

## SCHEDULES

### SCHEDULE 11

Section 62.

#### TRANSITIONAL PROVISIONS FOR PROFIT-RELATED PAY

##### *Application of Schedule*

- 1 (1) This Schedule applies for the purposes of Chapter III of Part V of the Taxes Act 1988 (profit-related pay) where—
- (a) profit-related pay is or has been paid to an employee by reference to any period (“the relevant period”) and in accordance with a registered scheme (“the affected scheme”), and
  - (b) sub-paragraph (2) or (3) below applies in the employee’s case to the relevant period.
- (2) This sub-paragraph applies in the employee’s case to the relevant period if—
- (a) that period is a period beginning for the employee at a time on or after 17th March 1998 and ending before 31st December 2000;
  - (b) the employee has been eligible in accordance with a related scheme to receive profit-related pay by reference to the whole or a part of any profit period for the related scheme (“the earlier period”);
  - (c) the earlier period is (or, by virtue of sub-paragraph (4) below, is treated as being) a period beginning before the first day of the relevant period; and
  - (d) the relevant anniversary is (or, by virtue of that sub-paragraph, is treated as being) in a later calendar year than the first day of the relevant period.
- (3) This sub-paragraph applies in the employee’s case to the relevant period if—
- (a) that period is a period beginning for the employee at a time on or after 17th March 1998 and ending before 31st December 2000;
  - (b) the employee has been eligible in accordance with either the affected scheme or a related scheme to receive profit-related pay by reference to the whole or any part of a profit period (“the earlier period”);
  - (c) the earlier period is a period beginning twelve months or less before the first day of the relevant period;
  - (d) the section 171(4) limit for the earlier period is a limit computed in accordance with this Schedule; and
  - (e) the relevant anniversary is in a later calendar year than the first day of the relevant period.
- (4) Where—
- (a) the conditions in paragraphs (a) and (b) of sub-paragraph (2) above are satisfied in relation to the relevant period in the case of any employee, and
  - (b) the person who is the scheme employer in relation to the affected scheme, by notice to the employee, elects that this sub-paragraph shall apply in relation to the related scheme,

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the earlier period referred to in that sub-paragraph shall be assumed for the purposes of this Schedule to be a period beginning with the 1st January next before the first day of the relevant period.

*Rule for determining section 171(4) limit*

- 2 (1) The section 171(4) limit applicable to any profit-related pay paid to the employee in accordance with the affected scheme and by reference to the relevant period shall be—
- (a) if the relevant period does not begin for the employee before the apportionment date, the limit for the part of the profit period falling on or after that date; and
  - (b) in any other case the sum of—
    - (i) the limit for the part of the relevant period falling on or after the apportionment date; and
    - (ii) the limit for the part of the relevant period falling before that date.
- (2) For the purposes of sub-paragraph (1) above the limit for a part of the relevant period shall be computed by—
- (a) taking the amount given by virtue of section 61 of the Finance Act 1997 (phasing out of relief for profit-related pay) as the section 171(4) limit for a profit period beginning with the first day of that part of that period and ending with the last day of that part of that period;
  - (b) making a proportionate reduction for so much of that part of that period (if any) as is not included in any period by reference to which the employee is eligible for profit-related pay in accordance with the affected scheme; and
  - (c) using—
    - (i) the amount produced by the reduction, or
    - (ii) (if no reduction has been made) the amount taken in accordance with paragraph (a) above,
 as the limit for that part of the relevant period.
- (3) Subject to sub-paragraph (4) below, the apportionment date in the case of any employee is for the purposes of this paragraph—
- (a) except where the person who is the scheme employer for the affected scheme otherwise elects by notice to that employee, the 1st January that falls next after the first day of the relevant period; and
  - (b) where that person does so elect, the date which is the relevant anniversary for the purposes of whichever of sub-paragraphs (2) and (3) of paragraph 1 above applies to the relevant period in the employee's case.
- (4) Where—
- (a) both sub-paragraphs (2) and (3) of paragraph 1 above apply to the relevant period in the employee's case, or
  - (b) there is, for any other reason, more than one date which (but for this sub-paragraph) would be taken in accordance with sub-paragraph (3)(b) above to be the apportionment date,
- the apportionment date shall be the earliest of those dates to fall in the calendar year immediately following that in which the first day of the relevant period falls.

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### *Meaning of related scheme*

- 3 (1) In the case of any employee a scheme is, in relation to the affected scheme, a related scheme for the purposes of this Schedule if—
- (a) it was a registered scheme at any relevant time and the conditions set out in sub-paragraph (2) below are satisfied with respect to it; or
  - (b) notice that for the purposes of this Schedule it is to be treated as a related scheme in relation to the affected scheme is given to the employee by the scheme employer for the affected scheme.
- (2) Those conditions are satisfied with respect to a scheme (“the relevant scheme”) if a person who is the scheme employer for the affected scheme was, at a relevant time—
- (a) the scheme employer for the relevant scheme; or
  - (b) connected with a person who was, at that or another relevant time, the scheme employer for the relevant scheme.
- (3) In this paragraph “relevant time” means any time on the day of the beginning for the employee of the relevant period or in the period of twelve months preceding that day.
- (4) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.
- (5) Without prejudice to sub-paragraph (4) above, for the purposes of this paragraph—
- (a) each of the members of a partnership shall be regarded as connected with the partnership and with any person (including another partnership) with whom the partnership is connected; and
  - (b) a partnership shall be regarded as connected with each of its members and with any person (including another partnership) with whom any of its members is connected.

### *Meaning of “relevant anniversary”*

- 4 For the purposes of this Schedule the relevant anniversary is—
- (a) for the purposes of paragraph 1(2) above, the first anniversary of the first day of the earlier period; and
  - (b) for the purposes of paragraph 1(3) above, the first anniversary of the date that is taken to be the relevant anniversary for the purpose of computing the section 171(4) limit for the earlier period in accordance with this Schedule.

### *General interpretation*

- 5 (1) Expressions used in this Schedule and in Chapter III of Part V of the Taxes Act 1988 have the same meanings in this Schedule as in that Chapter.
- (2) References in this Schedule to the section 171(4) limit are references to the second of the limits mentioned in section 171(2) of the Taxes Act 1988; and this Schedule shall have effect on the basis that that limit is nil for any period (or part of a period) beginning on or after 1st January 2000.
- (3) References in this Schedule to the beginning for the employee of any profit period by reference to which he is eligible to receive profit-related pay are references—
- (a) where sub-paragraph (4) below applies, to the earliest time in that period which is included in a part of that period by reference to which he is so eligible; and

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- (b) in any other case, to the beginning of the first day of the period in question.
- (4) This sub-paragraph applies where—
- (a) the employee is eligible to receive profit-related pay by reference to only a part of the relevant period; and
  - (b) that part of that period begins after the beginning of that period.