes in paragraph (b) on a just and reasonable basis.

(3) For the purposes of section 217A(5) and subsection (1)(a)—

(a) paying a person to play or take part in a sport does not facilitate participation in amateur sport, but paying coaches or officials for their services may do so, and

(b) "eligible sport" means a sport that for the time being is an eligible sport for the purposes of Chapter 9 of Part 13 (see section 661).

217C **Meaning of qualifying sport body**

(1) For the purposes of this Part, a "qualifying sport body" is—
  (a) a recognised sport governing body;
  (b) a body which is wholly owned by a recognised sport governing body.

(2) A "recognised sport governing body" is a body which is included from time to time in a list, maintained by the National Sports Councils, of governing bodies of sport recognised by them.

(3) The Treasury may by regulations—
  (a) amend this section for the purpose of altering the meaning of "qualifying sport body";
  (b) designate bodies to be treated as qualifying sport bodies for the purposes of this Part.

(4) Regulations under section (3)(b) may designate a body by reference to its inclusion in a class or description of bodies.

(5) In this section "the National Sports Councils" means—
  (a) the United Kingdom Sports Council,
  (b) the English Sports Council,
  (c) the Scottish Sports Council,
  (d) the Sports Council for Wales, and
  (e) the Sports Council for Northern Ireland.

(6) Regulations under subsection (3)(b) made before 1 April 2018 may include provision having effect in relation to times before the regulations are made (but not times earlier than 1 April 2017).

217D **Relationship between this Part and Part 6**

If, but for section 217A, an amount—
  (a) would be deductible under Part 6, or
  (b) would be deductible under Part 6 but for Chapter 2A of Part 6,

the amount is not deductible under this Part, and nothing in this Part affects the amount's deductibility (or non-deductibility) under Part 6."

(6) The amendments made by this section have effect for the purpose of allowing deductions for payments made on or after 1 April 2017.

(7) Where a company has an accounting period beginning before 1 April 2017 and ending on or after that date, the accounting period for the purposes of the new section 217A(9) is so much of the accounting period as falls on or after 1 April 2017.

23 Profits from the exploitation of patents: cost-sharing arrangements

(1) Part 8A of CTA 2010 (profits from the exploitation of patents) is amended as follows.

(2) After section 357BLE insert—

Changes to legislation: *There are currently no known outstanding effects for the Finance (No. 2) Act 2017, PART 1. (See end of Document for details)*

"**357BLEA Cases where the company is a party to a CSA**

(1) Subsection (2) applies if during the relevant period—

(a) the company is a party to a cost-sharing arrangement (see section 357GC),

(b) the company incurs expenditure in making payments under the arrangement that are within section 357BLC(2) by reason of section 357GCZC, and

(c) persons who are not connected with the company make payments under the arrangement to the company in respect of relevant research and development undertaken or contracted out by the company.

(2) So much of the expenditure referred to in paragraph (b) of subsection (1) as is equal to the amount of the payments referred to in paragraph (c) of that subsection is to be disregarded in determining the R&D fraction for the sub-stream.

(3) Subsection (4) applies if during the relevant period—

(a) the company is a party to a cost-sharing arrangement,

(b) the company incurs expenditure in making payments under the arrangement that are within subsection (5), and

(c) the company receives payments under the arrangement that are within subsection (6).

(4) So much of the expenditure referred to in paragraph (b) of subsection (3) as is equal to the amount of the payments referred to in paragraph (c) of that subsection is to be disregarded in determining the R&D fraction for the sub-stream.

(5) A payment is within this subsection if—

(a) it is within section 357BLD(2) by reason of section 357GCZC, or

(b) it is within section 357BLE(2) or (3) by reason of section 357GCZD.

(6) A payment is within this subsection if—

(a) it is made by persons connected with the company in respect of relevant research and development undertaken or contracted out by the company, or

(b) it is made in respect of an assignment to the company of a relevant qualifying IP right or a grant or transfer to the company of an exclusive licence in respect of such a right."

(3) For section 357GC substitute—

"**357GC Meaning of "cost-sharing arrangement" etc**

(1) This section applies for the purposes of this Part.

(2) A "cost-sharing arrangement" is an arrangement under which—

(a) each of the parties to the arrangement is required to contribute to the cost of, or undertake activities for the purpose of, creating or developing an item or process,

(b) each of those parties—

(i) is entitled to a share of any income attributable to the item or process, or

(ii) has one or more rights in respect of the item or process, and

(c) the amount of any income received by each of those parties is proportionate to its participation in the arrangement as described in paragraph (a).

(3) "Invention", in relation to a cost-sharing arrangement, means the item or process that is the subject of the arrangement (or any item or process incorporated within it).

357GCZA Qualifying IP right held by another party to CSA

(1) This section applies if—

(a) a company is a party to a cost-sharing arrangement,

(b) another party to the arrangement ("P") holds a qualifying IP right granted in respect of the invention, and

(c) the company does not hold an exclusive licence in respect of the right.

(2) But this section does not apply if the arrangement produces for the company a return within section 357BG(1)(c).

(3) The company is to be treated for the purposes of this Part as if it held the right.

(4) The right is to be treated for the purposes of this Part as a new qualifying IP right in relation to the company if—

(a) the company or P (or both) became a party to the arrangement on or after 1 April 2017, or

(b) the right is a new qualifying IP right in relation to P (or would be if P was a company).

(5) Subsection (4) does not apply if—

(a) the company held an exclusive licence in respect of the right immediately before it became a party to the arrangement, and

(b) that licence was granted to the company before the relevant date.

(6) The right is to be treated for the purposes of this Part as an old qualifying IP right in relation to the company if it is not to be treated as a new qualifying IP right by reason of subsection (4).

(7) Subsections (7) and (8) of section 357BP (meaning of "relevant date") apply for the purposes of subsection (5) of this section as they apply for the purposes of subsection (6) of that section.

357GCZB Exclusive licence held by another party to CSA

(1) This section applies if—

(a) a company is a party to a cost-sharing arrangement,

(b) another party to the arrangement ("P") holds an exclusive licence in respect of a qualifying IP right granted in respect of the invention, and

(c) the company does not hold the right or another exclusive licence in respect of it.

(2) But this section does not apply if the arrangement produces for the company a return within section 357BG(1)(c).

(3) The company is to be treated for the purposes of this Part as if it held an exclusive licence in respect of the right.

(4) The right is to be treated for the purposes of this Part as a new qualifying IP right in relation to the company if—
- (a) the company or P (or both) became a party to the arrangement on or after 1 April 2017, or
- (b) the right is a new qualifying IP right in relation to P (or would be if P was a company).

(5) Subsection (4) does not apply if—
- (a) the company held the right immediately before it became a party to the arrangement, and
- (b) either—
  - (i) the right had been granted or issued to the company in response to an application filed before 1 July 2016, or
  - (ii) the right had been assigned to the company before the relevant date.

(6) Subsection (4) also does not apply if—
- (a) the company held an exclusive licence in respect of the right immediately before it became a party to the arrangement, and
- (b) that licence was granted to the company before the relevant date.

(7) The right is to be treated for the purposes of this Part as an old qualifying IP right in relation to the company if it is not to be treated as a new qualifying IP right by reason of subsection (4).

(8) Subsections (7) and (8) of section 357BP (meaning of "relevant date") apply for the purposes of subsections (5) and (6) of this section as they apply for the purposes of subsections (5) and (6) of that section.

357GCZC R&D undertaken or contracted out by another party to CSA

(1) Subsection (2) applies if—
- (a) a company is a party to a cost-sharing arrangement, and
- (b) another party to the arrangement ("P") undertakes research and development for the purpose of creating or developing the invention.

(2) The research and development is to be treated for the purposes of sections 357BLC and 357BLD as having been contracted out by the company to P.

(3) Subsection (4) applies if—
- (a) a company is a party to a cost-sharing arrangement,
- (b) another party to the arrangement ("P") contracts out to another person ("A") research and development for the purpose of creating or developing the invention, and
- (c) the company makes a payment under the arrangement in respect of that research and development (whether to P or to A).

