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PROSPECTIVE

## SCHEDULES

### SCHEDULE 10

#### TAXATION PROVISIONS RELATING TO TRANSFER SCHEMES

#### PART 3

#### TRANSFERS UNDER SECTION 12 SCHEMES

##### *Meaning of “relevant transfer” in Part 3 of Schedule*

- 21 In this Part of this Schedule, “relevant transfer” means a transfer in accordance with a scheme made under section 12.

##### *Capital allowances: determination of disposal value of plant or machinery*

- 22 (1) This paragraph applies to a relevant transfer of plant or machinery which is a disposal event for the purposes of Part 2 of the 2001 Act (capital allowances for plant and machinery).
- (2) For the purposes of the application of section 61 of that Act in relation to the transferor, the disposal value of the plant or machinery is to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or
  - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) Section 88 of the 2001 Act (sales at an undervalue) is to be disregarded.
- (5) This paragraph is subject to sections 63(5) and 68 of the 2001 Act.

##### *Capital allowances: determination of disposal value of fixtures*

- 23 (1) This paragraph applies to a relevant transfer if—
- (a) it is a disposal event for the purposes of Part 2 of the 2001 Act; and
  - (b) by virtue of the transfer a person is treated by section 188 of that Act as ceasing to own a fixture.
- (2) For the purposes of the application of section 196 of that Act in relation to the transferor, the disposal value of the fixture is to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that portion of that sum which falls (or, if the person to whom the disposal is made were

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entitled to an allowance, would fall) to be treated for the purposes of Part 2 of that Act as expenditure incurred by that person on the provision of the fixture; or

(b) if no such sum is received, as nil.

(3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

(4) This paragraph is subject to section 63(5) of the 2001 Act.

*Capital allowances: determination of capital value of industrial buildings etc.*

24 (1) This paragraph applies for the purposes of Part 3 of the 2001 Act, and the other provisions of that Act which are relevant to that Part, in relation to a relevant transfer of the relevant interest in an industrial building or structure.

(2) The transfer is to be treated as a sale of that relevant interest.

(3) The net proceeds of that sale, in relation to the transferor, are to be treated—

(a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or

(b) if no such sum is received, as nil.

(4) Sections 567 to 570 of the 2001 Act (sales treated as being for alternative amount) are not to have effect in relation to that sale.

(5) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

*Chargeable gains: disposals not be treated as made at market value*

25 (1) Section 17 of the 1992 Act (disposals and acquisitions treated as made at market value) is not to have effect in relation to—

(a) a disposal constituted by a relevant transfer or a disposal in accordance with provision contained by virtue of paragraph 3 or 4 of Schedule 2 to this Act in a scheme made under section 12 of this Act; or

(b) the acquisition made by the person to whom the disposal is made.

(2) But sub-paragraph (1) does not apply—

(a) if the person making the disposal is connected with the person making the acquisition; or

(b) in the case of a disposal in accordance with provision contained in a scheme by virtue of paragraph 3 or 4 of Schedule 2, if the disposal is made by or to a person other than the transferor or transferee.

(3) If sub-paragraph (1) applies to the disposal of an asset, the disposal is to be taken (in relation to the person making the acquisition as well as the person making the disposal) to be—

(a) in a case where consideration in money or money's worth is given by the person making the acquisition or on his behalf in respect of the vesting of the asset in him, for a consideration equal to the amount or value of that consideration; or

(b) in a case where no such consideration is given, for a consideration of nil.

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#### *Chargeable gains: degrouping charges*

- 26 (1) This paragraph applies if a company (“the degrouped company”)—
- (a) acquired an asset from another company at a time when both were members of the same group of companies (“the old group”); and
  - (b) ceases by virtue of a relevant transfer to be a member of the old group.
- (2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.
- (3) Where sub-paragraph (2) has applied to an asset, section 179 of the 1992 Act is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (“the new group”) otherwise than by virtue of a relevant transfer as if—
- (a) the degrouped company, and
  - (b) the company from which it acquired the asset,
- had been members of the new group at the time of acquisition.
- (4) If, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the 1992 Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a relevant transfer, it is to be regarded for those purposes as so doing by virtue of the relevant transfer and not by virtue of any preparatory transactions.
- (5) In this paragraph, “preparatory transactions” means anything done under or by virtue of the 1993 Act or this Act for the purpose of initiating, advancing or facilitating the relevant transfer in question.
- (6) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

#### *Chargeable gains: disposal of debts*

- 27 (1) This paragraph applies to a relevant transfer of a debt owed to the transferor if the transferor would (apart from this paragraph) be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts).
- (2) The 1992 Act is to have effect as if the transferee (and not the transferor) were the original creditor for those purposes.

