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STATUTORY INSTRUMENTS

2008 No. 954

The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2008

PART 1

GENERAL PROVISIONS

Citation, commencement and effect

1.—(1) This Order may be cited as the Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2008, and shall come into force on 6th April 2008.

(2) Articles 8, 12, 21, 42, 47 and 52 have effect for periods of account beginning on or after 6th April 2008.

Overview of this Order

2. In this Order—

this Part contains general provisions;

Part 2 makes consequential amendments to primary legislation;

Part 3 makes consequential amendments to secondary legislation.

Consequential repeals

3. The consequential repeals in the Schedule to this Order have effect.

General saving

4. The amendments and repeals made by this Order do not affect the operation of section 1297 of the Companies Act 2006 (continuity of the law).

PART 2

CONSEQUENTIAL AMENDMENTS TO PRIMARY LEGISLATION COMING INTO FORCE ON 6TH APRIL 2008

The Tobacco Products Duty Act 1979 (c. 7)

Sections 7A to 7C: supplemental

5. In section 7D(4) of the Tobacco Products Duty Act 1979(**1**) for "section 258 of the Companies Act 1985 (c. 6)" substitute "section 1162 of the Companies Act 2006".

The Income and Corporation Taxes Act 1988 (c. 1)

Introduction

6. The Income and Corporation Taxes Act 1988 is amended as follows.

Reduction of vendor's interest as shareholder

7. In section 221(7) for "Part VIII of the Companies Act 1985" substitute "Part 23 of the Companies Act 2006".

Insurance companies: long term business other than life assurance business

8. In section 432YA(5)(**2**), in the definition of "long term business provision", for "Schedule 9A to the Companies Act 1985" substitute "Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008".

Insurance companies: apportionment of income and gains

9. In section 432A(8A)(**3**), in the definition of a reattribution that is "relevant", for "section 425 of the Companies Act 1985" substitute "Part 26 of the Companies Act 2006".

Share loss relief: the unquoted status requirement

10. In section 576H(3)(**4**) (the unquoted status requirement) for the definition of debenture substitute—

> ""debenture" has the meaning given by section 738 of the Companies Act 2006,".

Interpretation of sections 765 to 767

11. In section 767(5) for the definition of ""share", "debenture" and "director"" substitute—

> ""share" has, in relation to any body corporate, the meaning given by Part 26 of the Companies Act 1985 in relation to a company;
>
> "debenture" has, in relation to any body corporate, the meaning given by section 738 of the Companies Act 2006 in relation to a company;

(**1**) Sections 7A to 7D were inserted by section 2(1) of the Finance Act 2006 (c. 25).
(**2**) Section 432YA was inserted by S.I. 2006/3387.
(**3**) Section 432A was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 (c. 29); subsection (8A) was inserted by S.I. 2005/3465.
(**4**) Section 576H was inserted by paragraph 128 of Schedule 1 to the Income Tax Act 2007 (c. 3).

"director" has, in relation to any body corporate, the meaning given by section 250 of the Companies Act 2006 in relation to a company;".

Interpretation of section 804C in relation to other insurance business

12. In section 804E(7)(**5**) for paragraph (b) substitute—

"(b) in the provisions of section B of Part 1 of Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (the required formats) which relate to the profit and loss account format (within the meaning of sub-paragraphs (1) and (2) of paragraph 1 of that Schedule),".

Interpretation of the Corporation Tax Acts

13. In section 834(1)(**6**), in the definition of "statutory insolvency arrangement", for paragraph (b) substitute—

"(b) a compromise or arrangement that has taken effect under Part 26 of the Companies Act 2006, or".

Cases where section 747(3) does not apply

14.—(1) Amend Schedule 25(**7**) as follows.

(2) In paragraph 11A—

(a) for sub-paragraph (4) substitute—

"(4) "Insurance group" shall be construed in accordance with section 1165(5) of the Companies Act 2006, but does not include such an insurance group if it falls within sub-paragraph (5) below.";

(b) in sub-paragraph (5) omit the words "(within the meaning of that Part as so read)".