(4) For the purposes of sections 357BLC and 357BLD—

(a) the company is to be treated as having contracted out to P research and development which is the same as that contracted out by P to A, and

(b) the payment mentioned in subsection (3)(c) is to be treated as if it were a payment made to P in respect of the research and development the company is treated as having contracted out to P.

(5) In this section "research and development" has the meaning given by section 1138.

357GCZD Acquisition of qualifying IP rights etc by another party to CSA

(1) Subsection (2) applies if—

(a) a company is a party to a cost-sharing arrangement,

(b) a person ("A") assigns to another party to the arrangement ("P") a qualifying IP right,

(c) the qualifying IP right is a right in respect of the invention, and

(d) the company makes under the arrangement a payment in respect of the assignment (whether to A or to P).

(2) The payment is to be treated for the purposes of section 357BLE as if it were a payment to A in respect of the assignment by A to the company of the right.

(3) Subsection (4) applies if—

(a) a company is a party to a cost-sharing arrangement,

(b) a person ("A") grants or transfers to another party to the arrangement ("P") an exclusive licence in respect of qualifying IP right,

(c) the qualifying IP right is a right granted in respect of the invention, and

(d) the company makes a payment under the arrangement in respect of the grant or transfer (whether to A or to P).

(4) The payment is to be treated for the purposes of section 357BLE as if it were a payment to A in respect of the grant or transfer by A to the company of the licence.

357GCZE Treatment of expenditure in connection with formation of CSA etc

(1) Where—

(a) a company makes a payment to a person ("P") in consideration of that person entering into a cost-sharing arrangement with the company, and

(b) P holds a qualifying IP right granted in respect of the invention or holds an exclusive licence in respect of such a right,

a just and reasonable amount of the payment is to be treated for the purposes of section 357BLE as if it was an amount paid in respect of the assignment to the company of the right or (as the case may be) the transfer to the company of the licence.

(2) Where—

(a) a company makes a payment to a party to a cost-sharing arrangement ("P") in consideration of P agreeing to the company becoming a party to the arrangement (whether in place of P or in addition to P), and

(b) any party to the arrangement holds a qualifying IP right in respect of the invention or holds an exclusive licence in respect of such a right,

a just and reasonable amount of the payment is to be treated for the purposes of section 357BLE as if it was an amount paid in respect of the assignment to the company of the right or (as the case may be) the transfer to the company of the licence.

(3) Where—

(a) a company that is a party to a cost-sharing arrangement makes a payment to another party to the arrangement in consideration of that party agreeing to the company becoming entitled to a greater share of the income attributable to the invention or acquiring additional rights in relation to the invention, and

(b) any party to the arrangement holds a qualifying IP right in respect of the invention or holds an exclusive licence in respect of such a right,

a just and reasonable amount of the payment is to be treated for the purposes of section 357BLE as if it was an amount paid in respect of the assignment to the company of the right or (as the case may be) the transfer to the company of the licence.

357GCZF Treatment of income in connection with formation of CSA etc

(1) Where—

(a) a company receives a payment in consideration of its entering into a cost-sharing arrangement, and

(b) the company holds a qualifying IP right granted in respect of the invention or holds an exclusive licence in respect of such a right,

a just and reasonable amount of the payment is to be treated as relevant IP income of the company.

(2) Where—

(a) a company that is a party to a cost-sharing arrangement receives a payment from a person in consideration of its agreeing to that person becoming a party to the arrangement (whether in place of the company or in addition to it), and

(b) any party to the arrangement holds a qualifying IP right in respect of the invention or holds an exclusive licence in respect of such a right,

a just and reasonable amount of the payment is to be treated as relevant IP income of the company.

(3) Where—

(a) a company that is a party to a cost-sharing arrangement receives a payment from another party to the arrangement in consideration of its agreeing to that party becoming entitled to a greater share of the income attributable to the invention or acquiring additional rights in relation to the invention, and

(b) any party to the arrangement holds a qualifying IP right in respect of the invention or holds an exclusive licence in respect of such a right,

a just and reasonable amount of the payment is to be treated as relevant IP income of the company."

(4) In section 357BP (meaning of "new qualifying IP right") after subsection (12) insert—

"(13) This section has effect subject to section 357GCZA (qualifying IP right held by another party to a cost-sharing arrangement) and section 357GCZB (exclusive licence held by another party to a cost-sharing arrangement)."

(5) The amendments made by this section have effect in relation to accounting periods beginning on or after 1 April 2017.

24 Hybrid and other mismatches

(1) Part 6A of TIOPA 2010 (hybrid and other mismatches) is amended as follows.

(2) In section 259B(3) (local taxes), for "is not outside the scope of subsection (2) by reason only that" substitute " is outside the scope of subsection (2) if ".

(3) In section 259CC(2) (hybrid and other mismatches from financial instruments: meaning of "permitted" taxable period of a payee), for paragraph (b) substitute—

"(b) the period begins at a later time and it is just and reasonable for the amount of ordinary income to arise for the period (rather than an earlier one)."

(4) In section 259DD(2) (hybrid transfer deduction/non-inclusion mismatches: meaning of "permitted" taxable period of a payee), for paragraph (b) substitute—

"(b) the period begins at a later time and it is just and reasonable for the amount of ordinary income to arise for the period (rather than an earlier one)."

(5) In section 259EB (hybrid payer deduction/non-inclusion mismatches and their extent), after subsection (1) insert—

"(1A) But there is no hybrid payer deduction/non-inclusion mismatch so far as the relevant deduction is—

(a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or

(b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections."

(6) In section 259FA (deduction/non-inclusion mismatches relating to transfers by permanent establishments), after subsection (4) insert—

"(4A) For the purposes of this section "the PE deduction" does not include—

(a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or

(b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections."

(7) In section 259GB (hybrid payee deduction/non-inclusion mismatches and their extent), after subsection (1) insert—

"(1A) But there is no hybrid payee deduction/non-inclusion mismatch so far as the relevant deduction is—

(a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or

(b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections."

(8) In section 259HB (multinational payee deduction/non-inclusion mismatches and their extent), after subsection (1) insert—

"(1A) But there is no multinational payee deduction/non-inclusion mismatch so far as the relevant deduction is—

(a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or

(b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections."

(9) In section 259KB (imported mismatches: meaning of "excessive PE deduction" etc), after subsection (3) insert—

"(3A) For the purposes of this section a "PE deduction" does not include—

(a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or

(b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections."

(10) The amendment made by subsection (2)—

(a) has effect, in the case of its application to Chapter 6 of Part 6A of TIOPA 2010, in relation to excessive PE deductions in relation to which the relevant PE period begins on or after 13 July 2017,

(b) has effect, in the case of its application to Chapter 9 or 10 of that Part, in relation to accounting periods beginning on or after that date, and

(c) has effect, in the case of its application to any other Chapter of that Part, in relation to—

(i) payments made on or after date, or

(ii) quasi-payments in relation to which the payment period begins on or after that date.

(11) For the purposes of subsection (10)(a), (b) and (c)(ii), where there is a straddling period—

(a) so much of the straddling period as falls before 13 July 2017, and so much of it as falls on or after that date, are to be treated as separate accounting periods or separate taxable periods (as the case may be), and

(b) if it is necessary to apportion an amount for the straddling period to the two separate periods, it is to be apportioned—

(i) on a time basis according to the respective length of the separate periods, or

(ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(12) A "straddling period" means an accounting period or payment period (as the case may be) beginning before 13 July 2017 and ending on or after that date.

(13) Part 6A of TIOPA 2010 has effect, and is to be deemed always to have had effect, with the amendments set out in subsections (3) to (9).

25 Trading profits taxable at the Northern Ireland rate

Schedule 7 contains—

(a) amendments of Part 8B of CTA 2010 (trading profits taxable at the Northern Ireland rate), and

(b) amendments consequential on or related to those amendments.

Chargeable gains

26 Elections in relation to assets appropriated to trading stock

(1) Section 161 of TCGA 1992 (appropriations to and from trading stock) is amended as follows.

