

# SCHEDULES

## SCHEDULE 7

Section 371

### MISCELLANEOUS RELOCATIONS

#### PART 1

#### RELOCATION OF SECTION 38 OF, AND SCHEDULE 15 TO, FA 1973

##### *Taxes Management Act 1970 (c. 9)*

- 1 TMA 1970 is amended as follows.
- 2 After Part 7 insert—

#### “PART 7A

#### HOLDERS OF LICENCES UNDER THE PETROLEUM ACT 1998

##### *Licence-holders' liabilities for tax assessed on non-UK residents*

#### **Pre-conditions for serving secondary-liability notice**

77B (1) Conditions A to E are the pre-conditions for the purposes of section 77C.

- (2) Condition A is that tax is assessed on a person not resident in the United Kingdom.
- (3) Condition B is that the tax is assessed in reliance on—
  - (a) section 276 of the 1992 Act,
  - (b) section 874 of ITTOIA 2005, or
  - (c) section 1313 of CTA 2009.
- (4) Condition C is that the tax assessed is not tax under ITEPA 2003.
- (5) Condition D is that—
  - (a) there is a licence to which the tax assessed is related (see section 77J for the meaning of tax related to a licence),
  - (b) there is more than one licence to which the tax assessed is related, or
  - (c) there is a licence, or more than one licence, to which part of the tax assessed is related but in addition part of the tax assessed is not related to any licence.
- (6) Condition E is that the tax is not paid in full within 30 days after it becomes due and payable.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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(7) In this Part “licence” means a licence under Part 1 of the Petroleum Act 1998.

### Secondary-liability notices

77C (1) If each of the pre-conditions (see section 77B) is met, an officer of Revenue and Customs may serve on the holder of the licence concerned, or on the holder of any of the licences concerned, a notice—

- (a) that states particulars of the assessment,
  - (b) that states the amount remaining unpaid and the date when it became payable,
  - (c) that requires the holder to pay, within 30 days of the service of the notice, the amount for which the holder is liable, and
  - (d) that, if the amount for which the holder is liable is given by subsection (3) or section 77G(7), gives particulars of how the amount was determined.
- (2) For the purposes of subsection (1), the amount for which the holder is liable is the amount remaining unpaid, together with any interest on it under sections 86 and 87A, but this is subject to subsection (3) and section 77G(7).
- (3) In a case within section 77B(5)(b) or (c), the amount for which the holder of the licence is liable is given by—

$$\frac{16 - N}{15}$$

(4) In subsection (3)—

A is the amount remaining unpaid,  
 I is any interest due on that amount under sections 86 and 87A,  
 T is the total amount of the profits or chargeable gains in respect of which the assessment is made, and  
 L is so much of that total amount as is profits or chargeable gains related to the licence.

(5) The power under subsection (1) is subject to section 77E (certain pre-1974 cases).

(6) In this Part “secondary-liability notice” means a notice under subsection (1).

### Payments under secondary-liability notices

77D (1) Any amount which a person is required to pay by a secondary-liability notice may be recovered from the person as if it were tax due and duly demanded from the person.

- (2) If a person (“H”) pays any amount which a secondary-liability notice requires H to pay, H may recover the amount from the person on whom the assessment concerned was made.
- (3) A payment in pursuance of a secondary-liability notice is not allowed as a deduction in calculating any income, profits or losses for any tax purposes.

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### **Exception for certain pre-1974 cases**

- 77E (1) Section 77C(1) does not give power to serve a secondary-liability notice on the holder of a licence if the profits arose, or the chargeable gains accrued, to the assessed person in consequence of a contract made by the holder before 23 March 1973.
- (2) The exception under subsection (1) does not apply if—
- (a) the assessed person is connected with the holder, or
  - (b) the contract was substantially varied on or after 23 March 1973.
- (3) For the purposes of subsection (2), whether a person is connected with another is determined in accordance with section 1122 of CTA 2010.”

3 After section 77E insert—

### *“Exemption certificates*

### **77F Issue, cancellation and effect of exemption certificates**

- (1) This section applies if there is a person (“T”) who will or might become liable to tax which, if unpaid, could be recovered under this Part from a person (“H”) who is the holder of a licence.
- (2) If an officer of Revenue and Customs, on an application made by T, is satisfied that T will comply with any obligations imposed on T by the Taxes Acts, the officer may issue to H a certificate exempting H from section 77C with respect to any tax payable by T.
- (3) If a certificate is issued to H under subsection (2), an officer of Revenue and Customs may, by notice in writing to H, cancel the certificate from the date specified in the notice.
- (4) The date specified in a notice under subsection (3) may not be earlier than 30 days after the service of the notice.
- (5) If a certificate is issued to H under subsection (2), section 77C does not apply to any tax payable by T which becomes due while the certificate is in force.
- (6) If a certificate is issued to H under subsection (2) but is subsequently cancelled under subsection (3), section 77C also does not apply to any tax payable by T which—
- (a) becomes due after the certificate is cancelled, but
  - (b) is in respect of profits arising, or chargeable gains accruing, while the certificate is in force.

### **77G Liabilities for assessments made after exemption certificate cancelled**

- (1) Subsection (7) applies if—
- (a) each of conditions A to C is met, and
  - (b) one of conditions D and E is met.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (2) Condition A is that, after the cancellation under section 77F(3) of a certificate issued under section 77F(2) to a person (“H”) who is the holder of a licence, tax related to the licence is assessed on the applicant for the certificate.
- (3) Condition B is that the tax is assessed in reliance on—
- (a) section 276 of the 1992 Act,
  - (b) section 874 of ITTOIA 2005, or
  - (c) section 1313 of CTA 2009.
- (4) Condition C is that the tax assessed is not tax under ITEPA 2003.
- (5) Condition D is that—
- (a) ignoring section 77F, H could be required by a secondary-liability notice to pay all of the tax remaining unpaid under the assessment, and
  - (b) the profits or chargeable gains in respect of which the assessment is made include (but are not limited to) profits arising, or chargeable gains accruing, while the certificate is in force.
- (6) Condition E is that—
- (a) as a result of section 77C(3), but ignoring section 77F, H could be required by a secondary-liability notice to pay some, but not all, of the tax remaining unpaid under the assessment, and
  - (b) the profits or chargeable gains that are—
    - (i) ones in respect of which the assessment is made, and
    - (ii) related to the licence,
 include (but are not limited to) profits arising, or chargeable gains accruing, while the certificate is in force.
- (7) If this subsection applies then, for the purposes of section 77C(1), the amount for which the holder of the licence is liable is the amount given by—

$$A \times \left( 1 - \frac{CIF}{CIF + NIF} \right)$$

together with a corresponding proportion of any interest due under sections 86 and 87A on the amount remaining unpaid.

- (8) In subsection (7)—

A is the amount that H could be required to pay as mentioned in paragraph (a) of whichever of conditions D and E is met (“the operative condition”),

CIF is the amount of the profits or chargeable gains mentioned in paragraph (b) of the operative condition that are ones arising, or accruing, while the certificate is in force, and

NIF is the amount of the profits or chargeable gains mentioned in paragraph (b) of the operative condition that are ones arising, or accruing, while the certificate is not in force.”

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*“Supplementary*

**77H Calculations under sections 77C(3) and 77G(7)**

- (1) Subsection (2) applies for the purposes of calculating any of the following amounts of profits or chargeable gains—
  - (a) L in a calculation under section 77C(3),
  - (b) CIF in a calculation under section 77G(7), and
  - (c) CIF + NIF in a calculation under section 77G(7) when it is condition E in section 77G that is met.
- (2) The amount is to be calculated as if for the purposes of making a separate assessment in respect of those profits or chargeable gains on the person on whom the assessment was made.
- (3) An officer of Revenue and Customs applying subsection (2) is to make all such allocations and apportionments of receipts, expenses, allowances and deductions taken into account, or made, for the purposes of the actual assessment as appear to the officer to be just and reasonable in the circumstances.

