Status: *This version of this schedule contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Finance (No. 3) Act 2010, SCHEDULE 9. (See end of Document for details)*

SCHEDULES

SCHEDULE 9 U.K.

Section 25

INTEREST

PART 1 U.K.

CORPORATION TAX

Amendments of sections 101 to 104

1 FA 2009 is amended as follows.

Commencement Information
I1 Sch. 9 para. 1 in force at 1.1.2023 by S.I. 2022/1277, **reg. 2(2)(c)** (with reg. 3)

PROSPECTIVE

2 In section 101 (late payment interest on sums due to HMRC), omit subsection (2)(a).

PROSPECTIVE

3 (1) Section 102 (repayment interest on sums to be paid by HMRC) is amended as follows.

(2) Omit subsection (2)(a).

(3) In subsection (4), before paragraph (a) insert—

"(za) Part A1 makes special provision as to the amount of corporation tax on which repayment interest is calculated,".

4 After section 103 insert—

"**103A Further provision as to late payment interest and repayment interest**

Schedule 54A makes special provision as to certain amounts of late payment interest and repayment interest."

Commencement Information
I2 Sch. 9 para. 4 in force at 1.1.2023 for specified purposes by S.I. 2022/1277, **reg. 2(2)(d)** (with reg. 3)

5 In section 104(1), for "103" substitute " 103A (and Schedules 53 to 54A) ".

Commencement Information

I3 Sch. 9 para. 5 in force at 1.1.2023 by S.I. 2022/1277, **reg. 2(2)(c)** (with reg. 3)

PROSPECTIVE

Amendments of Schedule 53

6 Schedule 53 to FA 2009 (late payment interest) is amended as follows.

7 In Part 1 (special provision as to amount carrying late payment interest), after paragraph 2 insert—

"Carry back of losses etc

2A (1) This paragraph applies where—

(a) a company has profits arising in an accounting period ("the earlier period"),

(b) there is for a later accounting period ("the later period") a non-trading deficit on the company's loan relationships,

(c) as a result of a claim under section 389(1) or 459(1)(b) of CTA 2009, the whole or part of the deficit for the later period is set off against the profits of the earlier period, and

(d) if the claim had not been made, there would be an amount or an additional amount of corporation tax for the earlier period which would carry late payment interest.

(2) For the purposes of section 101, the amount mentioned in sub-paragraph (1)(d) is to be taken to be an amount that is due and payable as corporation tax for the earlier period.

(3) But late payment interest which is payable by virtue of sub-paragraph (2) runs only until the day following the expiry of 9 months from the end of the later period.

2B (1) This paragraph applies where—

(a) a company has profits arising in an accounting period ("the earlier period"),

(b) the company incurs a loss in a later accounting period ("the later period"),

(c) on a claim under section 37 of CTA 2010, the whole or any part of the loss incurred in the later period has been set off (whether under section 37 or 42 of that Act) for the purposes of corporation tax against the profits of the earlier period,

(d) the earlier period does not fall wholly within the period of 12 months immediately preceding the later period, and

(e) if the claim had not been made, there would be an amount or additional amount of corporation tax for the earlier period which would carry late payment interest.

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(2) For the purposes of section 101, the amount mentioned in sub-paragraph (1)(e) is to be taken to be an amount that is due and payable as corporation tax for the earlier period.

(3) But late payment interest which is payable by virtue of sub-paragraph (2) runs only until the day following the expiry of 9 months from the end of the later period.

2C (1) This paragraph applies where—

(a) a company is liable to corporation tax for an accounting period ("the earlier period"),

(b) in a later accounting period of the company ("the later period"), an excess arises as described in section 72 of TIOPA 2010 (amounts of unrelieved foreign tax),

(c) on a claim under section 77 of that Act, credit for the whole or any part of the excess is allowed against corporation tax in respect of the earlier period, and

(d) if the claim had not been made, there would be an amount or additional amount of corporation tax for the earlier period which would carry late payment interest.

(2) For the purposes of section 101, the amount mentioned in sub-paragraph (1)(d) is to be taken to be an amount that is due and payable as corporation tax for the earlier period.

(3) But late payment interest which is payable by virtue of sub-paragraph (2) runs only until the day following the expiry of 9 months from the end of the later period.

(4) This paragraph does not apply where paragraph 2D applies.