(2) In subsection (3)—

(a) for "a person's appropriation of an asset for the purposes of a trade" substitute " a case where a chargeable gain would have accrued to a person on the appropriation of an asset for the purposes of a trade as mentioned in that subsection ", and

(b) for "the chargeable gain or increased by the amount of the allowable loss referred to in subsection (1), and where that subsection" substitute " that chargeable gain, and where subsection (1) ".

(3) In subsection (3ZB)—

(a) in paragraph (a)—

(i) omit "or loss", and

(ii) omit "or an allowable loss",

(b) in paragraph (b)—

(i) omit ", or increased by the amount of any loss," and

(ii) omit "or allowable loss", and

(c) in paragraph (c), at the end insert " and a loss which accrues on that disposal which is not ATED-related is also unaffected by the election ".

(4) The amendments made by this section have effect in relation to appropriations of assets made on or after 8 March 2017.

***Changes to legislation:** There are currently no known outstanding effects for the Finance (No. 2) Act 2017, PART 1. (See end of Document for details)*

27 Substantial shareholding exemption

(1) Schedule 7AC to TCGA 1992 (exemptions for disposals by companies with substantial shareholding) is amended as follows.

(2) Omit the following (which relate to requirements to be met by investing company)—
- (a) in paragraph 1(2), "the investing company and";
- (b) in paragraph 3—
  - (i) in sub-paragraph (2)(b), "(but see sub-paragraph (3) below)";
  - (ii) sub-paragraph (3);
  - (iii) in sub-paragraph (4), "of paragraph 18(1)(b) and";
- (c) in the heading to Part 3, "investing company and";
- (d) paragraph 18 and the preceding italic heading;
- (e) in paragraph 23(3), "a member of a trading group or".

(3) In paragraph 7 (substantial shareholding requirement), for "two" substitute " six ".

(4) In paragraph 10 (effect of earlier no-gain/no-loss transfer), in sub-paragraph (2)(b), after "but for" insert " subsection (1A) or ".

(5) In paragraph 19 (requirements relating to company invested in)—
- (a) in sub-paragraph (1)(b), at the beginning insert " in a case where sub-paragraph 1A) applies, ";
- (b) after sub-paragraph (1) insert—

  "(1A) This sub-paragraph applies where—
  - (a) the disposal is a disposal to a person connected with the investing company, or
  - (b) the requirement in paragraph 7 is met by virtue of paragraph 15A.";
- (c) at the end insert—

  "(4) Section 1122 of CTA 2010 (meaning of "connected" persons) applies for the purposes of sub-paragraph (1A)(a)."

(6) The amendments made by this section have effect in relation to disposals made on or after 1 April 2017.

28 Substantial shareholding exemption: institutional investors

(1) Schedule 7AC to TCGA 1992 (exemptions for disposals by companies with substantial shareholding) is amended as follows.

(2) After paragraph 3 insert—

3A "**Subsidiary exemption: qualifying institutional investors**

(1) This paragraph applies in relation to a gain or loss accruing to a company ("the investing company") on a disposal of shares or an interest in shares in another company ("the company invested in").

(2) This paragraph applies if—

(a) the requirement in paragraph 7 is met (substantial shareholder requirement),
(b) the requirement in paragraph 19 is not met (requirement relating to company invested in), and
(c) the investing company is not a disqualified listed company.

(3) If, immediately before the disposal, 80% or more of the ordinary share capital of the investing company is owned by qualifying institutional investors, no chargeable gain or loss accrues on the disposal.

(4) If, immediately before the disposal, at least 25% but less than 80% of the ordinary share capital of the investing company is owned by qualifying institutional investors, the amount of the chargeable gain or loss accruing on the disposal is reduced by the percentage of the ordinary share capital of the investing company which is owned by the qualifying institutional investors.

(5) A company is a "disqualified listed company" for the purposes of this Part of this Schedule if—
(a) any of the shares forming part of the ordinary share capital of the company are listed on a recognised stock exchange,
(b) the company is not a qualifying institutional investor, and
(c) the company is not a qualifying UK REIT

(6) In sub-paragraph (5)(c) "qualifying UK REIT" means a UK REIT within the meaning of Part 12 of CTA 2010 which—
(a) meets the condition in section 528(4)(b) of that Act (company not a close company by virtue of having an institutional investor as a participant), or
(b) by virtue of section 443 of that Act (companies controlled by or on behalf of Crown) is not treated as a close company.

3B (1) This paragraph applies for the purposes of paragraph 3A.

(2) A person "owns" ordinary share capital if the person owns it—
(a) directly,
(b) indirectly, or
(c) partly directly and partly indirectly.

(3) Sections 1155 to 1157 of CTA 2010 (meaning of "indirect ownership" and calculation of amounts owned indirectly) apply for the purposes of sub-paragraph (2).

(4) For the purposes of sections 1155 to 1157 of CTA 2010 as applied by sub-paragraph (3)—
(a) ordinary share capital may not be owned through a disqualified listed company;
(b) treat references to a body corporate as including an exempt unauthorised unit trust (and references to ordinary share capital, in the case of such a trust, as references to units in the trust).

(5) A person is also to be regarded as owning ordinary share capital in a company in circumstances where a person would, under paragraphs 12 and 13 of this Schedule, be regarded as holding shares in a company.

(6) Where the assets of a partnership include ordinary share capital of a company, each partner is to be regarded as owning a proportion of that share capital equal to the partner's proportionate interest in that ordinary share capital.

(7) In this Schedule "exempt unauthorised unit trust" has the same meaning as in the Unauthorised Unit Trusts (Tax) Regulations 2013 (SI 2013/2819)."

(3) After paragraph 8 insert—

"8A (1) This paragraph applies in a case where at least 25% of the ordinary share capital of the investing company is owned by qualifying institutional investors.

(2) The investing company also holds a "substantial shareholding" in the company invested in for the purposes of this Schedule if—

(a) the investing company holds ordinary shares, or interests in ordinary shares, in the company invested in the cost of which on acquisition was at least £20,000,000, and

(b) by virtue of those shares or interests or any other shares or interests in shares in the company invested in, the investing company—

(i) is beneficially entitled to not less than a proportionate percentage of the profits available for distribution to equity holders of the company invested in, and

(ii) would be beneficially entitled on a winding up to not less than a proportionate percentage of the assets of the company invested in available for distribution to equity holders.

(3) In sub-paragraph (2)—

"cost" means the amount or value of the consideration, in money or money's worth, given by the investing company or on its behalf wholly and exclusively for the acquisition of the ordinary shares or interests in ordinary shares, together with the incidental costs to it of the acquisition;

"proportionate percentage" means a percentage equal to the percentage of the ordinary share capital held by the investing company by virtue of the ordinary shares and interests in ordinary shares referred to in sub-paragraph (2)(a).

(4) For the purposes of sub-paragraph (2)(a) it does not matter whether there was a single acquisition or a series of acquisitions.

(5) If—

(a) the percentage ("the actual percentage") of the profits or assets to which the investing company is, or would be, beneficially entitled as mentioned in sub-paragraph (2)(b)(i) or (ii) is less than the proportionate percentage, but

(b) having regard to the proportion that the actual percentage bears to the proportionate percentage, the difference can reasonably be regarded as insignificant,

the investing company is treated as meeting the condition in sub-paragraph (2)(b)(i) or (ii) (as the case may be).

(6) Paragraph 3B (owning ordinary share capital) applies for the purposes of sub-paragraph (1).

(7) Paragraph 8(2) applies for the purposes of sub-paragraph (2).

(8) In this paragraph "ordinary shares" means shares in the ordinary share capital of the company invested in."

(4) In paragraph 9 (aggregation), in sub-paragraph (1), for "paragraph 7" substitute " paragraphs 7 and 8A(2) ".

(5) After paragraph 30 insert—

30A "**Meaning of "qualifying institutional investor"**

(1) In this Schedule "qualifying institutional investor" means a person falling within any of A to G below.

(0) *Pension schemes*

The trustee or manager of—

(a) a registered pension scheme, other than an investment-regulated pension scheme, or

(b) an overseas pension scheme, other than one which would be an investment-regulated pension scheme if it were a registered pension scheme.