**77I Information**

- (1) The holder of a licence must, if required to do so by a notice served on the holder by an officer of Revenue and Customs, give to the officer within the time specified by the notice (which is not to be less than 30 days) such particulars as may be required by the notice of—
  - (a) licence-related transactions (see subsection (2)),
  - (b) licence-related payments (see subsection (3)), or
  - (c) persons to whom licence-related payments have been paid or are payable.
- (2) In subsection (1) “licence-related transaction” means a transaction in connection with activities authorised by the licence as a result of which any person is or might be liable to tax by virtue of—
  - (a) section 276 of the 1992 Act,
  - (b) section 874 of ITTOIA 2005, or
  - (c) section 1313 of CTA 2009.
- (3) In subsection (1) “licence-related payment” means—
  - (a) earnings which constitute employment income (see section 7(2)(a) of ITEPA 2003),
  - (b) amounts which are treated as earnings and constitute employment income (see section 7(2)(b) of ITEPA 2003), or
  - (c) other payments,

paid or payable in respect of duties or services performed in an area in which activities authorised by the licence may be carried on under the licence.
- (4) If a notice under subsection (1) is served on the holder of a licence, the holder must take reasonable steps to obtain the information necessary to enable the holder to comply with the notice.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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### **77J Meaning of “related to a licence” as respects tax, or profits or gains**

- (1) Subsections (2) and (3) apply for the purposes of this Part.
- (2) An amount of tax is related to a licence if the tax is in respect of profits or chargeable gains related to the licence.
- (3) Profits or chargeable gains are related to a licence if they are—
  - (a) profits from activities authorised by the licence,
  - (b) profits from activities carried on in connection with activities authorised by the licence, or
  - (c) profits from, or chargeable gains accruing on the disposal of, exploration or exploitation rights connected with—
    - (i) activities authorised by the licence, or
    - (ii) activities carried on in connection with activities authorised by the licence.
- (4) In this section—
  - (a) “designated area” means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964,
  - (b) “exploration or exploitation activities” means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or a designated area,
  - (c) “exploration or exploitation rights” means rights to—
    - (i) assets to be produced by exploration or exploitation activities,
    - (ii) interests in such assets, or
    - (iii) the benefit of such assets,
  - (d) any reference to the disposal of exploration or exploitation rights includes a reference to the disposal of unlisted shares deriving their value, or the greater part of their value, directly or indirectly from such rights,
  - (e) “shares” includes—
    - (i) stock, and
    - (ii) securities not creating or evidencing a charge on assets,
  - (f) “unlisted shares” means shares that are not listed on a recognised stock exchange, and
  - (g) “recognised stock exchange” has the meaning given by section 1005(1) and (2) of ITA 2007.

### **77K Other definitions in Part 7A**

- (1) This section applies for the purposes of this Part.
- (2) “Licence” has the meaning given by section 77B(7).
- (3) “Secondary-liability notice” has the meaning given by section 77C(6).”

- 5 (1) Amend the first column of the Table in section 98 (special returns etc) as follows.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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(2) Omit the entry for paragraph 2 of Schedule 15 to FA 1973.

(3) After the entry for regulations under section 59E of TMA 1970 insert—

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“Section 77I(1) of this Act.”

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*Finance Act 1973 (c. 51)*

6 FA 1973 is amended as follows.

7 Omit section 38 (which introduces and interprets Schedule 15).

8 Omit Schedule 15 (territorial extension of charge to tax: supplementary provisions).

*Oil Taxation Act 1975 (c. 22)*

9 The Oil Taxation Act 1975 is amended as follows.

10 In section 3(4) (expenditure not allowable under the section) for paragraph (f) (which refers to notices under paragraph 4 of Schedule 15 to FA 1973), and the “or” preceding it, substitute “or

(f) any payment made in pursuance of a notice under section 77C of the Taxes Management Act 1970 (notice requiring licence-holder to pay unpaid tax assessed on non-UK resident);”.

**PART 2**

RELOCATION OF SECTION 24 OF FA 1974

*Taxes Management Act 1970 (c. 9)*

11 TMA 1970 is amended as follows.

12 In section 8 (personal return) after subsection (4) insert—

“(4A) Subsection (4B) applies if a notice under this section is given to a person within section 8ZA of this Act (certain persons employed etc by person not resident in United Kingdom who perform their duties for UK clients).

(4B) The notice may require a return of the person's income to include particulars of any general earnings (see section 7(3) of ITEPA 2003) paid to the person.”

13 After section 8 insert—

**“8ZA Interpretation of section 8(4A)**

(1) For the purposes of section 8(4A) of this Act, a person (“F”) is within this section if each of conditions A to C is met.

(2) Condition A is that F performs in the United Kingdom, for a continuous period of 30 days or more, duties of an office or employment.

(3) Condition B is that the office or employment is under or with a person who—  
(a) is not resident in the United Kingdom, but

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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(b) is resident outside the United Kingdom.

(4) Condition C is that the duties are performed for the benefit of a person who—

(a) is resident in the United Kingdom, or

(b) carries on a trade, profession or vocation in the United Kingdom.”

14 After section 15 insert—

**“15A Non-resident's staff are UK client's employees for section 15 purposes**

(1) Subsection (5) applies if each of conditions A to C is met.

(2) Condition A is that a person (“F”) performs in the United Kingdom, for a continuous period of 30 days or more, duties of an office or employment.

(3) Condition B is that the office or employment is under or with a person who—

(a) is not resident in the United Kingdom, but

(b) is resident outside the United Kingdom.

(4) Condition C is that the duties are performed for the benefit of a person (“P”) who—

(a) is resident in the United Kingdom, or

(b) carries on a trade, profession or vocation in the United Kingdom.

(5) Section 15 of this Act applies as if P were F's employer, but only so as to enable P to be required to make a return of F's name and place of residence.”

*Finance Act 1974 (c. 30)*

15 FA 1974 is amended as follows.

16 Omit section 24 (returns of persons treated as employees).

**PART 3**

RELOCATION OF SECTION 42 OF ICTA

*Taxes Management Act 1970 (c. 9)*

17 TMA 1970 is amended as follows.

18 (1) Amend the first column of the Table in section 98 (special returns etc) as follows.

(2) Omit the entry for section 42 of ICTA.

(3) Before the entry for section 647 of ITTOIA 2005 insert—

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“Section 302B of ITTOIA 2005.”

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*Income and Corporation Taxes Act 1988 (c. 1)*

19 ICTA is amended as follows.



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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- 20 Omit section 42 (appeals against determinations under Chapter 4 of Part 3 of ITTOIA 2005).

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 21 ITTOIA 2005 is amended as follows.

- 22 After section 302 insert—

*“Determinations affecting liability of more than one person*

**302A Appeals against proposed determinations**

- (1) Subsection (2) applies if it appears to an officer of Revenue and Customs that—
  - (a) a determination is needed of an amount that is to be brought into account as a receipt under this Chapter in calculating the liability to tax of a person (“the first taxpayer”), and
  - (b) the determination may affect the liability to income tax, corporation tax or capital gains tax of other persons.
- (2) The officer may give notice (a “provisional notice of determination”) to the first taxpayer and the other persons of—
  - (a) the determination the officer proposes to make, and
  - (b) their rights under this section and section 302C.
- (3) A person to whom a provisional notice of determination is given may object to the proposed determination by giving notice (a “notice of objection”) to the officer.
- (4) The notice of objection must be given within 30 days of the date on which the provisional notice of determination was given.
- (5) If an officer gives provisional notices of determination and no person gives a notice of objection—
  - (a) a determination must be made by the officer as proposed in the provisional notices, and
  - (b) the determination is not to be called in question in any proceedings.

**302B Section 302A: supplementary**

- (1) A provisional notice of determination under section 302A(2) may include a statement of the grounds on which the officer proposes to make the determination.
- (2) Subsection (1) applies despite any obligation as to secrecy or other restriction on the disclosure of information.
- (3) An officer of Revenue and Customs may by notice (“a preliminary notice”) require any person to give any information that appears to the officer to be needed for deciding whether to give any person a provisional notice of determination under section 302A(2).

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (4) The preliminary notice must state the time within which the information is to be given.

### **302C Determination by tribunal**

- (1) If a notice of objection is given under section 302A(3), the amount mentioned in section 302A(1) must be determined in the same way as an appeal.
- (2) All persons to whom provisional notices of determination have been given under section 302A(2) may be a party to—
- (a) any proceedings under subsection (1), and
  - (b) any appeal arising out of those proceedings.
- (3) Those persons are bound by the determination made in the proceedings or on appeal, whether or not they have taken part in the proceedings.
- (4) Their successors in title are bound in the same way.”

#### *Corporation Tax Act 2009 (c. 4)*

23 CTA 2009 is amended as follows.

- 24 In section 242(2) (determination by tribunal) for the words from “take part” to the end substitute “be a party to—
- (a) any proceedings under subsection (1), and
  - (b) any appeal arising out of those proceedings.”

## **PART 4**

### **RELOCATION OF SECTION 84A OF ICTA**

#### *Income and Corporation Taxes Act 1988 (c. 1)*

25 ICTA is amended as follows.

- 26 Omit section 84A (costs of establishing share option or profit sharing scheme: relief).

