Finance Act 2013

2013 CHAPTER 29

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with finance. [17th July 2013]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

CHARGES, RATES ETC

Income tax

1 Charge for 2013-14

Income tax is charged for the tax year 2013-14.

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2 Personal allowance for 2013-14 for those born after 5 April 1948

(1) For the tax year 2013-14 the amount specified in section 35(1) of ITA 2007 (personal allowance for those born after 5 April 1948) is replaced with " £9,440 ".

(2) Accordingly section 57 of that Act (indexation of allowances), so far as relating to the amount specified in section 35(1) of that Act, does not apply for that tax year.

3 Basic rate limit for 2013-14

(1) For the tax year 2013-14 the amount specified in section 10(5) of ITA 2007 (basic rate limit) is replaced with " £32,010 ".

(2) Accordingly section 21 of that Act (indexation of limits), so far as relating to the basic rate limit, does not apply for that tax year.

Corporation tax

4 Charge and main rate for financial year 2014

(1) Corporation tax is charged for the financial year 2014.

(2) For that year the rate of corporation tax is—

(a) 21% on profits of companies other than ring fence profits, and

(b) 30% on ring fence profits of companies.

(3) In subsection (2) "ring fence profits" has the same meaning as in Part 8 of CTA 2010 (see section 276 of that Act).

5 Small profits rate and fractions for financial year 2013

(1) For the financial year 2013 the small profits rate is—

(a) 20% on profits of companies other than ring fence profits, and

(b) 19% on ring fence profits of companies.

(2) For the purposes of Part 3 of CTA 2010, for that year—

(a) the standard fraction is 3/400ths, and

(b) the ring fence fraction is 11/400ths.

(3) In subsection (1) "ring fence profits" has the same meaning as in Part 8 of that Act (see section 276 of that Act).

6 Main rate for financial year 2015

(1) For the financial year 2015 **[**F1the main rate**]** of corporation tax is 20% F2....

F3(2) . . . . . .

Textual Amendments

F1 Words in s. 6(1) substituted (with effect in accordance with Sch. 1 para. 22 of the amending Act) by Finance Act 2014 (c. 26), **Sch. 1 para. 19(a)**

***Changes to legislation:** Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F2 Words in s. 6(1) omitted (with effect in accordance with Sch. 1 para. 22 of the amending Act) by virtue of Finance Act 2014 (c. 26), **Sch. 1 para. 19(b)**

F3 S. 6(2) omitted (with effect in accordance with Sch. 1 para. 22 of the amending Act) by virtue of Finance Act 2014 (c. 26), **Sch. 1 para. 19(c)**

Capital allowances

7 Temporary increase in annual investment allowance

(1) In relation to expenditure incurred during the period **[**F4beginning with 1 January 2013 and ending with the specified date **]** , section 51A of CAA 2001 (entitlement to annual investment allowance) has effect as if in subsection (5) for "£25,000" there were substituted " £250,000 ".

[F5(1A) The specified date is —

(a) for the purposes of corporation tax, 31 March 2014, and

(b) for the purposes of income tax, 5 April 2014.**]**

(2) Schedule 1 contains provision about chargeable periods which straddle 1 January 2013 F6....

Textual Amendments

F4 Words in s. 7(1) substituted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 2 para. 6(2)**

F5 S. 7(1A) inserted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 2 para. 6(3)**

F6 Words in s. 7(2) omitted (17.7.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 2 para. 6(4)**

CHAPTER 2

INCOME TAX: GENERAL

Exemptions and reliefs

8 London Anniversary Games

(1) An accredited competitor who performs an Anniversary Games activity is not liable to income tax in respect of any income arising from the activity if the non-residence condition is met.

(2) The following are Anniversary Games activities—

(a) competing at the Anniversary Games, and

(b) any activity that is performed during the games period the main purpose of which is to support or promote the Anniversary Games.