"Investment-regulated pension scheme" has the same meaning as in Part 1 of Schedule 29A to the Finance Act 2004.

"Overseas pension scheme" has the same meaning as in Part 4 of that Act.

(0) *Life assurance businesses*

A company carrying on life assurance business, if immediately before the disposal its interest in the investing company is held as part of its long-term business fixed capital.

"Life assurance business" has the meaning given in section 56 of the Finance Act 2012.

Section 137 of that Act applies for the purposes of determining whether an interest forms part of the long-term business fixed capital of a company.

(0) *Sovereign wealth funds etc*

A person who cannot be liable for corporation tax or income tax (as relevant) on the ground of sovereign immunity.

(0) *Charities*

A charity.

(0) *Investment trusts*

An investment trust.

(0) *Authorised investment funds*

An authorised investment fund which meets the genuine diversity of ownership condition throughout the accounting period of the fund in which the disposal is made.

"Authorised investment fund" has the same meaning as in the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964).

Regulation 9A of the Authorised Investment Funds (Tax) Regulations 2006 (genuine diversity of ownership) applies for this purpose.

(0) *Exempt unauthorised unit trusts*

The trustees of an exempt unauthorised unit trust, where the trust meets the genuine diversity of ownership condition throughout the accounting period of the trust in which the disposal is made.

Regulation 9A of the Authorised Investment Funds (Tax) Regulations 2006 (genuine diversity of ownership) applies for this purpose (treating references to an authorised investment fund as including an exempt unauthorised unit trust).

(2) The Treasury may by regulations amend this Schedule so as to add or remove a person as a "qualifying institutional investor" (and may in particular do so by changing the conditions subject to which a person is a qualifying institutional investor)."

(6) In paragraph 31 (index), at the appropriate places insert—

"Exempt unauthorised unit trust	paragraph 3B(7)"
"Qualifying institutional investor	paragraph 30A".

(7) The amendments made by this section have effect in relation to disposals made on or after 1 April 2017.

Domicile, overseas property etc

29 Deemed domicile: income tax and capital gains tax

(1) In Chapter 2A of Part 14 of ITA 2007 (income tax liability: domicile), after section 835B insert—

"**835BA Deemed domicile**

(1) This section has effect for the purposes of the provisions of the Income Tax Acts or TCGA 1992 which apply this section.

(2) An individual not domiciled in the United Kingdom at a time in a tax year ("the relevant tax year") is to be regarded as domiciled in the United Kingdom at that time if—

(a) condition A is met, or

(b) condition B is met.

(3) Condition A is that—

(a) the individual was born in the United Kingdom,
(b) the individual's domicile of origin was in the United Kingdom, and
(c) the individual is UK resident for the relevant tax year.

(4) Condition B is that the individual has been UK resident for at least 15 of the 20 tax years immediately preceding the relevant tax year.

(5) But Condition B is not met if—
(a) the individual is not UK resident for the relevant tax year, and
(b) there is no tax year beginning after 5 April 2017 and preceding the relevant tax year in which the individual was UK resident."

(2) Schedule 8 contains—
(a) provision applying section 835BA of ITA 2007, and
(b) further provision relating to this section.

30 Deemed domicile: inheritance tax

(1) In section 267 of IHTA 1984 (persons treated as domiciled in the United Kingdom), in subsection (1)—
(a) in paragraph (a), omit the final "or";
(b) after that paragraph insert—
"(aa) he is a formerly domiciled resident for the tax year in which the relevant time falls ("the relevant tax year"), or";
(c) for paragraph (b) substitute—
"(b) he was resident in the United Kingdom—
(i) for at least fifteen of the twenty tax years immediately preceding the relevant tax year, and
(ii) for at least one of the four tax years ending with the relevant tax year."

(2) In that section, omit subsection (3).

(3) In that section, in subsection (4), for "in any year of assessment" substitute " for any tax year ".

(4) In section 48 of that Act (settlements: excluded property)—
(a) in subsection (3)(b), for "and (3D)" substitute " to (3E) ";
(b) in subsection (3A)(b), for "subsection (3B)" substitute " subsections (3B) and (3E) ";
(c) after subsection (3D) insert—

"(3E) In a case where the settlor of property comprised in a settlement is not domiciled in the United Kingdom at the time the settlement is made, the property is not excluded property by virtue of subsection (3) or (3A) above at any time in a tax year if the settlor was a formerly domiciled resident for that tax year."

(5) In section 64 of that Act (charge at ten-year anniversary), in subsection (1B), after "was made" insert " and is not a formerly domiciled resident for the tax year in which the ten-year anniversary falls ".

(6) In section 65 of that Act (charge at other times), after subsection (7A) insert—

"(7B) Tax shall not be charged under this section by reason only that property comprised in a settlement becomes excluded property by virtue of section 48(3E) ceasing to apply in relation to it."

(7) In section 82 of that Act (excluded property)—

(a) for subsection (1) substitute—

"(1) In a case where, apart from this section, property to which section 80 or 81 applies would be excluded property by virtue of section 48(3)(a) above, that property shall not be taken to be excluded property at any time ("the relevant time") for the purposes of this Chapter (except sections 78 and 79) unless Conditions A and B are satisfied.";

(b) in subsection (2), for "the condition in subsection (3) below" substitute " Condition A ";

(c) in subsection (3), for "The condition" substitute " Condition A ";

(d) after subsection (3) insert—

"(4) Condition B referred to in subsection (1) above is—

(a) in the case of property to which section 80 above applies, that the person who is the settlor in relation to the settlement first mentioned in that section, and

(b) in the case of property to which subsection (1) or (2) of section 81 above applies, that the person who is the settlor in relation to the first or second of the settlements mentioned in that subsection,

was not a formerly domiciled resident for the tax year in which the relevant time falls."

(8) In section 272 of that Act (interpretation)—

(a) for the definition of "foreign-owned" substitute—

""foreign-owned", in relation to property at any time, means property—

(a) in the case of which the person beneficially entitled to it is at that time domiciled outside the United Kingdom, or

(b) if the property is comprised in a settlement, in the case of which the settlor—

(i) is not a formerly domiciled resident for the tax year in which that time falls, and

(ii) was domiciled outside the United Kingdom when the property became comprised in the settlement;";

(b) at the appropriate place insert—

""formerly domiciled resident", in relation to a tax year, means a person—

(a) who was born in the United Kingdom,

(b) whose domicile of origin was in the United Kingdom,

(c) who was resident in the United Kingdom for that tax year, and

(d) who was resident in the United Kingdom for at least one of the two tax years immediately preceding that tax year;".

(9) The amendments made by this section have effect in relation to times after 5 April 2017, subject to subsections (10) to (12).

(10) The amendment to section 267(1) of IHTA 1984 made by subsection (1)(c) does not have effect in relation to a person if—

(a) the person is not resident in the United Kingdom for the relevant tax year, and

(b) there is no tax year beginning after 5 April 2017 and preceding the relevant tax year in which the person was resident in the United Kingdom.

In this subsection "relevant tax year" is to be construed in accordance with section 267(1) of IHTA 1984 as amended by subsection (1).

(11) The amendment to section 267(1) of IHTA 1984 made by subsection (1)(c) also does not have effect in determining—

(a) whether settled property which became comprised in the settlement on or before that date is excluded property for the purposes of IHTA 1984;

(b) the settlor's domicile for the purposes of section 65(8) of that Act in relation to settled property which became comprised in the settlement on or before that date;

(c) whether, for the purpose of section 65(8) of that Act, the condition in section 82(3) of that Act is satisfied in relation to such settled property.

(12) Despite subsection (2), section 267(1) of IHTA 1984, as originally enacted, shall continue to be disregarded in determining—

(a) whether settled property which became comprised in the settlement on or before 9 December 1974 is excluded property for the purposes of IHTA 1984;

(b) the settlor's domicile for the purposes of section 65(8) of that Act in relation to settled property which became comprised in the settlement on or before that date;

(c) whether, for the purpose of section 65(8) of that Act, the condition in section 82(3) of that Act is satisfied in relation to such settled property.