#### *Income Tax (Trading and Other Income) Act 2005 (c. 5)*

27 ITTOIA 2005 is amended as follows.

- 28 In Chapter 5 of Part 2, after section 94 insert—

#### *“SAYE option schemes, CSOP schemes*

### **94A Costs of setting up SAYE option scheme or CSOP scheme**

- (1) This section applies if—

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (a) a company incurs expenses in setting up a scheme within subsection (2) that is approved by an officer of Revenue and Customs, and
- (b) no employee or director acquires rights under the scheme before it is approved.

(2) The schemes within this subsection are—

- (a) SAYE option schemes within the meaning of the SAYE code (see section 516(4) of ITEPA 2003), and
- (b) CSOP schemes within the meaning of the CSOP code (see section 521(4) of ITEPA 2003).

The references in subsection (1) to a scheme being approved are to it being approved under Schedule 3 or 4 to ITEPA 2003 (as the case may be).

- (3) A deduction for the expenses is to be made in calculating the profits of a trade carried on by the company.
- (4) If the approval is given more than 9 months after the end of the period of account in which the expenses are incurred, for the purposes of subsection (3) the deduction is to be made for the period of account in which the approval is given.”

29 In section 272(2) (profits of property business: application of trading income rules) at the appropriate place insert—

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“section 94A costs of setting up SAYE option scheme or CSOP scheme”.

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## PART 5

### RELOCATION OF SECTION 152 OF ICTA

#### *Taxes Management Act 1970 (c. 9)*

30 TMA 1970 is amended as follows.

- 31 (1) Amend section 48 (application of following provisions of Part 5) as follows.
- (2) In subsection (2)(a) (application to appeals other than appeals against assessments) for “section 56” substitute “ sections 54A to 54C and 56 ”.
  - (3) In subsection (3) (meaning of “relevant provisions” for purpose of application to proceedings other than appeals) after “except sections 49A to 49I” insert “ and 54A to 54C ”.

32 After section 54 insert—

#### **“54A No questioning in appeal of amounts of certain social security income**

- (1) Subsection (2) applies if an amount is notified under section 54B(1) and—
  - (a) no objection is made to the notification within 60 days after its date of issue, or such further period as may be allowed under section 54B(4) and (5), or
  - (b) an objection is made but is withdrawn by the objector by notice.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (2) The amount is not to be questioned in any appeal against any assessment in respect of income including the amount.
- (3) Subsection (4) applies if an amount is notified under section 54B(1) and—
  - (a) an objection is made to the notification within 60 days after its date of issue, or such further period as may be allowed under section 54B(4) and (5),
  - (b) the appropriate officer and the objector come to an agreement that the amount notified should be varied in a particular manner, and
  - (c) the officer confirms that agreement in writing.
- (4) The amount, as varied, is not to be questioned in any appeal against any assessment in respect of income including that amount.
- (5) Subsection (4) does not apply if, within 60 days from the date when the agreement was come to, the objector gives to the appropriate officer notice that the objector wishes to repudiate or resile from the agreement.

#### **54B Notifications of taxable amounts of certain social security income**

- (1) The appropriate officer may by notice notify a person who is liable to pay any income tax charged on any unemployment benefit, jobseeker's allowance or income support—
  - (a) of the amount on which the tax is charged, or
  - (b) of an alteration in an amount previously notified under paragraph (a) or this paragraph.
- (2) A notification under subsection (1) must—
  - (a) state its date of issue, and
  - (b) state that the person notified may object to the notification by notice given within 60 days after that date.
- (3) A notification under subsection (1)(b) cancels the previous notification concerned.
- (4) An objection to a notification under subsection (1) may be made later than 60 days after its date of issue if, on an application for the purpose—
  - (a) the appropriate officer is satisfied—
    - (i) that there was a reasonable excuse for not objecting before the end of the 60 days, and
    - (ii) that the application was made without unreasonable delay after the end of the 60 days, and
  - (b) the officer gives consent in writing.
- (5) If the officer is not so satisfied, the officer is to refer the application for determination by the tribunal.

#### **54C Interpretation of sections 54A and 54B: “appropriate officer” etc**

- (1) In sections 54A and 54B “the appropriate officer” means the appropriate officer—
  - (a) in Great Britain, of the Department for Work and Pensions, and

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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(b) in Northern Ireland, of the Department for Social Development.

(2) Section 48(1)(a) (meaning of “appeal” in the following provisions of Part 5) does not apply for the purposes of sections 54A and 54B.”

*Income and Corporation Taxes Act 1988 (c. 1)*

33 ICTA is amended as follows.

34 Omit section 152 (notification of taxable amount of certain benefits).

**PART 6**

RELOCATION OF SECTION 337A(2) OF ICTA

*Income and Corporation Taxes Act 1988*

35 ICTA is amended as follows.

36 Omit section 6(5) (signpost to Part 8 of the Act).

37 Omit section 337A(2) (in calculating a company's income, deductions in respect of interest to be made only under Part 5 of CTA 2009).

*Corporation Tax Act 2009 (c. 4)*

38 CTA 2009 is amended as follows.

39 After section 1301 insert—

**“1301A Restriction of deductions for interest**

In calculating a company's income from any source for corporation tax purposes, no deduction is allowed for interest otherwise than under Part 5 (loan relationships).”

**PART 7**

RELOCATION OF SECTION 475 OF ICTA

*Income and Corporation Taxes Act 1988 (c. 1)*

40 ICTA is amended as follows.

41 Omit section 475 (tax-free Treasury securities: exclusion of interest on borrowed money).

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

42 ITTOIA 2005 is amended as follows.

43 Before section 155 (before the italic cross-heading) insert—

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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### **Certain non-UK residents with interest on 3½% War Loan 1952 Or After**

“154A) This section applies if—

- (a) in any tax year a person who is not ordinarily resident in the United Kingdom carries on a trade there—
    - (i) consisting of banking or insurance, or
    - (ii) consisting wholly or partly of dealing in securities, and
  - (b) in calculating the profits of the trade for the tax year any amount is disregarded as a result of section 714 (exemption of profits from FOTRA securities) because of a condition subject to which any 3½% War Loan 1952 Or After was issued.
- (2) Interest on money borrowed for the purposes of the trade is to be deducted in calculating the profits of the trade of that tax year only so far as it exceeds the ineligible amount.
- (3) The ineligible amount is found as follows—
- Step 1* Add together all sums borrowed for the purposes of the trade and still owing in the basis period for the tax year.
- Step 2* If the person carrying on the trade is a company, deduct any sums carrying interest which is not deducted in calculating the profits of the trade (otherwise than because of subsection (2)).
- Step 3* If the amount found at Step 2 exceeds the total cost of the 3½% War Loan 1952 Or After held for the purposes of the trade in the basis period, deduct the excess from that amount.
- Step 4* Calculate the average rate of interest in the basis period on money borrowed for the purposes of the trade.
- Step 5* Calculate the amount of interest payable on the amount found at Step 3 at the rate found at Step 4 for the basis period.
- The result is the ineligible amount.
- (4) If the person's holding of 3½% War Loan 1952 Or After has fluctuated during the basis period, the total cost for the purposes of Step 3 is taken to be—

$$C \times \frac{AH}{TH}$$

where—

C is the cost of acquisition of the initial holding (if any) and any holdings acquired during the basis period,

AH is the average holding in that period, and

TH is the total of the initial holding (if any) and any holdings acquired during the basis period.

- (5) In subsection (4) “initial holding” means the holding held by the person at the beginning of the basis period.”

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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## PART 8

### RELOCATION OF SECTION 700 OF ICTA

#### *Income and Corporation Taxes Act 1988 (c. 1)*

- 44 ICTA is amended as follows.
- 45 Omit section 700 (adjustments and information).

#### *Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 46 ITTOIA 2005 is amended as follows.
- 47 After section 682 (assessments, adjustments and claims after the administration period) insert—

#### **“682A Statements relating to estate income**

- (1) If a person within subsection (2) requests it in writing, a personal representative of a deceased person must provide the person with a statement showing—
- (a) the amount treated as estate income arising from the person's interest in the whole or part of the deceased person's estate for which the person is liable to income tax for a tax year, and
  - (b) the amount of any tax at the applicable rate which any such amount is treated as having borne.
- (2) A person is within this subsection if—
- (a) the person has or has had an absolute or limited interest in the whole or part of the residue of the estate, or
  - (b) estate income has arisen to the person from a discretionary interest the person has or has had in the whole or part of the residue of the estate.
- (3) A statement under subsection (1) must be in writing.
- (4) The duty to comply with a request under this section is enforceable by the person who made it.”