(3) In paragraph 11B(3)—

(a) in paragraph (a) for "section 247(5) of that Act 1985 or Article 255(5) of that Order" substitute "sections 382(5) and 465(5) of the Companies Act 2006";

(b) in paragraph (b) for "section 262(1) of that Act 1985 or Article 270(1) of that Order" substitute "section 474(1) of that Act";

(c) in paragraph (c) for "section 247(6) of that Act 1985 or Article 255 of that Order" substitute "sections 382(6) and 465(6) of that Act".

Provisions not at arm's length

15. In paragraph 5A of Schedule 28AA(**8**) for sub-paragraph (4) substitute—

"(4) In this paragraph "dormant" has the same meaning as in section 1169 of the Companies Act 2006.".

(**5**) Section 804E was inserted by paragraph 18(1) of Schedule 30 to the Finance Act 2000 (c. 17).
(**6**) The definition of "statutory insolvency arrangement" was inserted by paragraph 8 of Schedule 4 to the Finance Act 2005 (c. 7).
(**7**) Paragraphs 11A and 11B of Schedule 25 were inserted by paragraph 4 of Schedule 42 to the Finance Act 2003 (c. 14).
(**8**) Schedule 28AA was inserted by Schedule 16 to the Finance Act 1998 (c. 36); paragraph 5A was inserted by section 31(3) of the Finance Act 2004 (c. 12).

The Taxation of Chargeable Gains Act 1992 (c. 12)

Introduction

16. The Taxation of Chargeable Gains Act 1992 is amended as follows.

Meaning of "scheme of reconstruction"

17. In paragraph 5(a) of Schedule 5AA(**9**) for paragraph (i) substitute—

"(i) to which Part 26 of the Companies Act 2006 (arrangements and reconstructions) applies,".

Enterprise investment scheme: re-investment

18.—(1) Amend paragraph 14 of Schedule 5B(**10**) as follows.

(2) In sub-paragraph (5)—

(a) in paragraph (a) for the words following "authorised minimum" to the end substitute—

"(within the meaning of the Companies Act 2006) for the purposes of complying with the requirements of section 761 of that Act (public company: requirement as to minimum share capital);";

(b) in paragraph (b) for "section 117" substitute "section 761".

(3) Omit sub-paragraph (6).

The Finance Act 1993 (c. 34)

Meaning of "accounts" and other expressions

19. In section 92E(1) of the Finance Act 1993(**11**)—

(a) in paragraph (a) for "Part 7 of the Companies Act 1985 or Part 8 of the Companies (Northern Ireland) Order 1986" substitute "Part 15 of the Companies Act 2006";

(b) in paragraph (c) for "Part 7 of the Companies Act 1985" substitute "Part 15 of the Companies Act 2006".

The Value Added Tax Act 1994 (c. 23)

Disclosure of avoidance schemes

20. In paragraph 7(9) of Schedule 11A to the Value Added Tax Act 1994(**12**) for "Part 7 of the Companies Act 1985" substitute "section 1161 of the Companies Act 2006".

The Finance Act 1996 (c. 8)

Money debts etc not arising from the lending of money

21. In section 100 of the Finance Act 1996—

(**9**) Schedule 5AA was inserted by paragraph 3 of Schedule 9 to the Finance Act 2002 (c. 23).
(**10**) Schedule 5B was inserted by paragraph 4(3) of Schedule 13 to the Finance Act 1995 (c. 4).
(**11**) Section 92E was inserted by paragraph 77 of Schedule 10 to the Finance Act 2004 (c. 12).
(**12**) Schedule 11A was inserted by paragraph 2 of Schedule 2 to the Finance Act 2004.

(a) for subsection (10)(b) substitute—

"(b) in the case of a company carrying on insurance business, any deferred acquisition costs, within the meaning of Assets item G.II in the Balance Sheet Format set out after paragraph 10 of Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 as read with note (17) of the Notes on the Balance Sheet Format (which follow immediately after that format).";

(b) for subsection (11)(b) substitute—

"(b) in the case of a company carrying on insurance business—

(i) any provision made by the company for unearned premiums, acquisition costs within the meaning of Liabilities item C.1 in the Balance Sheet Format set out after paragraph 10 of Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 as read with notes (12) and (20) of the Notes on the Balance Sheet Format (which follow immediately after that format);

(ii) any provision for unexpired risks, as defined in paragraph 91 of that Schedule.".