(3) The non-residence condition is that—

(a) the accredited competitor is non-UK resident for the tax year 2013-14, or

(b) the accredited competitor is UK resident for the tax year 2013-14 but the year is a split year as respects the competitor and the activity is performed in the overseas part of the year.

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(4) Section 966 of ITA 2007 (deduction of sums representing income tax) does not apply to any payment or transfer which gives rise to income benefiting from the exemption under subsection (1).

(5) In this section—

"accredited competitor" means a person to whom an accreditation card in the athletes' category has been issued by the company named UK Athletics Limited which was incorporated on 16 December 1998;

"the Anniversary Games" means the British Athletics London Anniversary Games held at the Olympic Stadium in London in July 2013;

"the games period" means the period—

(a) beginning with 21 July 2013, and

(b) ending with 29 July 2013;

"income" means employment income or profits of a trade, profession or vocation (including profits treated as arising as a result of section 13 of ITTOIA 2005).

(6) This section is treated as having come into force on 6 April 2013.

9 Glasgow Commonwealth Games

(1) An accredited competitor who performs a Commonwealth Games activity is not liable to income tax in respect of any income arising from the activity if the non-residence condition is met.

(2) The following are Commonwealth Games activities—

(a) competing at the Glasgow Commonwealth Games, and

(b) any activity that is performed during the games period the main purpose of which is to support or promote the Glasgow Commonwealth Games or any future Commonwealth Games.

(3) The non-residence condition is that—

(a) the accredited competitor is non-UK resident for the tax year in which the Commonwealth Games activity is performed, or

(b) the accredited competitor is UK resident for the tax year in which the activity is performed but the year is a split year as respects the competitor and the activity is performed in the overseas part of the year.

(4) Section 966 of ITA 2007 (deduction of sums representing income tax) does not apply to any payment or transfer which gives rise to income benefiting from the exemption under subsection (1).

(5) In this section—

"accredited competitor" means a person to whom a Glasgow 2014 accreditation card in the athletes' category has been issued by the company named Glasgow 2014 Limited which was incorporated on 11 June 2007;

"the games period" means the period—

(a) beginning with 4 March 2014, and

(b) ending with 3 September 2014;

"the Glasgow Commonwealth Games" means the Commonwealth Games held in Scotland in 2014;

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"income" means employment income or profits of a trade, profession or vocation (including profits treated as arising as a result of section 13 of ITTOIA 2005).

10 Expenses of elected representatives

(1) After section 293A of ITEPA 2003 insert—

"**293B UK travel expenses of other elected representatives**

(1) No liability to income tax arises in respect of a payment to which this section applies if it is expressed to be made in respect of relevant UK travel expenses.

(2) This section applies to payments—

(a) made to members of the Scottish Parliament under section 81(2) of the Scotland Act 1998,

(b) made to members of the National Assembly for Wales under section 20(2) of the Government of Wales Act 2006 or to a member of the Welsh Assembly Government under section 53(2) of that Act, or

(c) made to members of the Northern Ireland Assembly under section 47(2) of the Northern Ireland Act 1998.

(3) In this section "relevant UK travel expenses" means expenses necessarily incurred on journeys of the following kinds within the United Kingdom—

(a) journeys within subsection (4) made by the member that are necessary for the performance of his or her duties as a member;

(b) if the member shares caring responsibilities with a spouse or partner, journeys made by the spouse or partner between the constituency or region and the member's parliamentary home.

(4) The journeys referred to in subsection (3)(a) are those—

(a) between the constituency or region and the Parliament or Assembly to which the member belongs,

(b) between the constituency or region and the member's parliamentary home, or

(c) within the constituency or region, but not excluded by subsection (5).

(5) A journey is excluded if—

(a) in the case of a member who has only one local office, it is between the member's local home and that office, and

(b) in any other case, it is between the member's local home and the principal local office.