## PART 9

### RELOCATION OF SECTION 787 OF ICTA

#### *Income and Corporation Taxes Act 1988 (c. 1)*

- 48 ICTA is amended as follows.
- 49 Omit section 787 (restriction of relief for payments of interest).

#### *Income Tax Act 2007 (c. 3)*

- 50 ITA 2007 is amended as follows.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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51 In section 2(13) (overview of Part 13) after paragraph (h) (which is inserted by Schedule 8) insert—

- “(i) leases of plant and machinery (Chapter 6), and
- (j) tax relief for interest (Chapter 7).”

52 After section 809ZF (which is inserted by CTA 2010) insert—

## “CHAPTER 7

### AVOIDANCE INVOLVING OBTAINING TAX RELIEF FOR INTEREST

#### **809ZG Tax relief schemes and arrangements**

- (1) Relief is not to be given under any provision of the Income Tax Acts to a person in respect of a payment of interest if a tax relief scheme has been effected, or tax relief arrangements have been made, in relation to the transaction under which the interest is paid.
- (2) Subsection (1) applies whether the tax relief scheme is effected, or the tax relief arrangements are made, before or after the transaction.
- (3) A scheme is a tax relief scheme in relation to a transaction for the purposes of subsection (1) if it is such that the sole or main benefit that might be expected to accrue to the person from the transaction is the obtaining of a reduction in tax liability by means of relief under the Income Tax Acts.
- (4) Arrangements are tax relief arrangements in relation to a transaction for the purposes of subsection (1) if they are such that the sole or main benefit that might be expected to accrue to the person from the transaction is the obtaining of a reduction in tax liability by means of relief under the Income Tax Acts.
- (5) In this section “relief” means relief by way of—
  - (a) deduction in calculating profits or gains, or
  - (b) deduction or set off against income.”

## PART 10

### RELOCATION OF SECTIONS 130 TO 132 OF FA 1988

#### *Taxes Management Act 1970 (c. 9)*

53 TMA 1970 is amended as follows.

54 After section 109A insert—

#### *“Companies ceasing to be UK resident*

#### **109B Provisions for securing payment by company of outstanding tax**

- (1) Each of conditions A to D must be met before a company ceases to be resident in the United Kingdom.



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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (2) Condition A is that the company gives to the Commissioners for Her Majesty's Revenue and Customs notice of its intention to cease to be resident in the United Kingdom.
- (3) Condition B is that the notice specifies the time ("the migration time") when the company intends to cease to be resident in the United Kingdom.
- (4) Condition C is that the company gives to the Commissioners—
  - (a) a statement of the amount which, in its opinion, is the amount of the tax which is or will be payable by it in respect of periods beginning before the migration time, and
  - (b) particulars of the arrangements which it proposes to make for securing the payment of that tax.
- (5) Condition D is that—
  - (a) arrangements are made by the company for securing the payment of the tax which is or will be payable by it in respect of periods beginning before the migration time, and
  - (b) those arrangements, as made by the company, are approved for the purposes of this subsection by the Commissioners.
- (6) If any question arises as to the amount which, for the purposes of subsection (5), should be regarded as the amount of tax which is or will be payable by the company in respect of periods beginning before the migration time, that question is to be referred to the tribunal.
- (7) A decision of the tribunal under subsection (6) is final, despite sections 11 and 13 of the TCEA 2007 (appeals from tribunal decisions).
- (8) If any information furnished by the company for the purpose of securing the Commissioners' approval under subsection (5) does not fully and accurately disclose all facts and considerations material for the Commissioners' decision under that subsection, any resulting approval is void.

#### **109C Penalty for company's failure to comply with section 109B**

If a company ceases to be resident in the United Kingdom at a time before each of conditions A to D in section 109B is met, the company is liable to a penalty not exceeding the amount of tax—

- (a) which is or will be payable by it in respect of periods beginning before that time, and
- (b) which has not been paid at that time.

#### **109D Penalty for other persons if company fails to comply with section 109B**

- (1) Subsection (5) applies if—
  - (a) condition E is met, and
  - (b) either of conditions F and G is met.
- (2) Condition E is that in relation to a company ("the migrating company") any person ("P") does or is party to the doing of any act which to P's knowledge amounts to or results in, or forms part of a series of acts which together amount to or result in, or will amount to or result in, the migrating company

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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ceasing to be resident in the United Kingdom at a time before each of conditions A to D in section 109B is met.

- (3) Condition F is that P is—
  - (a) a director of the migrating company,
  - (b) a company which has control of the migrating company, or
  - (c) a director of a company which has control of the migrating company.
- (4) Condition G is that the act mentioned in subsection (2) is a direction or instruction given—
  - (a) to persons within subsection (3), but
  - (b) otherwise than by way of advice given by a person acting in a professional capacity.
- (5) If this subsection applies, P is liable to a penalty not exceeding the amount of tax—
  - (a) which is or will be payable by the migrating company in respect of periods beginning before the time mentioned in subsection (2), and
  - (b) which has not been paid at that time.
- (6) Subsections (7) and (8) apply for the purposes of any proceedings against a person within subsection (3) for the recovery of a penalty under subsection (5).
- (7) It is to be presumed that the person was party to every act of the migrating company unless the person proves that it was done without the person's consent or connivance.
- (8) It is to be presumed, unless the contrary is proved, that any early-migration act was to the person's knowledge an early-migration act.
- (9) In subsection (8) “early-migration act” means an act which in fact amounted to or resulted in, or formed part of a series of acts which together amounted to or resulted in, or would amount to or result in, the migrating company ceasing to be resident in the United Kingdom at a time before each of conditions A to D in section 109B is met.

### **109E Liability of other persons for unpaid tax**

- (1) This section applies if—
  - (a) a company (“the migrating company”) ceases to be resident in the United Kingdom at any time, and
  - (b) any tax which is payable by the company in respect of periods beginning before that time is not paid within 6 months from the time when it becomes payable.
- (2) The Commissioners for Her Majesty's Revenue and Customs may, at any time before the end of the period of 3 years beginning with the time when the amount of the tax is finally determined, serve on any person within subsection (3) a notice—
  - (a) stating particulars of the tax payable, the amount remaining unpaid and the date when it became payable, and
  - (b) requiring that person to pay that amount within 30 days of the service of the notice.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (3) The persons within this subsection are—
  - (a) any company which is, or within the pre-migration year was, a member of the same group as the migrating company,
  - (b) any person who is, or within the pre-migration year was, a controlling director of the migrating company, and
  - (c) any person who is, or within the pre-migration year was, a controlling director of a company which has, or within the pre-migration year had, control over the migrating company.
- (4) Any amount which a person is required to pay by a notice under this section may be recovered from the person as if it were tax due and duly demanded from the person.
- (5) If a person (“P”) pays any amount which a notice under this section requires P to pay, P may recover the amount from the migrating company.
- (6) A payment in pursuance of a notice under this section is not allowed as a deduction in calculating any income, profits or losses for any tax purposes.
- (7) In this section—
  - “controlling director”, in relation to a company, means a director of the company who has control of the company,
  - “group” has the meaning which would be given by section 170 of the 1992 Act if in that section for references to 75 per cent subsidiaries there were substituted references to 51 per cent subsidiaries, and
  - “pre-migration year” means the period of 12 months ending with the time when the migrating company ceases to be resident in the United Kingdom.

### **109F Interpretation of sections 109B to 109E**

- (1) In sections 109B to 109E, any reference to the tax payable by a company includes a reference to—
  - (a) any amount which the company is liable to pay under section 77C (territorial extension of charge to tax),
  - (b) any amount of tax which the company is liable to pay under regulations made under section 684 of ITEPA 2003 (PAYE),
  - (c) any amount which the company is liable to pay under sections 61 and 62(1)(a) of the Finance Act 2004 (sub-contractors in the construction industry),
  - (d) any income tax which the company is liable to pay in respect of payments within section 946 of ITA 2007 (collection of tax: deposit-takers, building societies and certain companies), and
  - (e) any amount representing income tax which the company is liable to pay under section 966 of ITA 2007 (entertainers and sportsmen).
- (2) In sections 109B to 109E read in accordance with subsection (1), any reference to the tax payable by a company in respect of periods beginning before any particular time includes a reference to any interest—
  - (a) on the tax so payable, or
  - (b) on tax paid by the company in respect of such periods,

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which the company is liable to pay in respect of periods beginning before or after that time.