2D (1) This paragraph applies where—

(a) a company carrying on a trade has profits (of whatever description) arising in an accounting period ("the middle period"),

(b) the company incurs a loss in a later accounting period ("the later period"),

(c) on a claim under section 37 of CTA 2010, the whole or any part of the loss incurred in the later period has been set off (whether under section 37 or 42 of that Act) for the purposes of corporation tax against the profits of the middle period,

(d) the middle period does not fall wholly within the period of 12 months immediately preceding the later period,

(e) as a result of the claim under section 37, an excess or increased excess arises in the middle period as described in section 72 of TIOPA 2010 (amounts of unrelieved foreign tax),

(f) on a claim under section 77 of that Act, credit for the whole or any part of the excess is allowed against corporation tax in respect of an accounting period before the middle period ("the earlier period"), and

(g) if the claim had not been made, there would be an amount or additional amount of corporation tax for the earlier period which would carry late payment interest.

(2) For the purposes of section 101, the amount mentioned in sub-paragraph (1)(g) is to be taken to be an amount that is due and payable as corporation tax for the earlier period.

(3) But late payment interest which is payable by virtue of sub-paragraph (2) runs only until the day following the expiry of 9 months from the end of the later period."

8 In Part 2 (special provision as to late payment interest start date), after paragraph 6 insert—

"Payment of corporation tax by persons other than company assessed

6A (1) This paragraph applies to any amount of corporation tax assessed or treated as assessed by virtue of any of the following provisions (which enable unpaid corporation tax assessed on a company to be assessed on other persons in certain circumstances)—

(a) section 137(4), 139(7) or 190 of TCGA 1992,

(b) paragraph 75A(2) of Schedule 18 to FA 1998,

(c) section 795(2) of CTA 2009, and

(d) Chapter 7 of Part 22 of CTA 2010.

(2) The late payment interest start date in respect of that amount is the date when it became due and payable by the company."

PROSPECTIVE

Amendments of Schedule 54

9 Schedule 54 to FA 2009 (repayment interest) is amended as follows.

10 Insert at the beginning—

"**PART A1** **U.K.**

SPECIAL PROVISION AS TO AMOUNT CARRYING REPAYMENT INTEREST

Carry back of losses etc

A1 (1) This paragraph applies where—

(a) a company has profits arising in an accounting period ("the earlier period"),

(b) there is for a later accounting period ("the later period") a non-trading deficit on the company's loan relationships,

(c) as a result of a claim under section 389(1) **[**[F1], 459(1)(b) or 463B(1)(b)**]** of CTA 2009, the whole or part of the deficit for the later period is set off against the profits of the earlier period, and

(d) a repayment falls to be made of corporation tax for the earlier period or of income tax in respect of a payment received by the company in that period.

(2) So much of the repayment mentioned in sub-paragraph (1)(d) as falls to be made as a result of the claim under section 389(1) **[**[F2], 459(1)(b) or 463B(1)(b)**]** does not carry repayment interest.

(3) But sub-paragraph (2) does not apply (and, accordingly, the amount mentioned in that sub-paragraph carries repayment interest) after the expiry of 9 months from the end of the later period.

A2 (1) This paragraph applies where—

(a) a company carrying on a trade has profits (of whatever description) arising in an accounting period ("the earlier period"),

(b) the company incurs a loss in a later accounting period ("the later period"),

(c) on a claim under section 37 of CTA 2010, the whole or any part of the loss incurred in the later period has been set off (whether under section 37 or 42 of that Act) for the purposes of corporation tax against the profits of the earlier period,

(d) the earlier period does not fall wholly within the period of 12 months immediately preceding the later period, and

(e) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that period.

(2) So much of the repayment mentioned in sub-paragraph (1)(e) as falls to be made as a result of the claim under section 37 does not carry repayment interest.

(3) But sub-paragraph (2) does not apply (and, accordingly, the amount mentioned in that sub-paragraph carries repayment interest) after the expiry of 9 months from the end of the later period.

[[F3]A2A (1) This paragraph applies where—

(a) a company has profits arising in an accounting period ("the earlier period"),

(b) the company ceases to carry on a trade in a later accounting period ("the later period"),

(c) on a claim under section 45F of CTA 2010 (terminal losses), the whole or any part of a loss incurred in the trade has been set off for the purposes of corporation tax against the profits of the earlier period,

(d) the earlier period does not fall wholly within the period of 12 months immediately preceding the later period, and

(e) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that period.