(13) Subsections (14) and (15) apply if an amount of inheritance tax—

(a) would not be charged but for the amendments made by this section, or

(b) is, because of those amendments, greater than it would otherwise have been.

(14) Section 233 of IHTA 1984 (interest on unpaid inheritance tax) applies in relation to the amount of inheritance tax as if the reference, in the closing words of subsection (1) of that section, to the end of the period mentioned in paragraph (a), (aa), (b) or (c) of that subsection were a reference to—

(a) the end of that period, or

(b) if later, the end of the month immediately following the month in which this Act is passed.

(15) Subsection (1) of section 234 of IHTA 1984 (cases where inheritance tax payable by instalments carries interest only from instalment dates) applies in relation to the amount of inheritance tax as if the reference, in the closing words of that subsection, to the date at which an instalment is payable were a reference to—

(a) the date at which the instalment is payable, or

(b) if later, the end of the month immediately following the month in which this Act is passed.

(16) Subsection (17) applies if—

(a) a person is liable as mentioned in section 216(1)(c) of IHTA 1984 (trustee liable on 10-year anniversary, and other trust cases) for an amount of inheritance tax charged on an occasion, and

(b) but for the amendments made by this section—

(i) no inheritance tax would be charged on that occasion, or

(ii) a lesser amount of inheritance tax would be charged on that occasion.

(17) Section 216(6)(ad) of IHTA 1984 (delivery date for accounts required by section 216(1)(c)) applies in relation to the account to be delivered in connection with the occasion as if the reference to the expiration of the period of 6 months from the end of the month in which the occasion occurs were a reference to—

(a) the expiration of that period, or

(b) if later, the end of the month immediately following the month in which this Act is passed.

31 Settlements and transfer of assets abroad: value of benefits

Schedule 9 makes provision about the value of benefits received in relation to settlements and the transfer of assets abroad.

32 Exemption from attribution of carried interest gains

(1) TCGA 1992 is amended as follows.

(2) In section 13(1A) (attribution of gains to members of non-resident companies)—

(a) omit the "or" at the end of paragraph (a), and

(b) at the end of paragraph (b), insert ", or

(c) a chargeable gain treated as accruing under section 103KA(2) or (3) (carried interest gains)."

(3) In section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements), after subsection (4ZA) insert—

"(4ZB) Where (apart from this subsection) the amount mentioned in subsection (1)(e) would include an amount of chargeable gains treated as accruing under section 103KA(2) or (3) (carried interest gains), the amount of the gains is to be disregarded for the purposes of subsection (1)(e)."

(4) In section 87 (non-UK resident settlements: attribution of gains to beneficiaries), after subsection (5A) insert—

"(5B) Where (apart from this subsection) the amount mentioned in subsection (4)(a) would include an amount of chargeable gains treated as accruing under section 103KA(2) or (3) (carried interest gains), the amount of the gains is to be disregarded for the purposes of determining the section 2(2) amount."

(5) The amendments made by this section have effect in relation to chargeable gains treated as accruing under section 103KA(2) or (3) of TCGA 1992 at any time before, as well as after, the passing of this Act.

33 Inheritance tax on overseas property representing UK residential property

Schedule 10 makes provision about the extent to which overseas property is excluded property for the purposes of inheritance tax, in cases where the value of the overseas property is attributable to residential property in the United Kingdom.

Disguised remuneration

34 Employment income provided through third parties

(1) In section 554XA of ITEPA 2003 (employment income provided through third parties: exclusion for payments in respect of a tax liability), in subsection (2), omit paragraphs (a) and (b).

(2) The amendment made by subsection (1) has effect in relation to relevant steps taken on or after 21 July 2017.

(3) Schedule 11 makes provision about the application of Part 7A of ITEPA 2003 in relation to loans and quasi-loans that are outstanding on 5 April 2019.

35 Trading income provided through third parties

(1) ITTOIA 2005 is amended as follows.

(2) After section 23 insert—

"Trading income provided through third parties

23A Application of section 23E: conditions

(1) Section 23E (tax treatment of relevant benefits) applies if Conditions A to E are met.

(2) Condition A is that a person ("T") is or has been carrying on a trade (the "relevant trade") alone or in partnership.

(3) Condition B is that—

(a) there is an arrangement ("the arrangement") in connection with the relevant trade to which T is a party or which otherwise (wholly or partly) covers or relates to T, and

(b) it is reasonable to suppose that, in essence—

(i) the arrangement, or

(ii) the arrangement so far as it covers or relates to T,

is (wholly or partly) a means of providing, or is otherwise concerned with the provision of, relevant benefits.

(4) Condition C is that—

(a) a relevant benefit arises to T, or a person who is or has been connected with T, in pursuance of the arrangement, or

(b) a relevant benefit arises to any other person in pursuance of the arrangement and any of the enjoyment conditions (see section 23F) is met in relation to the relevant benefit.

(5) Condition D is that it is reasonable to suppose that the relevant benefit (directly or indirectly) represents, or has arisen or derives from, or is otherwise connected with, the whole or part of a qualifying third party payment.

(6) Condition E is that it is reasonable to suppose that a tax advantage would be obtained by T, or a person who is or has been connected with T, as a result of the arrangement.

(7) For the purposes of subsection (3) in particular, all relevant circumstances are to be taken into account in order to get to the essence of the matter.

(8) In this section and sections 23B to 23H, "this group of sections" means this section and those sections.

(9) The provisions of this group of sections apply to professions and vocations as they apply to trades.

(10) See Schedule 12 to F(No.2)A 2017 for provision about the application of this group of sections in relation to loans and quasi-loans that are outstanding on 5 April 2019.

23B Meaning of "relevant benefit"

(1) The following provisions apply for the purposes of this group of sections.

(2) "Relevant benefit" means any payment (including a payment by way of a loan), a transfer of money's worth, or any other benefit.

(3) The assumption of a liability of T by another person is to be treated as the provision of a relevant benefit to T.

(4) The assumption, by a person other than T, of a liability of a person ("C") who is or has been connected with T, is to be treated as the provision of a relevant benefit to C.

(5) "Loan" includes—
  (a) any form of credit;
  (b) a payment that is purported to be made by way of a loan.

23C Meaning of "qualifying third party payment"

(1) The following provisions apply for the purposes of this group of sections.

(2) A payment is a "third party payment" if it is made (by T or another person) to—
  (a) T acting as trustee, or
  (b) any person other than T.

(3) A third party payment is a "qualifying third party payment" if the deduction condition or the trade connection condition is met in relation to the payment.

(4) The "deduction condition" is met in relation to a payment if—
  (a) a deduction for the payment is made in calculating the profits of the relevant trade, or

(b) where the relevant trade is or has been carried on in partnership, a deduction for the payment is made in calculating the amount on which T is liable to income tax in respect of the profits of the trade.

(5) The "trade connection condition" is met in relation to a payment if it is reasonable to suppose that in essence—

(a) the payment is by way of consideration for goods or services provided in the course of the relevant trade, or

(b) there is some other connection (direct or indirect) between the payment and the provision of goods or services in the course of the relevant trade.

(6) For the purposes of subsection (5) in particular, all relevant circumstances are to be taken into account in order to get to the essence of the matter.

23D Other definitions

(1) The following provisions apply for the purposes of this group of sections.

(2) "Arrangement" includes any agreement, understanding, scheme, settlement, trust, transaction or series of transactions (whether or not legally enforceable).

(3) A "tax advantage" includes—

(a) relief or increased relief from tax,

(b) repayment or increased repayment of tax,

(c) avoidance or reduction of a charge to tax or an assessment to tax,

(d) avoidance of a possible assessment to tax,

(e) deferral of a payment of tax or advancement of a repayment of tax, and

(f) avoidance of an obligation to deduct or account for tax.

(4) Section 993 of ITA 2007 (meaning of "connected" persons) applies for the purposes of this group of sections as if subsection (4) of that section 993 were omitted.

23E Tax treatment of relevant benefits

(1) Where this section applies (see section 23A), the relevant benefit amount is to be treated for income tax purposes as profits of the relevant trade for—

(a) the tax year in which the relevant benefit arises, or

(b) if T has ceased to carry on the relevant trade in a tax year (the "earlier tax year") before the tax year referred to in paragraph (a), the earlier tax year.

