Changes to legislation: *Finance Act 2009, Part 1 is up to date with all changes known to be in force on or before 06 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 16

CONTROLLED FOREIGN COMPANIES

PART 1

ABOLITION OF ACCEPTABLE DISTRIBUTION POLICY EXEMPTION

Abolition of acceptable distribution policy exemption

1 (1) ICTA is amended as follows.

(2) In section 748(1) (cases where apportionment under section 747(3) does not apply), omit paragraph (a) (including the "or" at the end).

(3) In Schedule 25 (supplementary provision in relation to cases where apportionment under section 747(3) does not apply), omit Part 1 (acceptable distribution policy).

Consequential amendments

2 (1) ICTA is amended as follows.

(2) Omit section 754A (returns where it is not established whether acceptable distribution policy applies).

(3) In section 801 (dividends paid between related companies: relief for UK and third country taxes), omit subsections (2A)(aa), (2B), (6) and (7).

(4) Omit section 801C (double taxation relief: separate streaming of dividend so far as representing an ADP dividend of a CFC).

(5) In section 803A (foreign taxation of group as single entity), omit subsection (1A).

(6) In Schedule 24 (assumptions for calculating chargeable profits, creditable tax and corresponding UK tax of foreign companies), omit—

(a) in paragraph 1(3A), paragraph (b)(ii) (and the "and" before it) and the words "or which is an ADP exempt period" (in both places),

(b) paragraph 1(6),

(c) paragraph (b) of paragraph 2(1) (and the "or" before it),

(d) paragraph (b) of paragraph 4(1A) (and the "or" before it),

(e) paragraph 4(3A),

(f) in paragraph 9(1)(c), ", and is not to be assumed by virtue of paragraph 2(1)(b) above to have been resident,", and

(g) paragraph (b) of paragraph 10(1) (and the "or" before it).

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3 In paragraph 116 of Schedule 29 to FA 2002 (assumptions for calculating chargeable profits of CFCs in connection with intangible fixed assets), omit paragraph (b) of sub-paragraph (2) (and the "or" before it).

4 In section 870 of CTA 2009 (assumptions for calculating chargeable profits of CFCs in connection with intangible fixed assets), omit—

(a) paragraph (b) of subsection (3) (and the "or" before it), and

(b) subsection (7).

5 In consequence of the amendments made by paragraphs 1 to 4, omit—

(a) in FA 1990, section 67(3)(b) and (c),

(b) in FA 1994, section 134,

(c) in FA 1996, in Schedule 36, paragraphs 3(3), (8) and (9) and 4(2) and (3)(b),

(d) in FA 1998, in Schedule 17, paragraphs 10, 17(2) to (5) and 26 to 28,

(e) in FA 1999, section 88,

(f) in FA 2000, in Schedule 30, paragraph 13,

(g) in FA 2001, section 82,

(h) in FA 2005, sections 89 and 90,

(i) in FA 2007, in Schedule 7, paragraph 56,

(j) in FA 2008, section 64(4) and, in Schedule 17, paragraph 29, and

(k) in this Act, section 57(4).

Commencement

6 The amendments made by this Part have effect in relation to accounting periods of controlled foreign companies beginning on or after 1 July 2009.

Periods straddling 1 July 2009

7 (1) Where a controlled foreign company has an accounting period ("the straddling accounting period") that—

(a) begins before 1 July 2009, and

(b) ends on or after that date,

the straddling accounting period is to be treated as split.

(2) Where this paragraph provides that the straddling accounting period is to be treated as "split"—

(a) that part of the straddling accounting period that falls before 1 July 2009 and that part of the straddling accounting period that falls on or after that date are to be treated for the purposes of Chapter 4 of Part 17, and Part 18, of ICTA**[**[F1]and Part 2 of TIOPA 2010**]** as separate accounting periods, and

(b) the company's chargeable profits for the straddling accounting period, and its creditable tax (if any) for that period, are to be apportioned to the two separate accounting periods on a just and reasonable basis.

Textual Amendments

F1 Words in Sch. 16 para. 7(2)(a) inserted (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 8 para. 104** (with Sch. 9 paras. 1-9, 22)

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Transitional provision

8 (1) The amendments made by this Part do not affect the application of sections 801, 801C or 803A of, or Part 1 of Schedule 25 to, ICTA in relation to dividends paid on or after 1 July 2009 if they are paid for accounting periods beginning before that date.

(2) Sub-paragraph (3) applies where a dividend of a controlled foreign company is paid during the second of the two accounting periods provided for by paragraph 7(2).

(3) For the purposes of Part 1 of Schedule 25 to ICTA, section 799 of that Act has effect as if the reference in subsection (3)(c) to the last period for which accounts of the company were made up which ended before the dividend became payable were to the first of the two accounting periods provided for by paragraph 7(2).

Interpretation

9 The following expressions have the same meaning for the purposes of this Part as they have for the purposes of Chapter 4 of Part 17 of ICTA—

"accounting period";

"chargeable profits";

"controlled foreign company";

"creditable tax".

Changes to legislation:
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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(4)(za) inserted by 2010 c. 33 Sch. 9 para. 3(3)
- Sch. 53 para. 2A-2D and cross-heading inserted by 2010 c. 33 Sch. 9 para. 7
- Sch. 53 para. 6A and cross-heading inserted by 2010 c. 33 Sch. 9 para. 8
- Sch. 53 para. 11A11B and cross-heading inserted by 2010 c. 33 Sch. 9 para. 17
- Sch. 53 para. 14A and cross-heading inserted by 2010 c. 33 Sch. 9 para. 18
- Sch. 54 para. 9B9C and cross-heading inserted by 2010 c. 33 Sch. 9 para. 11 (Sch. 54 para. 9B is amended before it comes into force by 2016 c. 24, Sch. 1 para. 66(5))
- Sch. 54 para. 12A12B and cross-heading inserted by 2010 c. 33 Sch. 9 para. 19
- Sch. 54 Pt. A1 inserted by 2010 c. 33 Sch. 9 para. 10 (Sch. 9 para. 10 is amended before it comes into force by 2017 c. 32, Sch. 4 para. 182)
- Sch. 54A para. 2(e)-(g) omitted by 2024 c. 3 Sch. 2 para. 13
- Sch. 55 para. 6(3A)(za) inserted by 2015 c. 11 Sch. 20 para. 15(2)(a)
- Sch. 55 para. 6(4A)(za) inserted by 2015 c. 11 Sch. 20 para. 15(3)(a)
- Sch. 55 para. 17(4)(ba) inserted by 2015 c. 11 Sch. 20 para. 19