- (3) In sections 109B to 109E “director”, in relation to a company, is to be read in accordance with the following provisions—
- (a) section 67(1) and (2) of ITEPA 2003, and
  - (b) section 452 of CTA 2010.
- (4) In sections 109B to 109E, any reference to a person having control of a company is to be read in accordance with sections 450 and 451 of CTA 2010.”

*Finance Act 1988 (c. 39)*

55 FA 1988 is amended as follows.

56 Omit sections 130 to 132 (company migration).

## PART 11

### RELOCATION OF SECTION 151 OF FA 1989

*Taxes Management Act 1970 (c. 9)*

57 TMA 1970 is amended as follows.

58 After section 30A insert—

**“30AA Assessing income tax on trustees and personal representatives**

- (1) Income tax charged on income arising to trustees of a settlement may be assessed and charged on, and in the name of, any one or more of the assessable trustees.
- (2) Income tax charged on income arising to the personal representatives of a deceased person may be assessed and charged on, and in the name of, any one or more of the assessable representatives.
- (3) In subsection (1) “the assessable trustees” means—
  - (a) the trustees of the settlement in the tax year in which the income arises, and
  - (b) any subsequent trustees of the settlement.
- (4) In subsection (2) “the assessable representatives” means—
  - (a) the persons who, in the tax year in which the income arises, are personal representatives of the deceased person, and
  - (b) any subsequent personal representatives of the deceased person.”

*Finance Act 1989 (c. 26)*

59 FA 1989 is amended as follows.

60 Omit section 151 (assessment of trustees and personal representatives).

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 61 ITTOIA 2005 is amended as follows.
- 62 In Schedule 2 (transitionals and savings etc) omit paragraph 91 (interpretation of section 151(2) of FA 1989).

**PART 12**

RELOCATION OF SCHEDULE 12 TO F(No.2)A 1992  
SO FAR AS APPLYING FOR INCOME TAX PURPOSES

*Finance (No.2) Act 1992 (c. 48)*

- 63 F(No.2)A 1992 is amended as follows.
- 64 Omit section 66 (which introduces Schedule 12).
- 65 Omit Schedule 12 (banks etc in compulsory liquidation).

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 66 ITTOIA 2005 is amended as follows.
- 67 In section 369 (charge to tax on interest) after subsection (4) insert—
- “(5) See also Chapter 3A of Part 14 of ITA 2007 (which provides for the receipts of certain types of company being wound up to be charged to income tax under that Chapter instead of under any other provision that would otherwise apply).”

*Income Tax Act 2007 (c. 3)*

- 68 ITA 2007 is amended as follows.
- 69 In section 2(14) (overview of Act: Part 14) after paragraph (c) insert “, and
- (d) imposition of the charge to income tax on the receipts of certain types of company being wound up (Chapter 3A).”
- 70 In section 3(2) (overview of charges to income tax)—
- (a) omit the “and” immediately before paragraph (e), and
- (b) after paragraph (e) insert “, and
- (f) Chapter 3A of Part 14 of this Act (banks etc in compulsory liquidation).”
- 71 After section 837 insert—

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*Changes to legislation:* There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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## “CHAPTER 3A

### BANKS ETC IN COMPULSORY LIQUIDATION

#### 837A Overview of Chapter

- (1) This Chapter provides for the receipts of certain types of company being wound up to be charged to income tax.
- (2) For provision charging the receipts of such companies to corporation tax, see Chapter 6 of Part 13 of CTA 2010.

#### 837B Application of Chapter

- (1) This Chapter applies if—
  - (a) a company is being or has been wound up by the court in the United Kingdom, and
  - (b) conditions A, B and C are met.
- (2) Condition A is that the company was, at any time within the period mentioned in subsection (5), lawfully carrying on a business of accepting deposits as—
  - (a) a person of the kind mentioned in paragraph (b) of the definition of “bank” in section 991(2) (persons with permission under Part 4 of FISMA 2000 to accept deposits), or
  - (b) a permitted EEA credit institution.
- (3) Condition B is that the company has permanently ceased to carry on the trade that included the business of accepting deposits (the “deposit-taking trade”).
- (4) Condition C is that the company is insolvent and—
  - (a) was so when the winding up proceedings started, or
  - (b) became so at any time in the period of 12 months following the day on which those proceedings started.
- (5) The period referred to in subsection (2) is the period of 12 months ending with the earlier of—
  - (a) the day on which the winding up proceedings started, and
  - (b) the day on which the company permanently ceased to carry on the deposit-taking trade.
- (6) In subsection (2)(b) a “permitted EEA credit institution” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 (credit institutions authorised by home state regulator) which has permission to accept deposits under paragraph 15 of that Schedule.

#### 837C Charge to income tax on winding up receipts

- (1) Winding up receipts arising from the deposit-taking trade are chargeable to income tax.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (2) Subsection (1) applies in relation to a winding up receipt only so far as its value was not brought into account in calculating the profits of the trade of any period before the permanent cessation of the trade.
- (3) A “winding up receipt” means (subject to subsection (4)) a sum received by the company or its liquidator after—
  - (a) the start of the winding up proceedings, or
  - (b) if later, the permanent cessation of the deposit-taking trade.
- (4) The following are not winding up receipts—
  - (a) a sum received on behalf of a person entitled to the sum to the exclusion of the company and its liquidator, and
  - (b) a sum realised by the transfer of an asset required to be valued under section 173 of ITTOIA 2005 (valuation of trading stock on cessation).

### **837D Transfer of rights to payment**

- (1) This section applies if—
  - (a) the company or its liquidator transfers for value to another person the right to receive a sum arising from the deposit-taking trade, and
  - (b) the sum is one which, if received by the company or its liquidator, would be a winding up receipt.
- (2) If the transfer is at arm's length, this Chapter has effect as if the amount or value of the consideration for the transfer were a winding up receipt arising from the deposit-taking trade.
- (3) If the transfer is not at arm's length, this Chapter has effect as if the value of the right transferred as between parties at arm's length were a winding up receipt arising from the deposit-taking trade.

### **837E Allowable deductions**

- (1) In calculating the amount on which income tax is charged under this Chapter for a tax year, deductions are allowed in accordance with this section from the amount which would otherwise be chargeable to income tax under this Chapter.
- (2) A deduction is allowed for the total sum of all losses, expenses and debits within subsection (3) that are incurred during or before the tax year (but subject to subsections (4) and (5)).
- (3) The losses, expenses and debits within this subsection are those which, if the company carrying on the deposit-taking trade had not permanently ceased to do so—
  - (a) would have been deducted in calculating the profits of the trade for income or corporation tax purposes, or
  - (b) would have been deducted from or set off against the profits of the trade for income or corporation tax purposes.
- (4) No deduction is allowed if the loss, expense or debit arises directly or indirectly from the cessation itself.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (5) A loss, expense or debit is only within subsection (3) if incurred—
  - (a) after the start of the winding up proceedings or, if later, the permanent cessation of the deposit-taking trade, or
  - (b) in the case of a loss, at or before the permanent cessation of the deposit-taking trade.
- (6) No deduction for an amount is allowed under this section if the amount has already been allowed (whether under this section or under any other provision of the Tax Acts).

### **837F Election to carry back**

- (1) This section applies if a winding up receipt arising from the deposit-taking trade is received in a tax year beginning no later than 6 years after the company permanently ceased to carry on the trade.
- (2) The company or its liquidator may elect that the income tax chargeable under this Chapter in respect of the receipt is to be charged as if the receipt has been received on the date of the cessation.
- (3) The election must be made before the end of the period of two years beginning immediately after the end of the tax year in which the receipt is received.
- (4) If an election is made under this section an assessment to income tax must be made accordingly (regardless of anything in the Income Tax Acts).

### **837G Relationship of Chapter with other income tax provisions**

If a winding up receipt arising from the deposit-taking trade is chargeable to income tax under this Chapter it is not chargeable to income tax under any other provision.

### **837H Interpretation of Chapter**

- (1) This section applies for the purposes of this Chapter.
- (2) There is the permanent cessation of a company's trade if—
  - (a) the company ceases to carry on the trade, or
  - (b) the company ceases to be within the charge to corporation tax in respect of the trade,
 whether or not the trade is in fact ceased.
- (3) A company is insolvent at any time if at that time—
  - (a) it is unable to pay its debts as they fall due, or
  - (b) the value of its assets is less than the amount of its liabilities (including its contingent and prospective liabilities).
- (4) “Company” means—
  - (a) a company as defined in section 1(1) of the Companies Act 2006, or
  - (b) an unregistered company as defined in section 220 of the Insolvency Act 1986 or Article 184 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).