(2) So much of the repayment mentioned in sub-paragraph (1)(e) as falls to be made as a result of the claim under section 45F does not carry repayment interest.

(3) But sub-paragraph (2) does not apply (and, accordingly, the amount mentioned in that sub-paragraph carries repayment interest) after the expiry of 9 months from the end of the later period.**]**

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A3 (1) This paragraph applies where—

(a) a company is liable to corporation tax for an accounting period ("the earlier period"),

(b) in a later accounting period of the company ("the later period"), an excess arises as described in section 72 of TIOPA 2010 (amounts of unrelieved foreign tax),

(c) on a claim under section 77 of that Act, credit for the whole or any part of the excess is allowed against corporation tax in respect of the earlier period, and

(d) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that period.

(2) So much of the repayment mentioned in sub-paragraph (1)(d) as falls to be made as a result of the claim under section 77 does not carry repayment interest.

(3) But sub-paragraph (2) does not apply (and, accordingly, the amount mentioned in that sub-paragraph carries repayment interest) after the expiry of 9 months from the end of the later period.

(4) This paragraph does not apply where paragraph A4 **[**[F4]or A5**]** applies.

A4 (1) This paragraph applies where—

(a) a company carrying on a trade has profits (of whatever description) arising in an accounting period ("the middle period"),

(b) the company incurs a loss in a later accounting period ("the later period"),

(c) on a claim under section 37 of CTA 2010, the whole or any part of the loss incurred in the later period has been set off (whether under section 37 or 42 of that Act) for the purposes of corporation tax against the profits of the middle period,

(d) the middle period does not fall wholly within the period of 12 months immediately preceding the later period,

(e) as a result of the claim under section 37, an excess or increased excess arises in the middle period as described in section 72 of TIOPA 2010 (amounts of unrelieved foreign tax),

(f) on a claim under section 77 of that Act, credit for the whole or any part of the excess is allowed against corporation tax in respect of an accounting period before the middle period ("the earlier period"), and

(g) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that period.

(2) So much of the repayment mentioned in sub-paragraph (1)(g) as falls to be made as a result of the claim under section 77 does not carry repayment interest.

(3) But sub-paragraph (2) does not apply (and, accordingly, the amount mentioned in that sub-paragraph carries repayment interest) after the expiry of 9 months from the end of the later period.

[F5 A (1) This paragraph applies where—

(a) a company has profits arising in an accounting period ("the middle period"),

(b) the company ceases to carry on a trade in a later accounting period ("the later period"),

(c) on a claim under section 45F of CTA 2010 (terminal losses), the whole or any part of a loss incurred in the trade has been set off for the purposes of corporation tax against the profits of the middle period,

(d) the middle period does not fall wholly within the period of 12 months immediately preceding the later period,

(e) as a result of the claim under section 45F, an excess or increased excess arises in the middle period as described in section 72 of TIOPA 2010 (amounts of unrelieved foreign tax),

(f) on a claim under section 77 of that Act, credit for the whole or any part of the excess is allowed against corporation tax in respect of an accounting period before the middle period ("the earlier period") and,

(g) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that period.

(2) So much of the repayment mentioned in sub-paragraph (1)(g) as falls to be made as a result of the claim under section 77 does not carry repayment interest.

(3) But sub-paragraph (2) does not apply (and, accordingly, the amount mentioned in that sub-paragraph carries repayment interest) after the expiry of 9 months from the end of the later period."]

Textual Amendments

F1 Words in Sch. 9 para. 10 substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 182(2)(a)**

F2 Words in Sch. 9 para. 10 substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 182(2)(b)**

F3 Words in Sch. 9 para. 10 inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 182(3)**

F4 Words in Sch. 9 para. 10 inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 182(4)**

F5 Words in Sch. 9 para. 10 inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 182(5)**

11 In Part 2 (special provision as to repayment interest start date), after paragraph 9A insert—

"Companies: income tax and certain tax credits

9B (1) This paragraph applies to—

(a) a repayment of income tax which falls to be made in respect of a payment received by a company in an accounting period, and

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(b) a payment of the whole or part of the tax credit comprised in any franked investment income received by a company in an accounting period.

