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## SCHEDULES

### SCHEDULE 2

#### TRANSITIONALS AND SAVINGS

#### PART 6

#### TRADING INCOME

*F1* ...

#### Textual Amendments

- F1** Sch. 2 Pt. 6 paras. 16, 17 and cross-heading omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 58](#)

**F1**16 . . . . .

**F1**17 . . . . .

#### *Tenants under taxed leases*

- 18 (1) This paragraph relates to the operation of sections 62 to 67 where, in respect of a lease—

- (a) there is a receipt of a Schedule A business or an overseas property business (within the meaning of section 65A(4) or 70A(4) of ICTA) as a result of section 34 or 35 of ICTA (treatment of premiums etc as rent and assignments for profit of lease granted at an undervalue) for a tax year before the tax year 2005-06 or an accounting period ending before 1 April 2009, or
- (b) there would be such a receipt, but for the operation of section 37(2) or (3) of ICTA (reductions in certain receipts under section 34 or 35 of ICTA).

In this paragraph and paragraphs 19 and 20 a receipt falling within paragraph (a) or (b) is referred to as an “ICTA pre-commencement receipt”.

- (2) For the purposes of sections 62 to 67—

- (a) the lease is treated as a taxed lease, and
- (b) the ICTA pre-commencement receipt is treated as a taxed receipt.

- (3) For the purposes of those sections, the “receipt period” of a taxed receipt which is an ICTA pre-commencement receipt is—

- (a) in the case of an ICTA pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and

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- (b) in the case of an ICTA pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.
  - (4) For the purposes of sections 62 to 67 the “unreduced amount” of a taxed receipt which is an ICTA pre-commencement receipt is the amount of the ICTA pre-commencement receipt as a result of section 34 or 35 of ICTA, before the operation of section 37(2) or (3) of ICTA.
  - (5) Sub-paragraph (6) applies to a taxed receipt which is an ICTA pre-commencement receipt arising as a result of section 34(2) of ICTA (obligation on tenant to carry out work under lease).
  - (6) If the obligation to carry out work included the carrying out of work which gave or will give rise to expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.
- 19 (1) This paragraph provides for the application of section 63 as a result of section 65 if—
- (a) a lease is a taxed lease as a result of paragraph 18,
  - (b) another lease is granted out of the taxed lease,
  - (c) in calculating the amount of an ICTA pre-commencement receipt in respect of the other lease, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
  - (d) as a result of paragraph 18 the amount chargeable on the superior interest is the taxed receipt for the purposes of section 63.
- (2) Sections 63 to 67 apply as follows—
- (a) the ICTA pre-commencement receipt is treated as if it were a lease premium receipt for the purposes of sections 66 and 67,
  - (b) references in those sections to the reduction under section 228 by reference to the taxed receipt are, in relation to the ICTA pre-commencement receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and
  - (c) for the purposes of those sections the receipt period of the ICTA pre-commencement receipt is—
    - (i) in the case of an ICTA pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
    - (ii) in the case of an ICTA pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.
- (3) References in this paragraph and paragraph 20 to a reduction under section 37(2) or (3) of ICTA in an ICTA pre-commencement receipt by reference to the amount chargeable on the superior interest are to the difference between—
- (a) the amount of the ICTA pre-commencement receipt before the operation of section 37(2) or (3) of ICTA, and
  - (b) the amount of the receipt after the operation of that subsection,

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so far as attributable to the amount chargeable on the superior interest for the purposes of section 37 of ICTA.

- 20 (1) This paragraph provides for the application of section 63 as a result of section 65 if—
- (a) the taxed lease referred to in those sections is a taxed lease as a result of section 227(4)(c) or (d) (lease taxed under ITTOIA 2005),
  - (b) another lease is granted out of the taxed lease, and
  - (c) in calculating the amount of an ICTA pre-commencement receipt in respect of the other lease, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section.
- (2) Sections 63 to 67 apply as follows—
- (a) the ICTA pre-commencement receipt is treated as if it were a lease premium receipt for the purposes of sections 66 and 67,
  - (b) references in those sections to the reduction under section 228 by reference to the taxed receipt are, in relation to the ICTA pre-commencement receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and
  - (c) for the purposes of those sections the receipt period of the ICTA pre-commencement receipt is—
    - (i) in the case of an ICTA pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
    - (ii) in the case of an ICTA pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.

#### *Local enterprise agencies*

- 21 To the extent that any function of the Scottish Ministers under section 79 of ICTA was, before 1 April 2009, also exercisable by the Secretary of State for the purposes specified in section 2(2) of the European Communities Act 1972 (c. 68) that function as rewritten in—
- (a) section 83(2) (meaning of “local enterprise agency”),
  - (b) section 84 (approval of local enterprise agencies), or
  - (c) section 85 (supplementary provisions with respect to approvals),
- continues to be also exercisable by the Secretary of State for those purposes.