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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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(5) For the meaning of “deposit-taking trade” and “winding up receipt”, see sections 837B(3) and 837C(3) respectively.”

72 In Schedule 4 (index of defined expressions) at the appropriate places insert—

“company (in Chapter 3A of Part 14)	section 837H(4)”
“deposit-taking trade (in Chapter 3A of Part 14)	section 837B(3)”
“winding up receipt (in Chapter 3A of Part 14)	section 837C(3)”

## PART 13

RELOCATION OF SECTION 200 OF FA 1996 SO FAR AS APPLYING FOR INCOME TAX PURPOSES

### *Finance Act 1996 (c. 8)*

73 FA 1996 is amended as follows.

74 (1) Amend section 200 (domicile for tax purposes of overseas electors) as follows.

(2) In subsection (1)(a) (determinations for purposes of inheritance tax, income tax or capital gains tax) omit “, income tax”.

(3) In subsection (4)(a) (which refers to any of the taxes mentioned in subsection (1)(a)) for “any” substitute “ either ”.

### *Income Tax Act 2007 (c. 3)*

75 ITA 2007 is amended as follows.

76 In section 2(14)(b) (overview of Act: reference to Chapter 2 of Part 14) for “(Chapter 2)” substitute “ and domicile (Chapters 2 and 2A) ”.

77 After section 835A insert—

## “CHAPTER 2A

### DOMICILE

#### **835B Domicile for income tax purposes of overseas electors**

(1) In determining for income tax purposes where a person is domiciled, disregard any relevant electoral action taken by the person (whether taken before, on or after the day on which TIOPA 2010 is passed).

(2) For the purposes of this section, relevant electoral action is taken by a person if—

- (a) the person does anything with a view to, or in connection with, being registered as an overseas elector, or
- (b) the person, when registered as an overseas elector, votes in any election at which the person is entitled to vote as a result of being registered as an overseas elector.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (3) For the purposes of this section, a person is registered as an overseas elector if the person is—
- (a) registered in any register of parliamentary electors in pursuance of such a declaration as is mentioned in section 1(1)(a) of the Representation of the People Act 1985 (extension of parliamentary franchise to certain non-resident British citizens), or
  - (b) registered under section 3 of that Act (certain non-resident peers entitled to vote at European Parliamentary elections).
- (4) Subsection (1) does not prevent regard being had, in determining a person's domicile at any time, to any relevant electoral action taken by the person if—
- (a) the person's domicile at that time is being determined for the purpose of ascertaining that or any other person's liability to income tax, and
  - (b) the person whose liability is being ascertained wishes regard to be had to that action.
- (5) If a person's domicile is determined in accordance with any such wishes, that domicile is to be regarded as having been determined for the purpose only of ascertaining the liability concerned.”

## PART 14

### RELOCATION OF SECTION 36 OF FA 1998 AND SECTION 111 OF FA 2009

#### *Taxes Management Act 1970 (c. 9)*

- 78 TMA 1970 is amended as follows.
- 79 In Part 5A (payment of tax) after section 59E insert—

#### **“59F Arrangements for paying tax on behalf of group members**

- (1) An officer of Revenue and Customs may enter into arrangements for the specified purpose with some or all of the members of a group.
- (2) For the purposes of subsection (1), arrangements entered into with some or all of the members of a group are for “the specified purpose” if they are arrangements for one of those members to discharge any liability of each of those members to pay corporation tax for the accounting periods to which the arrangements relate.
- (3) For the purposes of this section, a company and all its 51% subsidiaries form a group and, if any of those subsidiaries has 51% subsidiaries, the group includes them and their 51% subsidiaries, and so on.
- (4) Arrangements entered into under subsection (1)—
  - (a) may make provision in relation to cases where companies become or cease to be members of a group,
  - (b) may make provision in relation to the discharge of liability to pay interest or penalties,
  - (c) may make provision in relation to the discharge of liability to pay any amount within subsection (6),

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (d) may make provision for or in connection with the termination of the arrangements, and
  - (e) may make such supplementary, incidental, consequential or transitional provision as is necessary for the purposes of the arrangements.
- (5) Arrangements entered into under subsection (1)—
- (a) do not affect the liability to corporation tax, or to pay corporation tax, of any company to which the arrangements relate, and
  - (b) do not affect any other liability under the Tax Acts of any company to which the arrangements relate.
- (6) The following amounts are within this subsection—
- (a) an amount due from a company under section 455 of CTA 2010 (charge to tax in case of loan to participator in close company) as if it were an amount of corporation tax chargeable on the company, and
  - (b) a sum chargeable on a company under section 747(4)(a) of the principal Act (controlled foreign companies) as if it were an amount of corporation tax.”

80 In Part 5A after section 59F insert—

**“59G Managed payment plans**

- (1) This section applies if a person (“P”) has entered into a managed payment plan in respect of—
- (a) an amount on account of income tax which is to become payable in accordance with section 59A(2),
  - (b) an amount of income tax or capital gains tax which is to become payable in accordance with section 59B, or
  - (c) an amount of corporation tax which is to become payable in accordance with section 59D.
- (2) P enters into a managed payment plan in respect of an amount if—
- (a) P agrees to pay, and an officer of Revenue and Customs agrees to accept payment of, the amount by way of instalments,
  - (b) the instalments to be paid before the due date are balanced by the instalments to be paid after it (see section 59H), and
  - (c) the agreement meets such other requirements as may be specified in regulations made by the Commissioners for Her Majesty's Revenue and Customs.
- (3) But this section does not apply, in the case of an amount of corporation tax, if an arrangement under section 59F has been made in relation to the amount.
- (4) If P pays all of the instalments in accordance with the plan, P is to be treated as having paid, on the due date, the total of those instalments.
- (5) If P—
- (a) pays one or more instalments in accordance with the plan, but
  - (b) fails to pay one or more later instalments in accordance with it,
- P is to be treated as having paid, on the due date, the total of the instalments paid before the failure (but this is subject to subsection (6)).

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (6) If—
- (a) subsection (5) applies in a case in which the first failure to pay an instalment occurs before the due date, and
  - (b) P would (in the absence of a managed payment plan) be entitled to be paid interest on any amount paid before that date,
- then, despite that subsection, P is entitled to be paid that interest.
- (7) If—
- (a) subsection (5) applies,
  - (b) P makes one or more payments after the due date (whether or not in accordance with the plan), and
  - (c) an officer of Revenue and Customs gives P a notice specifying any or all of those payments,
- P is not liable to a penalty or surcharge for failing to pay the amount of the specified payments on or before the due date.
- (8) Regulations under this section may make different provision for different cases.
- (9) In this section “the due date”, in relation to an amount mentioned in subsection (1), means the date on which it becomes payable.

#### **59H Balancing of instalments for the purposes of section 59G**

- (1) Subsection (2) applies for the purposes of section 59G(2)(b).
- (2) The instalments to be paid before the due date are balanced by those to be paid after it if the time value of the instalments to be paid before that date is equal, or approximately equal, to the time value of the instalments to be paid after it.
- (3) The time value of the instalments to be paid before the due date is the total of the time value of each of the instalments to be paid before that date (and the time value of the instalments to be paid after that date is to be read accordingly).
- (4) The time value of an instalment is—
- $$A \times T$$
- where—
- A is the amount of the instalment, and
  - T is the number of days before, or after, the due date that the instalment is to be paid.
- (5) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for the purpose of determining when an amount is approximately equal to another amount.
- (6) Regulations under this section may make different provision for different cases.”

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation  
(International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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*Finance Act 1998 (c. 36)*

- 81 FA 1998 is amended as follows.
- 82 Omit section 36 (arrangements with respect to payment of corporation tax).

*Finance Act 2009 (c. 10)*

- 83 FA 2009 is amended as follows.
- 84 Omit section 111 (managed payment plans).