The Finance Act 1997 (c. 16)

Leasing arrangements: accounting purposes and normal accountancy practice

22. In paragraph 28(6) of Schedule 12 to the Finance Act 1997 for the words following "shall be construed" substitute "in accordance with section 1162 of the Companies Act 2006".

The Finance Act 1998 (c. 36)

Introduction

23. The Finance Act 1998 is amended as follows.

Computation of profits of trade, profession or vocation

24. In section 42(2)(a) for "the Companies Act 1985 or the Companies (Northern Ireland) Order 1986" substitute "the Companies Act 2006 or subordinate legislation made under that Act".

Company tax returns, assessments and related matters

25.—(1) Amend Schedule 18 as follows.

(2) For paragraph 11 substitute—

"**Accounts required in case of Companies Act company**

11. In the case of a company which—

(a) is required to deliver a company tax return for a period,

(b) is resident in the United Kingdom throughout that period, and

(c) is required under the Companies Act 2006 to prepare accounts for a period consisting of or including the whole of that period,

the power to require the delivery of accounts as part of the return is limited to such accounts, containing such information and having annexed to them such documents, as are required to be prepared under that Act.".

(3) For paragraph 19 substitute—

"**Excuse for late delivery of return**

19. A company is not liable to a penalty under paragraph 17 (flat rate penalty) if—

(a) the period for which the return is required is one for which the company is required to deliver accounts under the Companies Act 2006, and

(b) the return is delivered no later than the last day for the delivery of those accounts to the registrar of companies.".

(4) In paragraph 24 for sub-paragraph (7)(**13**) substitute—

"(7) In sub-paragraph (6) "group" and "small group" have the same meaning as in sections 474(1) and 383 of the Companies Act 2006.".

The Finance Act 2000 (c. 17)

The corporate venturing scheme

26. In paragraph 58 of Schedule 15 to the Finance Act 2000—

(a) in sub-paragraph (5)—

(i) for "the Companies Act 1985" substitute "the Companies Act 2006";

(ii) for "section 117" (in both places) substitute "section 761";

(b) omit sub-paragraph (6).

The Capital Allowances Act 2001 (c. 2)

Introduction

27. The Capital Allowances Act 2001 is amended as follows.

Expenditure of small or medium-sized enterprises: companies

28.—(1) Amend section 47 as follows.

(2) In subsection (4)—

(a) for "Except in the case of a company formed and registered in Northern Ireland" substitute "In this section";

(b) in paragraph (a) for "section 247 of the Companies Act 1985" substitute "sections 382 and 465 of the Companies Act 2006";

(c) in paragraph (b) for "Part VII of the 1985 Act" substitute "section 390 of the Companies Act 2006".

(3) Omit subsection (5).

(4) In subsection (6)—

(a) in paragraph (a) for "the 1985 Act" substitute "the Companies Act 1985";

(**13**) Paragraph 24(7) was inserted by section 96(4) of the Finance Act 2007 (c. 11).

(b) in paragraph (b) for "the 1986 Order" substitute "the Companies (Northern Ireland) Order 1986".

Expenditure of small or medium-sized enterprises: businesses

29.—(1) Amend section 48 as follows.

(2) In subsection (8)—

(a) for "Except in the case of a business carrying on a qualifying activity wholly or mainly in Northern Ireland" substitute "In this section";

(b) in paragraph (a) for "section 247 of the Companies Act 1985" substitute "sections 382 and 465 of the Companies Act 2006";

(c) in paragraph (b) for "Part VII of that Act" substitute "section 390 of the Companies Act 2006".

(3) Omit subsection (9).

Whether company is a member of a large or medium-sized group

30.—(1) Amend section 49 as follows.

(2) In subsection (6) for paragraphs (a) and (b) substitute "sections 383 and 466 of the Companies Act 2006.".

(3) For subsection (8) substitute—

"(8) In this section—

"financial year" and "group" have the same meaning as in Part 15 of the Companies Act 2006;

"parent undertaking" and "subsidiary undertaking" have the same meaning as in section 1162 of that Act.".