#### *Expenses connected with patents, designs and trade marks*

- 22 (1) This paragraph applies if—
- (a) fees have been incurred, but not paid, for the purposes of a trade in connection with any of the matters mentioned in section 89 or 90,
  - (b) the fees were incurred in a period of account no part of which falls in an accounting period ending after 31 March 2009, and
  - (c) the fees have not been taken into account in calculating the profits of the trade of any accounting period.

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- (2) A deduction is allowed for the fees in calculating the profits of the period of account in which they are paid.

*Payments to Export Credits Guarantee Department*

- 23 (1) This paragraph applies if—
- (a) a sum is payable, but not paid, by the company carrying on a trade to the Export Credits Guarantee Department under an agreement mentioned in section 91(a) or with a view to entering into such an agreement,
  - (b) the sum was incurred in a period of account no part of which falls in an accounting period ending after 31 March 2009, and
  - (c) the sum has not been taken into account in calculating the profits of the trade of any accounting period.
- (2) A deduction is allowed for the sum in calculating the profits of the period of account in which it is paid.

*Reverse premiums*

- 24 (1) Sections 98 and 99 do not apply to a reverse premium—
- (a) which was received before 9 March 1999, or
  - (b) to which the recipient was entitled immediately before that date.
- (2) In determining whether a reverse premium was one to which the recipient was entitled immediately before 9 March 1999, no account is to be taken of any arrangements made on or after that date.

*Sums recovered under insurance policies etc*

- 25 Section 103 does not apply if—
- (a) a company carrying on a trade recovers a sum mentioned in that section, and
  - (b) the sum has been taken into account in calculating the profits of the trade of an accounting period ending before 1 April 2009.

*Meaning of “designated educational establishment”*

- 26 To the extent that the power of the Welsh Ministers to make regulations under section 84(5) of ICTA was, before 1 April 2009, also exercisable by the Secretary of State for the purposes specified in section 2(2) of the European Communities Act 1972 (c. 68), that power as rewritten in section 106 continues to be also exercisable by the Secretary of State for those purposes.
- 27 The reference in section 106(1)(a) to regulations made for England and Scotland by the Secretary of State includes a reference to regulations made for Great Britain by the Secretary of State before 1 July 1999.

*Dealers in securities etc*

- 28 The repeal by this Act of section 473(2B) of ICTA (conversion etc of securities held as circulating capital) does not affect any election made under section 66 of

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FA 2002 (election to continue postponement of mark to market) before the repeal takes effect.

*Purchase or sale of woodlands*

- 29      Section 134 does not apply if the purchase mentioned in subsection (2) of that section was made under a contract entered into before 1 May 1963.

*Waste disposal*

- 30      If the predecessor ceased to carry on the trade carried on by the trader, or ceased to carry on a trade so far as relating to the site, before 21 March 2000, section 142 applies as if—
- (a) “, or a predecessor,” in subsection (1) were omitted, and
  - (b) subsections (3) and (4) were omitted.
- 31      If the trade carried on by the trader was started before 1 April 1993, section 144(1) (definition of “waste disposal licence”) applies for the purposes of sections 142 and 143 as if paragraphs (d) and (e) of that subsection were omitted (radioactive waste and nuclear site authorisations or licences).
- 32      Section 144(3) does not apply for the purposes of sections 142 and 143 if the trade was started before 1 April 1993.

*Reserves of marketing authorities etc*

- 33      In section 153(5) “approved scheme or arrangement” includes a scheme or arrangement—
- (a) approved by the National Assembly for Wales, or
  - (b) made with the National Assembly for Wales,
- before 26 May 2007.

*Adjustment on change of basis*

- 34      Chapter 14 of Part 3 applies to a change of basis only if the first day of the first period of account for which the new basis is adopted falls within an accounting period that ends after 31 March 2009.

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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. 34](#)

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

- s. 322(2A)(zb) inserted by [2016 c. 24 s. 73\(5\)](#)
- s. 934(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 12\(2\)](#)
- s. 962(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(5\)\(b\)](#)
- s. 962A(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(6\)\(b\)](#)
- s. 963(1A) inserted by [2023 c. 30 Sch. 2 para. 12\(7\)\(a\)](#)
- s. 1058B(5)(ea) inserted by [2023 c. 20 Sch. para. 57](#)
- s. 1094(2A)-(2C) inserted by [2012 c. 14 Sch. 3 para. 13\(3\)](#)
- s. 1106(4A)-(4C) inserted by [2012 c. 14 Sch. 3 para. 14\(3\)](#)
- s. 1138A applied by [S.I. 2024/348 reg. 3](#)