**PART 15**

RELOCATION OF SECTION 118 OF FA 1998

*Taxes Management Act 1970 (c. 9)*

- 85 TMA 1970 is amended as follows.
- 86 In Part 4, after section 43D (which is inserted by Schedule 8) insert—

**“43E Making of income tax claims by electronic communications etc**

- (1) The Commissioners for Her Majesty's Revenue and Customs may, by publishing them in a manner the Commissioners consider appropriate, give any claims directions that the Commissioners consider appropriate.
- (2) In subsection (1) “claims directions” means general directions for the purposes of income tax relating to—
  - (a) the circumstances in which, and
  - (b) the conditions subject to which,claims by individuals under the Tax Acts may be made by the use of an electronic communications service or otherwise without producing a claim in writing.
- (3) Directions under subsection (1)—
  - (a) may not relate to the making of a claim by an individual in the individual's capacity as a trustee, partner or personal representative, but
  - (b) subject to that, may relate to claims made by an individual through another person acting on the individual's behalf.
- (4) Directions under subsection (1) may not relate to—
  - (a) the making of a claim to which Schedule 1B to this Act applies, or
  - (b) the making of a claim under any provision of the Capital Allowances Act 2001.
- (5) Directions under subsection (1)—
  - (a) cannot modify any requirement imposed by or under any enactment as to the period within which any claim is to be made or as to the contents of any claim, but
  - (b) may include provision as to how any requirement as to the contents of a claim is to be met when the claim is not produced in writing.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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- (6) Directions under subsection (1) may make different provision in relation to the making of claims of different descriptions.
- (7) A direction under subsection (1) may revoke or vary any previous direction given under that subsection.
- (8) In subsection (2) “electronic communications service” has the same meaning as in the Communications Act 2003 (see section 32 of that Act).
- (9) In subsections (1) to (6), references to the making of a claim include references to any of the following—
  - (a) the making of an election,
  - (b) the giving of a notification or notice,
  - (c) the amendment of any return, claim, election, notification or notice, and
  - (d) the withdrawal of any claim, election, notification or notice,
 and in those subsections “claim” is to be read accordingly.
- (10) For the purposes of subsection (9)(c)—
  - (a) “return” includes any statement or declaration under the Income Tax Acts, and
  - (b) the definition of “return” given by section 118(1) of this Act does not apply.

#### **43F Effect of directions under section 43E**

- (1) If directions under section 43E(1) are in force in relation to the making of claims of any description to the Commissioners for Her Majesty's Revenue and Customs, claims of that description may be made to the Commissioners in accordance with the directions.
- (2) If directions under section 43E(1) are in force in relation to the making of claims of any description to an officer of Revenue and Customs, claims of that description may be made to an officer in accordance with the directions.
- (3) Subsections (1) and (2) apply despite any enactment or subordinate legislation which requires claims of the description concerned to be made in writing or by notice.
- (4) If directions under section 43E(1) are in force in relation to the making of claims of any description, claims of that description that are made without producing the claim in writing must be made in accordance with the directions.
- (5) In subsection (3) “subordinate legislation” has the same meaning as in the Interpretation Act 1978.
- (6) Section 43E(9) read with section 43E(10) (interpretation of references to making a claim, and meaning of “claim”) applies for the purposes of subsections (1) to (4) (as well as for those of section 43E(1) to (6)).”

#### *Finance Act 1998 (c. 36)*

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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88 Omit section 118 (claims for income tax purposes).

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

89 ITTOIA 2005 is amended as follows.

90 (1) Amend section 878 (other definitions) as follows.

(2) In subsection (3) (claims and elections) for “section 118 of FA 1998” substitute “section 43E(1) of TMA 1970”.

(3) In subsection (4) for “(in” substitute “more generally (but in”.

*Income Tax Act 2007 (c. 3)*

91 ITA 2007 is amended as follows.

92 In section 989 (interpretation of Income Tax Acts) in the definition of “notice” for “section 118 of FA 1998” substitute “section 43E(1) of TMA 1970”.

93 (1) Amend section 1020 (claims and elections) as follows.

(2) In subsection (1) for “section 118 of FA 1998” substitute “section 43E(1) of TMA 1970”.

(3) In subsection (2) for “(in” substitute “more generally (but in”.

**PART 16**

RELOCATION OF SECTION 144 OF FA 2000

*Taxes Management Act 1970 (c. 9)*

94 TMA 1970 is amended as follows.

95 After section 106 insert—

*“Evasion*

**106A Offence of fraudulent evasion of income tax**

(1) A person commits an offence if that person is knowingly concerned in the fraudulent evasion of income tax by that or any other person.

(2) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine, or both.

(3) In the application of subsection (2)(a)—

- (a) in England and Wales in relation to offences committed before the commencement of section 282(3) of the Criminal Justice Act 2003, and
- (b) in Northern Ireland,

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*Changes to legislation:* There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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for “12 months” substitute “ 6 months ”.

(4) This section does not apply to things done or omitted before 1st January 2001.”

*Finance Act 2000 (c. 17)*

96 FA 2000 is amended as follows.

97 Omit section 144 (offence of fraudulent evasion of income tax).

*Serious Organised Crime and Police Act 2005 (c. 15)*

98 The Serious Organised Crime and Police Act 2005 is amended as follows.

99 In section 76(3)(n) (offence under section 144 of FA 2000 is one for which a financial reporting order may be made) for “section 144 of the Finance Act 2000 (c. 17)” substitute “ section 106A of the Taxes Management Act 1970 ”.

*Serious Crime Act 2007 (c. 27)*

100 The Serious Crime Act 2007 is amended as follows.

101 (1) Amend Schedule 1 as follows.

(2) In paragraph 8(3) (offence under section 144 of FA 2000 is a serious offence in England and Wales) for “section 144 of the Finance Act 2000 (c. 17)” substitute “ section 106A of the Taxes Management Act 1970 ”.

(3) In paragraph 24(3) (offence under section 144 of FA 2000 is a serious offence in Northern Ireland) for “section 144 of the Finance Act 2000 (c. 17)” substitute “ section 106A of the Taxes Management Act 1970 ”.

## PART 17

### RELOCATION OF SECTION 199 OF FA 2003

*Taxes Management Act 1970 (c. 9)*

102 TMA 1970 is amended as follows.

103 After section 18A insert—

**“18B Savings income: regulations about European and international aspects**

(1) The Treasury may make regulations for implementing and for dealing with matters arising out of or related to—

- (a) any EU obligation created with a view to ensuring the effective taxation of savings income under the law of the United Kingdom and the laws of the other member States, and
- (b) any arrangements made with a territory other than a member State with a view to ensuring the effective taxation of savings income under the law of the United Kingdom and the law of the other territory.



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- (2) In this section “savings income” means—
  - (a) interest, apart from interest of a prescribed description, or
  - (b) other sums of a prescribed description.
- (3) The power to make regulations under this section is exercisable by statutory instrument.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

### **18C Regulations under section 18B: provision about “paying agents”**

- (1) Regulations under section 18B may, in particular, require paying agents—
  - (a) to obtain and verify prescribed descriptions of information about the identity and residence of relevant payees to whom they make savings income payments, and
  - (b) to provide to the Commissioners for Her Majesty's Revenue and Customs, or an officer of Revenue and Customs, prescribed descriptions of information about relevant payees to whom they make savings income payments and about the savings income payments which they make to them.
- (2) Regulations under section 18B may include provision for the inspection on behalf of the Commissioners of books, documents and other records of persons who are, or appear to an officer to be, paying agents.
- (3) In this section “paying agents” means persons of a prescribed description who make savings income payments to other persons.
- (4) In this section “relevant payees” means—
  - (a) persons of a prescribed description who are resident (within the meaning of regulations under section 18B) in a prescribed territory, and
  - (b) persons of any such other description as may be prescribed.
- (5) For the purposes of this section, a person makes savings income payments to another person if the person—
  - (a) makes payments of savings income to the other person, or
  - (b) secures the payment of savings income for the other person.
- (6) In this section “savings income” has the same meaning as in section 18B.
- (7) The descriptions of persons who may be prescribed under subsection (3) include, in particular, public officers and government departments.
- (8) The only territories which may be prescribed under subsection (4)(a) are—
  - (a) the other member States, and
  - (b) territories with which arrangements such as are mentioned in section 18B(1)(b) have been made.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation  
(International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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### **18D Content of regulations under section 18B: supplementary provision**

- (1) Regulations under section 18B may include provision for notices under such regulations to be combined with notices under sections 17 and 18.
- (2) Regulations under section 18B may include provision about the time at or within which, and the manner in which, any requirement imposed by such regulations is to be complied with.
- (3) Regulations under section 18B may include provision for penalties for failure to comply with requirements imposed by such regulations, including provision applying any provision of this Act about the determination of penalties or any other matter relating to penalties.
- (4) Regulations under section 18B—
  - (a) may make different provision for different cases or descriptions of case, and
  - (b) may include incidental, supplemental, consequential and transitional provision and savings.