#### *Loan relationships*

- 28 (1) Paragraph 11 of Schedule 9 to the Finance Act 1996 (c. 8) is not to have effect where, as a result of a relevant transfer, the transferee replaces the transferor as a party to a loan relationship.
- (2) Expressions used in this paragraph and in Chapter 2 of Part 4 of the Finance Act 1996 have the same meanings in this paragraph as in that Chapter.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 36](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12(3)(aa) inserted by [S.I. 2018/631 Sch. para. 40\(2\)\(a\)](#)
- s. 12(3)(da) inserted by [S.I. 2018/631 Sch. para. 40\(2\)\(c\)](#)
- s. 19A inserted by [2008 c. 26 s. 74](#)
- s. 19A words substituted by [S.I. 2010/439 Sch. para. 9\(4\)\(a\)](#)
- s. 19A heading words substituted by [S.I. 2010/439 Sch. para. 9\(4\)\(b\)](#)
- s. 22(11)(aa) inserted by [S.I. 2018/631 Sch. para. 42](#) (comes into force 2.00am on the 14/10/2018)
- s. 23(9)(aa) inserted by [S.I. 2018/631 Sch. para. 43](#) (comes into force 2.00am on the 14/10/2018)
- s. 24(11)(aa) inserted by [S.I. 2018/631 Sch. para. 44\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 25(7)(aa) inserted by [S.I. 2018/631 Sch. para. 45](#) (comes into force 2.00am on the 14/10/2018)
- s. 29(11)(12) inserted by [S.I. 2018/631 Sch. para. 46\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 30(9)(10) inserted by [S.I. 2018/631 Sch. para. 47\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 31(10)(11) inserted by [S.I. 2018/631 Sch. para. 48\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 33(2)(da) inserted by [2009 c. 20 Sch. 6 para. 119](#)
- s. 34(2A)(2B) inserted by [S.I. 2018/631 Sch. para. 50](#) (comes into force 2.00am on the 14/10/2018)
- s. 35(6A)-(6C) inserted by [S.I. 2018/631 Sch. para. 51\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 36(1)(ba) inserted by [S.I. 2018/631 Sch. para. 52\(a\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 38(2)(ba)(bb) inserted by [S.I. 2018/631 Sch. para. 53\(2\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 38(2A) inserted by [S.I. 2018/631 Sch. para. 53\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 40(4)(c)-(e) substituted for s. 40(c) by [S.I. 2018/631 Sch. para. 54\(4\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 40(4)(aa)(ab) inserted by [S.I. 2018/631 Sch. para. 54\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 42(1A)(1B) inserted by [S.I. 2018/631 Sch. para. 55\(2\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 43(2A) inserted by [S.I. 2018/631 Sch. para. 56\(2\)](#)
- s. 43(3A) inserted by [S.I. 2018/631 Sch. para. 56\(3\)](#)
- s. 45(5)(aa) inserted by [S.I. 2018/631 Sch. para. 58\(3\)](#) (comes into force 2.00am on the 14/10/2018)
- s. 45(5A) inserted by [S.I. 2018/631 Sch. para. 58\(4\)](#) (comes into force 2.00am on the 14/10/2018)

- s. 46(5A) inserted by S.I. 2018/631 Sch. para. 59(2) (comes into force 2.00am on the 14/10/2018)
- s. 46(7)(c) and word added by S.I. 2005/3050 Sch. 1 para. 5(b)
- s. 46(7)(c) words substituted by S.I. 2019/700 reg. 25(2)
- s. 46(9) inserted by S.I. 2018/631 Sch. para. 59(3) (comes into force 2.00am on the 14/10/2018)
- s. 48A inserted by S.I. 2018/631 Sch. para. 60 (comes into force 2.00am on the 14/10/2018)
- s. 56(3)(d)(e) word omitted by S.I. 2018/631 Sch. para. 62(4)(b)
- s. 57(1A) inserted by S.I. 2018/631 Sch. para. 63(3)
- s. 59(5A) added by S.I. 2005/3050 Sch. 1 para. 6
- s. 59(5A) words substituted by S.I. 2019/700 reg. 25(3)
- Sch. 3 para. 7(4) inserted by 2006 c. 49 s. 51(1)
- Sch. 3 para. 1(5)(ba) inserted by 2013 c. 32 Sch. 12 para. 83
- Sch. 3 para. 4(4A) inserted by 2013 c. 32 Sch. 12 para. 85
- Sch. 5 para. 16(2)(c) and word inserted by S.I. 2010/439 art. 5(2)(b)
- Sch. 9 para. 1(2A) inserted by S.I. 2018/631 Sch. para. 67(b) (comes into force 2.00am on the 14/10/2018)
- Sch. 10 para. 11(3) inserted by 2010 c. 4 Sch. 1 para. 478(2)(b)

**Commencement Orders yet to be applied to the Railways Act 2005**

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2008/113 art. 2 commences (2007 c. 24)
- S.I. 2009/107 art. 2-5 Sch. 1-5 Commencement Order
- S.I. 2009/3318 art. 2-4 commences (2009 c. 20)
- S.I. 2011/2329 art. 23 commences (2011 c. 5)