(2) In the case of a repayment or payment to which this paragraph applies, the repayment interest start date is the day after the end of the accounting period in which the payment mentioned in sub-paragraph (1)(a) or the franked investment income mentioned in sub-paragraph (1)(b) was received by the company.

Loan by close company to participator

9C (1) In the case of a repayment of tax made on a claim under section 458(3) of CTA 2010 (relief on repayment of loan made by close company to participator), the repayment interest start date is the later of dates A and B.

(2) Date A is—

(a) where the loan repayment date is on or after the tax due date, the date 9 months after the end of the accounting period in which the loan repayment date falls, and

(b) in any other case, the date 9 months after the end of the accounting period in which the loan date falls.

(3) Date B is the date on which the tax which is to be repaid was paid to HMRC.

(4) In this paragraph, in relation to a claim under section 458(3) of CTA 2010—

"the loan date" is the date on which the loan or advance giving rise to the charge to tax under section 455 of that Act is made;

"the tax due date" is the date on which tax under that section becomes due (in accordance with subsection (3) of that section) in relation to that loan or advance;

"the loan repayment date" is the date on which the whole or any part of the loan or advance is repaid, released or written off."

New Schedule

12 After Schedule 54 to FA 2009 insert—

"SCHEDULE 54A U.K. Section 103A

FURTHER PROVISION AS TO LATE PAYMENT INTEREST AND REPAYMENT INTEREST

Certain amounts of repayment interest recoverable as late payment interest

1 Where each of conditions A to D (see paragraph 2) is met, an amount of repayment interest that—

(a) has been paid to a company, but

(b) ought not to have been paid (see condition D),

may be recovered from the company as if it were late payment interest.

2 (1) This paragraph applies for the purposes of paragraph 1.

(2) Condition A is that repayment interest has been paid to the company on—

(a) a repayment of corporation tax paid by the company for an accounting period,

(b) a payment of first-year tax credit under Schedule A1 to CAA 2001 for an accounting period,

(c) a payment of R&D tax credit under Chapter 2 or 7 of Part 13 of CTA 2009 for an accounting period,

(d) a payment of land remediation tax credit or life assurance company tax credit under Part 14 of CTA 2009 for an accounting period, or

(e) a payment of film tax credit under Chapter 3 of Part 15 of CTA 2009 for an accounting period.

(3) Condition B, in a case falling within sub-paragraph (2)(a), is that (whether or not any previous assessment or determination has been made)—

(a) an assessment, or an amendment of an assessment, of the amount of corporation tax payable by the company for the accounting period is made, or

(b) a determination of that amount is made under paragraph 36 or 37 of Schedule 18 to FA 1998 (which until superseded by a self-assessment under that Schedule has effect as if it were one).

(4) Condition B, in a case falling within sub-paragraph (2)(b) to (e), is that an assessment, or an amendment of an assessment, is made to recover an amount of the tax credit in question paid to the company for that accounting period.

(5) Condition C is that the change (as a result of condition B being met) in—

(a) the company's assessed liability to corporation tax, or

(b) the amount of tax credit payable,

is not one which in whole or in part corrects an error made by HMRC.

(6) In sub-paragraph (5) "error" includes—

(a) any computational error, and

(b) the allowance of a claim or election which ought not to have been allowed.

(7) Condition D is that as a result only of that change (and, in particular, not as a result of any error in the calculation of the interest), it appears to HMRC that some or all of the repayment interest ought not to have been paid.

Common period rule for corporation tax

3 (1) This paragraph applies where—

(a) there is a common period in relation to a company (see sub-paragraph (2)), and

(b) each of conditions A to C (see paragraph 4) is met.

(2) A common period in relation to a company is any period during which—

(a) an amount of corporation tax is due and payable by the company in accordance with section 59D of TMA 1970 or regulations made under section 59E of that Act ("the overdue payment"), and

(b) an amount which has been paid on account of corporation tax is repayable to the company ("the repayment").

(3) During the common period—

(a) the overdue payment does not carry late payment interest or interest under regulations made by virtue of section 59E(2)(g) of TMA 1970 (interest payable to HMRC on amounts of corporation tax due and payable under regulations under that section), and

(b) the repayment does not carry repayment interest or interest under regulations made by virtue of section 59E(2)(i) of TMA 1970 (interest payable by HMRC on amounts paid or repaid under regulations under that section).