### **18E Interpretation of sections 18B to 18D: “prescribed” etc**

- (1) In sections 18B to 18D “prescribed” means prescribed by regulations under section 18B.
- (2) The following provisions do not apply for the purposes of sections 18B to 18D—
  - (a) section 118 of this Act (interpretation), and
  - (b) section 18 of ITA 2007 (meaning of “savings income” in the Income Tax Acts).”

104 (1) Amend the first column of the Table in section 98 (special returns etc) as follows.

(2) Omit the entry for regulations under section 199 of the Finance Act 2003.

#### *Finance Act 2003 (c. 14)*

105 FA 2003 is amended as follows.

106 Omit section 199 (savings income: power to make regulations in connection with Community obligations and international arrangements).

## **PART 18**

### **RELOCATION OF SECTION 61 OF F(No.2)A 2005**

#### *Finance Act 1998 (c. 36)*

107 FA 1998 is amended as follows.

108 (1) Amend Schedule 18 (company tax returns, assessments and related matters) as follows.

(2) After paragraph 87 insert—

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation  
(International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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## “PART 10A

### SEs

#### Company ceasing to be UK resident on formation of SE by merger

87A(1) Sub-paragraph (2) applies if at any time a company ceases to be resident in the United Kingdom in the course of the formation of an SE by merger, whether or not the company continues to exist after the formation of the SE.

(2) The other Parts of this Schedule apply after that time, but in relation to liabilities accruing and matters arising before that time—

- (a) as if the company were still resident in the United Kingdom, and
- (b) if the company has ceased to exist, as if the SE were the company.

#### SE ceasing to be UK resident

87B(1) Sub-paragraph (2) applies if at any time an SE—

- (a) transfers its registered office from the United Kingdom, and
- (b) ceases to be resident in the United Kingdom.

(2) The other Parts of this Schedule apply after that time, but in relation to liabilities accruing and matters arising before that time, as if the SE were still resident in the United Kingdom.

#### Meaning of SE

87C In this Part “SE” means a European public limited-liability company (or Societas Europaea) within the meaning of Council Regulation (EC) No. 2157/2001 on the Statute for a European company.”

(3) In the table in paragraph 98 (index of defined expressions) before the entry for “Self-assessment” insert—

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“SE (in Part 10A)	paragraph 87C”
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#### *Finance (No. 2) Act 2005 (c. 22)*

109 F(No.2) A 2005 is amended as follows.

110 Omit section 61 (continuity for transitional purposes in cases involving SEs).

## PART 19

### RELOCATION OF PARAGRAPH 13 OF SCHEDULE 13 TO FA 2007

#### *Income Tax Act 2007 (c. 3)*

111 ITA 2007 is amended as follows.

112 After section 925 insert—

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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### *“Repos*

#### **925A Creditor repos**

- (1) Subsection (2) applies if a company (“the lender”) has a creditor repo for the purposes of Chapter 10 of Part 6 of CTA 2009 (see section 543 of that Act).
- (2) Sections 918 to 925 have effect in relation to the lender while the arrangement is in force as if—
  - (a) the lender paid the borrower amounts which are representative of the income payable on the securities that are initially sold,
  - (b) the payments were made under requirements of the arrangement, and
  - (c) the payments were made on the dates on which the income is payable.
- (3) For the purposes of subsection (2), an arrangement is in force from the time when the securities are initially sold until the earlier of—
  - (a) the time when the subsequent sale of the securities, or similar securities, takes place, and
  - (b) the time when it becomes apparent that that sale will not take place.

#### **925B Debtor repos**

- (1) Subsection (2) applies if a company (“the borrower”) has a debtor repo for the purposes of Chapter 10 of Part 6 of CTA 2009 (see section 548 of that Act).
- (2) The reverse charge provisions of this Chapter have effect in relation to the borrower while the arrangement is in force as if—
  - (a) the lender paid the borrower amounts which are representative of the income payable on the securities that are initially sold,
  - (b) the payments were made under requirements of the arrangement, and
  - (c) the payments were made on the dates on which the income is payable.
- (3) In subsection (2) “the reverse charge provisions of this Chapter” means—
  - (a) regulations under section 918(4), and
  - (b) sections 920 and 923.
- (4) For the purposes of subsection (2), an arrangement is in force from the time when the securities are initially sold until the earlier of—
  - (a) the time when the subsequent buying of the securities, or similar securities, takes place, and
  - (b) the time when it becomes apparent that that buying will not take place.

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7. (See end of Document for details)

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### **925C Actual payments ignored if section 925A or 925B applies**

If section 925A(2) or 925B(2) applies, any payment actually made under an arrangement which is representative of any income payable on any securities is to be treated for the purposes of sections 918 to 925 as if it had not been made.

### **925D Power to modify repo sections**

- (1) The Treasury may by regulations provide for all or any of the provisions of sections 925A to 925F to apply with modifications in relation to—
  - (a) cases to which section 925E (non-standard repo cases) applies, or
  - (b) cases involving redemption arrangements, or
  - (c) both of those cases.
- (2) A case involves redemption arrangements if—
  - (a) arrangements, corresponding to those made in cases where a company has a repo, are made in relation to securities that are to be redeemed in the period after their sale, and
  - (b) the arrangements are such that a person (instead of having the right or obligation to buy those securities, or similar or other securities, at any subsequent time) has a right or obligation in respect of the benefits which will result from the redemption.
- (3) The regulations may make incidental, supplemental, consequential and transitional provision and savings.
- (4) In this section “modifications” includes exceptions and omissions.
- (5) For the purposes of subsection (2)(a) and section 925E(1), a company has a repo if—
  - (a) for the purposes of Chapter 10 of Part 6 of CTA 2009—
    - (i) it has a creditor repo (see section 543 of that Act),
    - (ii) it has a creditor quasi-repo (see section 544 of that Act),
    - (iii) it has a debtor repo (see section 548 of that Act), or
    - (iv) it has a debtor quasi-repo (see section 549 of that Act), or
  - (b) as a result of section 547 of that Act, the company has a creditor repo for the purposes of section 546 of that Act.

### **925E Cases where section 925D applies: non-standard repos**

- (1) This section applies to a case if—
  - (a) a company has a repo,
  - (b) there has been a sale of the securities under the arrangement or arrangements by reference to which the company has the repo, and
  - (c) any of conditions A to C is met.
- (2) Condition A is that those securities, or similar or other securities, are not subsequently bought under the arrangement or arrangements.

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- (3) Condition B is that provision is made by or under an arrangement for different or additional securities to be treated as, or as included with, securities which, for the purposes of the subsequent purchase, are to represent those initially sold.
- (4) Condition C is that provision is made by or under an arrangement for securities to be treated as not so included.
- (5) Section 925D(5) interprets references in subsection (1) to a company having a repo.

### **925F Interpretation of the repo sections**

- (1) This section applies for the purposes of sections 925A to 925E and this section.
- (2) “Arrangement” includes any agreement or understanding (whether or not legally enforceable).
- (3) It does not matter whether or not provision of any arrangement conferring a right or imposing an obligation on any person to buy any securities is subject to any conditions.
- (4) “Securities” means shares, stock or other securities issued by—
  - (a) the government of the United Kingdom,
  - (b) any public or local authority in the United Kingdom,
  - (c) any UK resident company or other UK resident body,
  - (d) a government or public or local authority of a territory outside the United Kingdom, or
  - (e) any other body of persons not resident in the United Kingdom.
- (5) Securities are similar if they give their holders—
  - (a) the same rights against the same persons as to capital, interest and dividends, and
  - (b) the same remedies to enforce those rights.
- (6) Subsection (5) applies even if there is a difference in—
  - (a) the total nominal amounts of the securities,
  - (b) the form in which they are held, or
  - (c) the manner in which they can be transferred.
- (7) If—
  - (a) a person (“A”) buys securities (or has a right or obligation to buy securities), but
  - (b) the securities are (or are to be) held for the benefit of another person (“B”),

B (not A) is treated as buying (or having the right or obligation to buy) the securities.
- (8) If—
  - (a) a person (“C”) sells securities, but
  - (b) the proceeds of the sale are held for the benefit of another person (“D”),

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D (not C) is treated as selling the securities.”

F1113 .....

Textual Amendments

F1 Sch. 7 para. 113 omitted (1.1.2014) by virtue of Finance Act 2013 (c. 29), Sch. 1 para. 52, Sch. 29 para. 48(3)

Finance Act 2007 (c. 11)

- 114 FA 2007 is amended as follows.
- 115 In Schedule 13 (sale and repurchase of securities) omit paragraph 13 (application of Chapter 9 of Part 15 of ITA 2007).

**Changes to legislation:**

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, SCHEDULE 7.