(2) For the purposes of this section, "the relevant benefit amount" means—

(a) if the relevant benefit is a payment otherwise than by way of a loan, an amount equal to the amount of the payment,

(b) if the relevant benefit is a payment by way of loan, an amount equal to the principal amount lent, or

(c) in any other case, an amount equal to the value of the relevant benefit.

(3) For the purposes of subsection (2)(c), the value of a relevant benefit is—

(a) its market value at the time it arises, or
(b) if higher, the cost of providing it.

(4) In subsection (3) "market value" has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act.

23F Relevant benefits: persons other than T

(1) For the purposes of section 23A(4), the enjoyment conditions are—
(a) that the relevant benefit, or part of it, is in fact so dealt with by any person as to be calculated at some time to enure for the benefit of T;
(b) that the arising of the relevant benefit operates to increase the value to T of any assets—
(i) which T holds, or
(ii) which are held for the benefit of T;
(c) that T receives, or is entitled to receive, at any time any benefit provided or to be provided out of, or deriving or to be derived from, the relevant benefit (or part of it);
(d) where the relevant benefit is the payment of a sum of money (including a payment by way of loan), that T may become entitled to the beneficial enjoyment of the sum or part of the sum if one or more powers are exercised or successively exercised (and for these purposes it does not matter who may exercise the powers or whether they are exercisable with or without the consent of another person);
(e) where the relevant benefit is the payment of a sum of money (including a payment by way of loan), that T is able in any manner to control directly or indirectly the application of the sum or part of the sum.

(2) Where an enjoyment condition is met in relation to part only of a relevant benefit, that part is to be treated as a separate benefit for the purposes of section 23A(4).

(3) In subsection (1) references to T include references to a person who is or has been connected with T.

(4) In determining whether any of the enjoyment conditions is met in relation to a relevant benefit, regard must be had to the substantial result and effect of all the relevant circumstances.

23G Anti-avoidance

(1) In determining whether section 23E applies in relation to a relevant benefit, 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 23E does not apply in relation to the whole, or any part, of—
(a) the relevant benefit, or
(b) the relevant benefit and one or more other relevant benefits (whether or not all arising to the same person).

(2) Where arrangements are disregarded under subsection (1), and a relevant benefit (or part of it)—

(a) would, if the arrangements were not disregarded, arise before 6 April 2017, but

(b) would, when the arrangements are disregarded, arise on or after that date,

the relevant benefit (or part) is to be regarded for the purposes of this group of sections as arising on the date on which it would arise apart from the arrangements.

23H Double taxation

(1) This section applies where—

(a) income tax is charged on an individual by virtue of the application of section 23E in relation to a relevant benefit amount, and

(b) at any time, a tax (whether income tax or another tax) is charged on the individual or another person otherwise than by virtue of the application of section 23E in relation to the relevant benefit concerned.

(2) In order to avoid a double charge to tax, the individual may make a claim for one or more consequential adjustments to be made in respect of the tax charged as mentioned in subsection (1)(b).

(3) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(4) The value of any consequential adjustments must not exceed the lesser of—

(a) the income tax charged on the individual as mentioned in subsection (1)(a), and

(b) the tax charged as mentioned in subsection (1)(b).

(5) Consequential adjustments may be made—

(a) in respect of any period,

(b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and

(c) despite any time limit imposed by or under any enactment."

(3) In section 7(2) (income charged: profits of a tax year) at the end insert "(including amounts treated as profits of the tax year under section 23E(1)).

(4) The amendments made by this section have effect in relation to relevant benefits arising on or after 6 April 2017.

(5) Schedule 12 contains provision about the application of new sections 23A to 23H of ITTOIA 2005 in relation to loans and quasi-loans that are outstanding on 5 April 2019.

36 Disguised remuneration schemes: restriction of income tax relief

(1) Section 38 of ITTOIA 2005 (restriction of deductions: employee benefit contributions) is amended in accordance with subsections (2) to (5).

(2) After subsection (1) insert—

"(1A) No deduction is allowed under this section in respect of employee benefit contributions for a period of account which starts more than 5 years after the end of the period of account in which the contributions are made."

(3) After subsection (2) insert—

"(2AA) Subsection (2) is subject to subsections (1A) and (2AB).

(2AB) Where subsection (3C) applies, no deduction is allowed for an amount in respect of the contributions for the period except so far as the amount is a qualifying amount (see subsection (3D))."

(4) After subsection (3) insert—

"(3A) Subsection (3) is subject to subsections (1A) and (3B).

(3B) Where subsection (3C) applies, an amount disallowed under subsection (2) is allowed as a deduction for a subsequent period only so far as it is a qualifying amount.

(3C) This subsection applies where the provision of qualifying benefits out of, or by way of, the contributions gives rise both to an employment income tax charge and to an NIC charge.

(3D) An amount in respect of employee benefit contributions is a "qualifying amount" if the relevant tax charges are paid before the end of the relevant period (and are not repaid).

(3E) For the purposes of subsection (3D)—

(a) the "relevant tax charges", in relation to an amount, are the employment income tax charge and the NIC charge arising in respect of benefits which are provided out of, or by way of, that amount, and

(b) the "relevant period" is the period of 12 months immediately following the end of the period of account for which the deduction for the employee benefit contributions would (apart from this section) be allowable.

(3F) For the purposes of subsections (3C) and (3E), "employment income tax charge" and "NIC charge" have the meaning given by section 40(7)."

(5) After subsection (3F) (inserted by subsection (4)) insert—

"(3G) Subsection (3H) applies where—

(a) a deduction would, apart from this section, be allowable for an amount (the "remuneration amount") in respect of employees' remuneration, and

(b) in consequence of the payment of the employees' remuneration, employee benefit contributions are made, or are to be made, in respect of the remuneration amount.

(3H) In calculating for income tax purposes the profits of a trade, the deduction referred to in subsection (3G)(a) is to be treated as a deduction in respect of employee benefit contributions made or to be made (and is to be treated as not being a deduction in respect of employees' remuneration)."

(6) Section 866 of ITTOIA 2005 (employee benefit contributions: non-trades and non-property businesses) is amended in accordance with subsections (7) to (10).

(7) After subsection (2) insert—

"(2A) No deduction is allowed under this section in respect of employee benefit contributions for a period of account which starts more than 5 years after the end of the period of account in which the contributions are made."

(8) After subsection (3) insert—

"(3A) Subsection (3) is subject to subsections (2A) and (3B).

(3B) Where subsection (4C) applies, no deduction is allowed for an amount in respect of the contributions for the period except so far as the amount is a qualifying amount (see subsection (4D))."

(9) After subsection (4) insert—

"(4A) Subsection (4) is subject to subsections (2A) and (4B).

(4B) Where subsection (4C) applies, an amount disallowed under subsection (3) is allowed as a deduction for a subsequent period only so far as it is a qualifying amount.

(4C) This subsection applies where the provision of qualifying benefits out of, or by way of, the contributions gives rise both to an employment income tax charge and to an NIC charge.

(4D) An amount in respect of employee benefit contributions is a "qualifying amount" if the relevant tax charges are paid before the end of the relevant period (and are not repaid).

(4E) For the purposes of subsection (4D)—

(a) the "relevant tax charges", in relation to an amount, are the employment income tax charge and the NIC charge arising in respect of benefits which are provided out of, or by way of, that amount, and

(b) the "relevant period" is the period of 12 months immediately following the end of the period of account for which the deduction for the employee benefit contributions would (apart from this section) be allowable.

(4F) For the purposes of subsections (4C) and (4E), "employment income tax charge" and "NIC charge" have the meaning given by section 40(7)."

(10) After subsection (4F) (inserted by subsection (9)) insert—

"(4G) Subsection (4H) applies where—

(a) a deduction would, apart from this section, be allowable for an amount (the "remuneration amount") in respect of employees' remuneration, and

(b) in consequence of the payment of the employees' remuneration, employee benefit contributions are made, or are to be made, in respect of the remuneration amount.