The Income Tax (Earnings and Pensions) Act 2003 (c. 1)

Introduction

31. The Income Tax Act (Earnings and Pensions) Act 2003 is amended as follows.

Approved SAYE option schemes

32.—(1) Amend Schedule 3 as follows.

(2) In paragraph 37(4) for paragraphs (a) and (b) substitute "section 899 of the Companies Act 2006 (court sanction for compromise or arrangement)".

(3) In paragraph 38(2) for paragraphs (b) and (c) substitute—

"(b) obtains control of the scheme company as a result of a compromise or arrangement sanctioned by the court under section 899 of the Companies Act 2006 (court sanction for compromise or arrangement); or

(c) becomes bound or entitled to acquire shares in the scheme company under sections 979 to 982 of that Act (takeover offers: right of offeror to buy out minority shareholder).".

Approved CSOP schemes: exchange of options on company reorganisation

33. In paragraph 26(2) of Schedule 4 for paragraph (b) substitute—

"(b) obtains control of the scheme company as a result of a compromise or arrangement sanctioned by the court under section 899 of the Companies Act 2006 (court sanction for compromise or arrangement);".

Enterprise management incentives: company reorganisations

34. In paragraph 39(2) of Schedule 5 for paragraph (b) substitute—

"(b) obtains control of such a company as a result of a compromise or arrangement sanctioned by the court under section 899 of the Companies Act 2006 (court sanction for compromise or arrangement);".

The Income Tax (Trading and Other Income) Act 2005 (c. 5)

Introduction

35. The Income Tax (Trading and Other Income) Act 2005 is amended as follows.

Trade profits: generally accepted accounting practice

36. In section 25(2)(a) for "the Companies Act 1985 (c. 6) or the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6))" substitute "the Companies Act 2006 or subordinate legislation made under that Act".

Meaning of "statutory insolvency arrangement"

37. In section 259(1)(**14**) for paragraph (b) substitute—

"(b) a compromise or arrangement that has taken effect under Part 26 of the Companies Act 2006".

The Income Tax Act 2007 (c. 3)

Introduction

38. The Income Tax Act 2007 is amended as follows.

Repayment of authorised minimum within 12 months

39.—(1) Amend section 230 as follows.

(2) In subsection (1) for paragraph (a) substitute—

"(a) a company issues share capital ("the original shares") of nominal value equal to the authorised minimum (within the meaning of the Companies Act 2006) for the purposes of complying with section 761 of that Act (public company: requirement as to minimum share capital),".

(3) Omit subsection (3).

Deduction at source application

40. In section 895(6), in paragraph (b) of the definition of "registered", for "section 207 of the Companies Act 1989 (c. 40) (transfer of securities without written instrument)," substitute

(**14**) Section 259 was substituted by paragraph 3 of Schedule 6 to the Finance (No. 2) Act 2005 (c. 22).

"section 785 of the Companies Act 2006 (provision enabling procedures for evidencing and transferring title),".

Meaning of "debenture"

41. In section 1022(1) for "section 744 of the Companies Act 1985 (c. 6)" substitute "section 738 of the Companies Act 2006".

The Finance Act 2007 (c. 11)

Technical provisions made by general insurers

42. In paragraph 3(10) of Schedule 11 to the Finance Act 2007 for "Schedule 9A to the Companies Act 1985 (c. 6)" substitute "Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008".

PART 3

CONSEQUENTIAL AMENDMENTS TO SECONDARY LEGISLATION COMING INTO FORCE ON 6TH APRIL 2008

The Value Added Tax Regulations 1995 (S.I. 1995/2518)

Introduction

43. The Value Added Tax Regulations 1995 are amended as follows.

Time of supply and time of acquisition: general

44. In regulation 94B(4)(**15**) for "section 259 of the Companies Act 1985" substitute "section 1161 of the Companies Act 2006".

Input tax and partial exemption: adjustment of attribution

45. In regulation 107E(2)(**16**) for "section 259 of the Companies Act 1985" substitute "section 1161 of the Companies Act 2006".