(6) In this section—

"constituency or region", in relation to a member, means the constituency or region which the member represents and the area within 20 miles of the boundary of that constituency or region;

"local office", in relation to a member, means an office which is situated in the constituency or region and occupied by the member for the purposes of performing duties as a member;

"the member's local home" means a residence of the member situated in the constituency or region;

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"the member's parliamentary home" means the member's only or main residence in the area comprising—

(a) the main site of the Parliament or Assembly to which the member belongs, and

(b) the area within 20 miles of that site;

"principal local office", in relation to a member, means the local office most frequently occupied by the member for the purposes of performing duties as a member.

(7) A person has "caring responsibilities" if the person—

(a) has parental responsibility for a dependent child aged under 17 or for a child aged 17 or 18 who is in full-time education, or

(b) is the primary carer for a family member in receipt of—

(i) attendance allowance,

(ii) disability living allowance at the middle or highest rate for personal care,

(iii) the daily living component of personal independence payment, or

(iv) constant attendance allowance at or above the maximum rate with an industrial injuries disablement benefit, or the basic (full day) rate with a war disablement pension.

(8) The Treasury may by order amend the definition of "caring responsibilities" in subsection (7)."

(2) The amendment made by this section has effect in relation to payments made on or after 6 April 2013.

11 Exemption from income tax of contributions to pension schemes

(1) In Chapter 9 of Part 4 of ITEPA 2003 (exemptions from income tax for pension provision), in section 308 (exemption of contributions to registered pension scheme), at the end insert " in respect of the employee ".

(2) The amendment made by this section has effect for the tax year 2013-14 and subsequent tax years.

12 Childcare exemptions: meaning of disabled child

(1) In section 318B of ITEPA 2003 (childcare: meaning of "disabled" etc), in subsection (3)(a), after "allowance" insert " or personal independence payment ".

(2) The amendment made by this section has effect for the tax year 2013-14 and subsequent tax years.

13 Income tax exemption for universal credit

(1) In section 677(1) of ITEPA 2003 (UK social security benefits wholly exempt from tax), in Part 1 of Table B (benefits payable under primary legislation), insert at the appropriate place—

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Any provision made for Northern Ireland which corresponds to Part 1 of WRA 2012".

(2) The amendment made by this section has effect for the tax year 2013-14 and subsequent tax years.

14 Tax advantaged employee share schemes

Schedule 2 amends the SIP code, the SAYE code, the CSOP code and the EMI code.

15 Abolition of tax relief for patent royalties

(1) Chapter 4 of Part 8 of ITA 2007 (reliefs: annual payments and patent royalties) is amended in accordance with subsections (2) and (3).

(2) In section 448 (relief for individuals), in subsection (1)(b) omit "or 903(5)" and "and patent royalties".

(3) In section 449 (relief for other persons), in subsection (1)(b) omit "or 903(6)" and "and patent royalties".

(4) Accordingly, that Act is amended as follows—

(a) in section 2 (overview of Act), in subsection (8)(c) omit "and patent royalties",

(b) in section 24 (reliefs deductible at Step 2), in subsection (1)(b) omit "and patent royalties", and

(c) in the heading for Chapter 4 of Part 8 of that Act omit "AND PATENT ROYALTIES".

(5) The amendments made by this section have effect in relation to payments made on or after 5 December 2012.

16 Limit on income tax reliefs

Schedule 3 contains provision limiting the deductions which may be made at Step 2 of the calculation in section 23 of ITA 2007 (calculation of income tax liability).

Trade profits

17 Cash basis for small businesses

Schedule 4 contains provision enabling the profits of a trade, profession or vocation to be calculated on the cash basis.

18 Deductions allowable at a fixed rate

Schedule 5 contains provision enabling persons carrying on a trade, profession or vocation to claim deductions for certain expenses at a fixed rate.

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Other provisions

19 Employment income: duties performed in the UK and overseas

Schedule 6 contains provision about employment income in cases where duties are performed in the UK and overseas.

20 Remittance basis: exempt property

Schedule 7 contains provision about the application of the remittance basis in relation to exempt property.