(4H) In calculating for income tax purposes a person's profits or other income, the deduction referred to in subsection (4G)(a) is to be treated as a deduction in respect of employee benefit contributions made or to be made (and is to be treated as not being a deduction in respect of employees' remuneration)."

(11) The amendments made by subsections (2) to (4) and (7) to (9) have effect in relation to employee benefit contributions made, or to be made, on or after 6 April 2017.

(12) The amendments made by subsections (5) and (10) have effect in relation to remuneration paid on or after 6 April 2017.

37 Disguised remuneration schemes: restriction of corporation tax relief

(1) Section 1290 of CTA 2009 (restriction of deductions: employee benefit contributions) is amended in accordance with subsections (2) to (5).

(2) After subsection (1) insert—

"(1A) No deduction is allowed under this section in respect of employee benefit contributions for a period of account which starts more than 5 years after the end of the period of account in which the contributions are made."

(3) After subsection (2) insert—

"(2A) Subsection (2) is subject to subsections (1A) and (2B).

(2B) Where subsection (3C) applies, no deduction is allowed for an amount in respect of the contributions for the period except so far as the amount is a qualifying amount (see subsection (3D))."

(4) After subsection (3) insert—

"(3A) Subsection (3) is subject to subsections (1A) and (3B).

(3B) Where subsection (3C) applies, an amount disallowed under subsection (2) is allowed as a deduction for a subsequent period only so far as it is a qualifying amount.

(3C) This subsection applies where the provision of qualifying benefits out of, or by way of, the contributions gives rise both to an employment income tax charge and to an NIC charge.

(3D) An amount in respect of employee benefit contributions is a "qualifying amount" if the relevant tax charges are paid before the end of the relevant period (and are not repaid).

(3E) For the purposes of subsection (3D)—

(a) the "relevant tax charges", in relation to an amount, are the employment income tax charge and the NIC charge arising in respect of benefits which are provided out of, or by way of, that amount, and

(b) the "relevant period" is the period of 12 months immediately following the end of the period of account for which the deduction for the employee benefit contributions would (apart from this section) be allowable.

(3F) For the purposes of subsections (3C) and (3E), "employment income tax charge" and "NIC charge" have the meaning given by section 1292(7)."

(5) After subsection (3F) (inserted by subsection (4)) insert—

"(3G) Subsection (3H) applies where—

(a) a deduction would, apart from this section, be allowable for an amount (the "remuneration amount") in respect of employees' remuneration, and

(b) in consequence of the payment of the employees' remuneration, employee benefit contributions are made, or are to be made, in respect of the remuneration amount.

(3H) In calculating for corporation tax purposes the profits of a company, the deduction referred to in subsection (3G)(a) is to be treated as a deduction in respect of employee benefit contributions made or to be made (and is to be treated as not being a deduction in respect of employees' remuneration)."

(6) The amendments made by subsections (2) to (4) have effect in relation to employee benefit contributions made, or to be made, on or after 1 April 2017.

(7) The amendment made by subsection (5) has effect in relation to remuneration paid on or after 1 April 2017.

Capital allowances

38 First-year allowance for expenditure on electric vehicle charging points

(1) CAA 2001 is amended as follows.

(2) In section 39 (first-year qualifying expenditure) after the entry for section 45E insert—

"section 45EA	expenditure on plant or machinery for electric vehicle charging point".

(3) After section 45E insert—

"**45EA Expenditure on plant or machinery for electric vehicle charging point**

(1) Expenditure is first-year qualifying expenditure if—

(a) it is incurred in the relevant period,

(b) it is expenditure on plant or machinery for an electric vehicle charging point where the plant or machinery is unused and not second-hand, and

(c) it is not excluded by section 46 (general exclusions).

(2) For the purposes of this section expenditure on plant or machinery for an electric vehicle charging point is expenditure on plant or machinery installed solely for the purpose of charging electric vehicles.

(3) The "relevant period" is the period beginning with 23 November 2016 and ending with—

(a) in the case of expenditure incurred by a person within the charge to corporation tax, 31 March 2019, and

(b) in the case of expenditure incurred by a person within the charge to income tax, 5 April 2019.

(4) The Treasury may by regulations amend subsection (3) so as to extend the relevant period.

(5) In this section—

"electric vehicle" means a road vehicle that can be propelled by electrical power (whether or not it can also be propelled by another kind of power);

"electric vehicle charging point" means a facility for charging an electric vehicle."

(4) In section 46 (general exclusions), in subsection (1) after the entry for section 45E insert— " section 45EA (expenditure on plant or machinery for electric vehicle charging point) ".

(5) In section 52 (amount of first-year allowances)—

(a) in the table in subsection (3), after the entry for expenditure qualifying under section 45E insert—

"Expenditure qualifying under section 45EA (expenditure on plant or machinery for electric vehicle charging point)	100%"

(b) after subsection (3) insert—

"(3A) Subsection (3B) applies where the Treasury make regulations under section 45EA(4) (power to extend relevant period).

(3B) The regulations may amend the amount specified in column 2 of the Table in subsection (3) for expenditure qualifying under section 45EA, but only in relation to expenditure incurred after the date on which the relevant period would have ended but for the regulations."

Transactions in UK land

39 Disposals concerned with land in United Kingdom

(1) The FA 2016 amendments have effect (so far as they would not otherwise have effect) in relation to—

(a) amounts that are recognised in GAAP accounts drawn up for any period of account beginning on or after 8 March 2017, or

(b) in the case of a straddling period, amounts that would be recognised in GAAP accounts drawn up for a period of account beginning on 8 March 2017 and ending when the straddling period ends.

(2) In subsection (1)—

"the FA 2016 amendments" means—

(a) the amendments made by sections 76, 77 and 80 of FA 2016 (corporation tax treatment of certain profits and gains realised from disposals concerned with land in the United Kingdom), or

(b) the amendments made by sections 78 and 79 of that Act (corresponding rules for income tax purposes),

"GAAP accounts" means accounts drawn up in accordance with generally accepted accounting practice,

"recognised" means recognised as an item of profit or loss, and

"straddling period" means a period of account beginning before 8 March 2017 and ending on or after that date.

(3) In section 161 of TCGA 1992 (appropriations to and from stock), in subsection (5)(a), for "CTA 2010" substitute " ITA 2007 ".

(4) Section 79(10) of FA 2016 (which substitutes paragraph (a) of section 161(5) of TCGA 1992) is to be regarded as always having had effect with the amendment made by subsection (3).

Co-ownership authorised contractual schemes

40 Co-ownership authorised contractual schemes: capital allowances

In Part 2 of CAA 2001 (plant and machinery), in Chapter 20 (supplementary provisions), after the Chapter heading insert—

"Co-ownership authorised contractual schemes

262AA **Co-ownership schemes: carrying on qualifying activity**

(1) This section applies where the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity.

(2) Each participant in the scheme is for the purposes of this Part to be regarded as carrying on the qualifying activity.

(3) Subsection (2) applies in relation to a participant only to the extent that the profits or gains arising to the participant from the qualifying activity are, or (if there were any) would be, chargeable to tax.

(4) But in determining for the purposes of subsection (1) whether or to what extent the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity, assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

262AB **Co-ownership schemes: election**

(1) The operator of a co-ownership authorised contractual scheme may make an election under this section.

(2) The election must specify an accounting period of the scheme as the first accounting period in relation to which the election has effect.

(3) That first accounting period must not—
  (a) be longer than 12 months, or
  (b) begin before 1 April 2017.

(4) The election has effect for that first accounting period and all subsequent accounting periods of the scheme.

(5) The election is irrevocable.

(6) The election is made by notice to an officer of Revenue and Customs.

262AC **Co-ownership schemes: calculation of allowance after election**

(1) This section applies where an election under section 262AB has effect for an accounting period of a co-ownership authorised contractual scheme ("the relevant period").

(2) The operator of the scheme is to calculate the allowances that would be available to the scheme under this Part in relation to the relevant period on the basis of the assumptions in subsection (3).