The Insurance Companies (Reserves) (Tax) Regulations 1996 (S.I. 1996/2991)

Interpretation

46. In regulation 2(2)(a) of the Insurance Companies (Reserves) (Tax) Regulations 1996 for "Part VII of the Companies Act 1985" substitute "Part 15 of the Companies Act 2006".

(**15**) Regulation 94B was inserted by S.I. 2003/2318.
(**16**) Regulation 107E was inserted by S.I. 2002/1074.

The Non-Resident Companies (General Insurance Business) Regulations 1999 (S.I. 1999/1408)

Modifications of the Income and Corporation Taxes Act 1988

47. In regulation 4 of the Non-Resident Companies (General Insurance Business) Regulations 1999, in section 754AA(11)(a), for "sub-paragraph (4) of paragraph 52 of Schedule 9A to the Companies Act 1985" substitute "sub-paragraph (4) of paragraph 58 of Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008".

The Stamp Duty Reserve Tax (UK Depositary Interests in Foreign Securities) Regulations 1999 (S.I. 1999/2383)

Interpretation

48. In regulation 2 of the Stamp Duty Reserve Tax (UK Depositary Interests in Foreign Securities) Regulations 1999, in the definition of "depositary interest", for "section 207 of the Companies Act 1989 (transfer of securities without written instrument)" substitute "section 785 of the Companies Act 2006 (provision enabling procedures for evidencing and transferring title)".

The Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001 (S.I. 2001/964)

Interpretation

49. In regulation 2(1) of the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001, in the definition of "qualifying EEA investment company", for "section 266(2) of the Companies Act 1985" substitute "section 833(2) of the Companies Act 2006".

The Social Security (Contributions) Regulations 2001 (S.I. 2001/1004)

Definition of "company"

50. In regulation 1(2) of the Social Security (Contributions) Regulations 2001, in the definition of "company", for "section 718 of that Act, any provision of that Act" substitute "regulations made under section 1043 of the Companies Act 2006, any provision of those Acts".

The Tobacco Products Regulations 2001 (S.I. 2001/1712)

Interpretation of Schedule

51. For paragraph 11 of the Schedule to the Tobacco Products Regulations 2001(**17**) substitute—

"**Interpretation**

11. For the purposes of this Schedule—

(a) "undertaking" has the meaning given by section 1161(1) of the Companies Act 2006, and

(**17**) The Schedule was inserted by S.I. 2006/2368.

(b) "parent undertaking" and "subsidiary undertaking" have the meanings given by section 1162 of that Act.".

The Non-resident Insurance Companies Regulations 2003 (S.I. 2003/2714)

Interpretation: meaning of "technical provision"

52. In regulation 3(4) of the Non-resident Insurance Companies Regulations 2003 for "Schedule 9A to the Companies Act 1985" substitute "Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008".

The Value Added Tax (Disclosure of Avoidance Schemes) (Designations) Order 2004 (S.I. 2004/1933)

Interpretation

53. In regulation 2(5) of the Value Added Tax (Disclosure of Avoidance Schemes) (Designations) Order 2004 for "section 259 of the Companies Act 1985" substitute "section 1161 of the Companies Act 2006".

The Venture Capital Trust (Winding up and Mergers) (Tax) Regulations 2004 (S.I. 2004/2199)

Mergers of Venture Capital Trusts

54. In regulation 9(3)(b) of the Venture Capital Trust (Winding up and Mergers) (Tax) Regulations 2004 for "section 117 of the Companies Act 1985" substitute "section 761 of the Companies Act 2006".

The Registered Pension Schemes (Audited Accounts) Regulations 2005 (S.I. 2005/3456)

Introduction

55. The Registered Pension Schemes (Audited Accounts) Regulations 2005 are amended as follows.

Specified descriptions of persons

56. In regulation 2 for paragraph (a) substitute—

"(a) a person specified in section 1212 of the Companies Act 2006 (individuals and firms: eligibility for appointment as a statutory auditor);".

Circumstances in which a specified person is not to audit scheme accounts

57. In regulation 3 for "section 27 of the Companies Act 1989" substitute "section 1214 of the Companies Act 2006".

Frank Roy
Alan Campbell
Two of the Lords Commissioners of Her Majesty's Treasury

1st April 2008