4 (1) This paragraph applies for the purposes of paragraph 3.

(2) Condition A is that the overdue payment and the repayment are in respect of different accounting periods.

(3) Condition B is that the overdue payment would (apart from paragraph 3) carry—

(a) late payment interest, or

(b) interest under regulations made by virtue of section 59E(2)(g) of TMA 1970.

(4) Condition C is that the repayment would (apart from paragraph 3) carry—

(a) repayment interest, or

(b) interest under regulations made by virtue of section 59E(2)(i) of TMA 1970.”

Commencement Information

I4 Sch. 9 para. 12 in force at 1.1.2023 for specified purposes by S.I. 2022/1277, **reg. 2(2)(d)** (with reg. 3)

PROSPECTIVE

PART 2 U.K.

PETROLEUM REVENUE TAX

13 FA 2009 is amended as follows.

14 In section 101 (late payment interest on sums due to HMRC), omit subsection (2)(b).

15 In section 102 (repayment interest on sums to be paid by HMRC), omit subsection (2)(b).

16 Schedule 53 (late payment interest) is amended as follows.

17 After paragraph 11 insert—

"Instalments of petroleum revenue tax

11A The late payment interest start date in respect of an instalment of petroleum revenue tax payable under paragraph 2 of Schedule 19 to FA 1982 (payment for tax) is the last day of the month in which that instalment is payable.

Other amounts of petroleum revenue tax

11B The late payment interest start date in respect of any other amount of petroleum revenue tax is the date falling two months after the end of the chargeable period in respect of which the amount is due."

18 After paragraph 14 insert—

"Instalments of petroleum revenue tax

14A (1) An instalment of petroleum revenue tax payable under paragraph 2 of Schedule 19 to FA 1982 (payment for tax) carries late payment interest until the earlier of—

(a) the date on which the instalment is paid, and

(b) the date falling two months after the end of the chargeable period in respect of which the instalment is due.

(2) An instalment which remains unpaid after the date mentioned in sub-paragraph (1)(b) carries interest as an amount payable on account under section 1 of PRTA 1980.

(3) For the purposes of determining the date on which an overdue instalment is paid, a payment on account of one or more such instalments is to be attributed, so far as possible, to the earliest month for which an instalment is overdue."

19 In Schedule 54 (repayment interest), after paragraph 12 insert—

"Petroleum revenue tax

12A (1) The repayment interest start date in respect of any amount of petroleum revenue tax is the later of—

(a) the date falling two months after the end of the chargeable period in respect of which the amount was paid, and

(b) the date on which the amount was paid.

(2) Sub-paragraph (1) is subject to paragraph 12B (limit on amount of repayment interest carried by certain repayments generated by carry back reliefs).

(3) For the purposes of this paragraph any instalment or part of an instalment that becomes repayable is to be regarded, so far as possible, as consisting of the instalment most recently paid.

12B (1) This paragraph applies where—

(a) an assessment for a chargeable period ("the earlier period") gives effect to relief under section 7(2) or (3) of OTA 1975

for one or more allowable losses accruing in a later chargeable period, and

(b) by virtue of that assessment, an amount of tax becomes repayable to the participator in question (whether wholly or partly by reason of giving effect to that relief).

(2) The amount of repayment interest carried by the appropriate repayment is not to exceed the difference between—

(a) 60% of the amount of the allowable loss or losses which is treated as reducing the assessable profit of the earlier period, and

(b) the amount of the appropriate repayment.

(3) In this paragraph "the appropriate repayment" means so much of the repayment as is attributable to giving effect to the relief (but this is subject to sub-paragraphs (4) and (5)).

(4) Sub-paragraph (5) applies where the assessment (as well as giving effect to the relief mentioned in sub-paragraph (1)) takes account of any other matter, whether a relief or not, which goes—

(a) to reduce the assessable profit of the earlier period, or

(b) otherwise to reduce the tax payable for that period.

(5) The appropriate repayment is to be taken to be the difference between—

(a) the total amount of tax repayable by virtue of the assessment, and

(b) the amount of tax (if any) which would have been repayable if no account had been taken of that relief.

(6) If the earlier period ends on or before 30 June 1993, sub-paragraph (2) has effect as if the percentage specified in paragraph (a) were 85%.

(7) In this paragraph references to an assessment include an amendment of an assessment."

Status:
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Changes to legislation:
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