(3) The assumptions are—
  (a) the scheme is a person;
  (b) the relevant period is a chargeable period for the purposes of this Act;
  (c) any qualifying activity carried on by the participants in the scheme together is carried on by the scheme;
  (d) property which was subject to the scheme at the beginning of the first accounting period for which the election has effect—
    (i) ceased to be owned by the participants at that time, and
    (ii) was acquired by the scheme at that time;
  (e) the disposal value to be brought into account in relation to the cessation of ownership and the acquisition referred to in paragraph (d) is the tax written-down value;
  (f) any property which became subject to the scheme at a time during an accounting period for which the election has effect was acquired by the scheme at that time;
  (g) property which ceased to be subject to the scheme at any such time ceased to be owned by the scheme at that time;
  (h) the disposal value to be brought into account in relation to the cessation of ownership referred to in paragraph (g) is the tax written-down value;
  (i) the scheme is not entitled to a first-year allowance or an annual investment allowance in respect of any expenditure.

(4) The operator of the co-ownership authorised contractual scheme must allocate to each participant in the scheme a proportion (which may be zero) of the allowances calculated under this section.

(5) The allocation is to be on the basis of what is just and reasonable.

(6) In determining what is just and reasonable—
  (a) regard is to be had in particular to the relative size of each participant's holding of units in the scheme;

(b) no regard is to be had to—

(i) whether or to what extent a participant is liable to income tax or corporation tax, or

(ii) any other circumstances relating to a participant's liability to tax.

(7) If the participants in the scheme together carry on more than one qualifying activity, the calculation and allocation under this section are to be made separately for each activity.

(8) The proportion of an allowance allocated by the operator to a participant under this section for a qualifying activity is the total amount of the allowance available to the participant under this Part in relation to the relevant period by virtue of carrying on that activity as a participant in the scheme.

(9) In this section "tax written-down value", in relation to any cessation of ownership or acquisition, means such amount as would give rise to neither a balancing allowance nor a balancing charge.

(10) For the purposes of subsection (9) assume that expenditure to which the disposal value relates is in its own pool.

(11) For the purposes of subsections (3)(c) and (9), assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

262AD **Co-ownership schemes: effect of election for participants**

(1) This section has effect where an election under section 262AB is made by the operator of a co-ownership authorised contractual scheme.

(2) For the purposes of sections 61(1) and 196(1) (disposal events and values)—

(a) a participant in the scheme is to be regarded as ceasing to own the participant's interest in the property subject to the scheme at the beginning of the first accounting period of the scheme for which the election has effect, and

(b) the disposal value to be brought into account in relation to that cessation of ownership is the tax written-down value.

(3) In subsection (2)(b) "tax written-down value" means such amount as would give rise to neither a balancing allowance nor a balancing charge.

(4) For the purposes of subsection (3) assume that—

(a) expenditure to which the disposal value relates is in its own pool;

(b) profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

262AE **Co-ownership schemes: effect of election for purchasers**

(1) This section has effect where—

(a) an election under section 262AB is made by the operator of a co-ownership authorised contractual scheme,

(b) property consisting of a fixture ceased to be subject to the scheme at any time in an accounting period for which the election has effect,

(c) in a calculation made by the operator of the scheme under section 262AC(2) the assumption in section 262AC(3)(g) was made in relation to that fixture, and

(d) a person ("the current owner") is treated as the owner of the fixture as a result of incurring capital expenditure on its provision ("the new expenditure").

(2) In determining the current owner's qualifying expenditure—

(a) if the disposal value statement requirement is not satisfied, the new expenditure is to be treated as nil, and

(b) in any other case, any amount of the new expenditure which exceeds the assumed disposal value is to be left out of account (or, if such an amount has already been taken into account, is to be treated as an amount that should never have been taken into account).

(3) The disposal value statement requirement is that—

(a) the operator of the scheme has, no later than 2 years after the date when the fixture ceased to be property subject to the scheme, made a written statement of the assumed disposal value, and

(b) the current owner has obtained that statement or a copy of it (directly or indirectly) from the operator of the scheme.

(4) Sections 185 (fixture on which a plant and machinery allowance has been claimed) and 187A (effect of changes in ownership of fixture) do not apply in relation to the new expenditure.

(5) In this section "assumed disposal value" means the disposal value that, in making the calculation referred to in subsection (1)(c), was assumed to be brought into account pursuant to section 262AC(3)(h).

262AF **Co-ownership schemes: definitions relating to schemes**

In sections 262AA to 262AE and this section—

"co-ownership authorised contractual scheme" means a co-ownership scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 261D(1) of that Act;

"co-ownership scheme" has the same meaning as in Part 17 of that Act (see section 235A(2) of that Act);

"operator" and "units", in relation to a co-ownership authorised contractual scheme, have the meanings given by section 237(2) of that Act;

"participant", in relation to such a scheme, is to be read in accordance with section 235 of that Act."

41 Co-ownership authorised contractual schemes: information requirements

(1) The Treasury may by regulations impose requirements on the operator of a co-ownership authorised contractual scheme in relation to—

(a) the provision of information to participants in the scheme;

(b) the provision of information to Her Majesty's Revenue and Customs.

(2) Regulations under subsection (1)(a) may be made only for the purpose of enabling participants in a co-ownership authorised contractual scheme to meet their tax obligations in the United Kingdom with respect to their interests in the scheme.

(3) Regulations under subsection (1)(b) may in particular require the provision of information about—
   (a) who the participants in the scheme were in any accounting period of the scheme;
   (b) the number and classes of units in the scheme in any such period;
   (c) the amount of income per unit of any class in any such period;
   (d) what information has been provided to participants.

(4) Regulations under this section may specify—
   (a) the time when information is to be provided;
   (b) the form and manner in which information is to be provided.

(5) Regulations under this section may make provision for the imposition of penalties in respect of contravention of, or non-compliance with, the regulations, including provision—
   (a) for Her Majesty's Revenue and Customs to exercise a discretion as to the amount of a penalty, and
   (b) about appeals in relation to the imposition of a penalty.

(6) Regulations under this section may in particular be framed by reference to an accounting period of a co-ownership authorised contractual scheme beginning on or after 1 April 2017.

(7) Regulations under this section may contain consequential, supplementary and transitional provision.

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

(9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(10) In this section—

"co-ownership authorised contractual scheme" means a co-ownership scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 261D(1) of that Act;

"co-ownership scheme" has the same meaning as in Part 17 of that Act (see section 235A(2) of that Act);

"operator" and "units", in relation to a co-ownership authorised contractual scheme, have the meanings given by section 237(2) of that Act;

"participant", in relation to such a scheme, is to be read in accordance with section 235 of that Act.

42 Co-ownership authorised contractual schemes: offshore funds

(1) The Treasury may by regulations make provision about how participants in a co-ownership authorised contractual scheme are to be treated for income tax purposes or corporation tax purposes in relation to investments made for the purposes of the scheme in an offshore fund.

(2) Regulations under subsection (1) may, among other things, make provision—

(a) for the operator of a co-ownership authorised contractual scheme to allocate to participants in the scheme amounts relating to investments made for the purposes of the scheme in an offshore fund;

(b) for those amounts to be regarded as income of the participants to whom they are allocated;

(c) as to when that income is to be brought into account for income tax purposes or corporation tax purposes.

(3) Regulations under this section may—

(a) modify an enactment (whenever passed or made);

(b) contain consequential, supplementary and transitional provision.

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

(5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(6) References in this section to investments made for the purposes of a co-ownership authorised contractual scheme in an offshore fund include investments so made through one or more other co-ownership authorised contractual schemes.

(7) In this section—

"co-ownership authorised contractual scheme" means a co-ownership scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 261D(1) of that Act;

"co-ownership scheme" has the same meaning as in Part 17 of that Act (see section 235A(2) of that Act);

"offshore fund" has the meaning given by section 355 of TIOPA 2010;

"operator", in relation to a co-ownership authorised contractual scheme, has the meaning given by section 237(2) of the Financial Services and Markets Act 2000;

"participant", in relation to such a scheme, is to be read in accordance with section 235 of that Act.

Changes to legislation:
There are currently no known outstanding effects for the Finance (No. 2) Act 2017, PART 1.