21 Payments on account

(1) ITA 2007 is amended as follows.

(2) In section 809K (sections 809L to 809Z6: introduction), in subsection (2)(e), for "809V" substitute " 809UA ".

(3) Before section 809V (but after the italic heading) insert—

"809UA **Money used for payments on account**

(1) Subsection (2) applies to income or chargeable gains of an individual if—

(a) the income or gains would (but for subsection (2)) be regarded as remitted to the United Kingdom by virtue of the bringing of money to the United Kingdom,

(b) the money is brought to the United Kingdom by way of direct payments to the Commissioners on account of income tax,

(c) the tax year ("tax year 2") in respect of which the payments on account are made is a tax year for which section 809H (remittance basis charge for long-term UK resident) does not apply as respects the individual, and

(d) that section applied as respects the individual for the previous tax year ("tax year 1").

(2) The relevant amount of income or chargeable gains is to be treated as not remitted to the United Kingdom if money equal to the relevant amount is taken offshore by—

(a) the 15 March following the end of tax year 2, or

(b) such later date as the Commissioners may allow on a claim made by the individual.

(3) A claim under subsection (2)(b)—

(a) may be made only if the individual has made and delivered a return under section 8 of TMA 1970 for tax year 2 and reasonably expects to receive from the Commissioners a repayment of tax paid in respect of that tax year, and

(b) may be made no later than the 5 April following the end of tax year 2.

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(4) Money that is taken offshore in accordance with subsection (2) is to be treated as having the same composition of kinds of income and capital as the money used to make the payments on account.

(5) In this section "the relevant amount" means the lower of the following—

(a) the amount brought to the United Kingdom as mentioned in subsection (1)(b), and

(b) the applicable amount (as defined in section 809H) for tax year 1."

(4) In section 809Z9(11) (taking proceeds etc offshore or investing them: modification of general provisions)—

(a) for "section 809VB(2) but in that case" substitute " sections 809UA(2) and 809VB(2), but in those cases ", and

(b) at the beginning of paragraph (b) insert " in the case of section 809VB(2), ".

(5) The amendments made by this section have effect in relation to payments on account made in respect of the tax year 2012-13 and subsequent tax years.

22 Arrangements made by intermediaries

(1) In Chapter 8 of Part 2 of ITEPA 2003 (application of provisions to workers under arrangements made by intermediaries), in section 49 (engagements to which Chapter applies), for subsection (1)(c) substitute—

"(c) the circumstances are such that—

(i) if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client, or

(ii) the worker is an office-holder who holds that office under the client and the services relate to the office."

(2) This section has effect for the tax year 2013-14 and subsequent tax years.

23 Taxable benefit of cars: the appropriate percentage

(1) Section 139 of ITEPA 2003 (car with CO_2 figure: the appropriate percentage) is amended in accordance with subsections (2) to (6).

(2) In subsection (2), after "the relevant threshold" omit "for the year".

(3) For subsection (2)(a) substitute—

"(a) if the car's CO_2 emissions figure does not exceed 50 grams per kilometre driven, 5%,

(aa) if the car's CO_2 emissions figure exceeds 50 grams per kilometre driven but does not exceed 75 grams per kilometre driven, 9%, and".

F7(4) . . . . . .

(5) In subsection (3)—

(a) after "the relevant threshold" omit "for the year", and

F8(b) . . . . . .

(6) In subsection (4)—

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(a) after "the relevant threshold" (in both places) omit "for the year", and

(b) in paragraph (b), for "35%" substitute " 37% ".

(7) Section 140 of that Act (car without CO_2 figure: the appropriate percentage) is amended in accordance with subsections (8) to (11).

(8) In the Table in subsection (2), for "35%" substitute " 37% ".

(9) For subsection (3)(a) substitute—

"(a) 5% if the car cannot in any circumstances emit CO_2 by being driven, and".

(10) In subsection (3)(b), for "35%" substitute " 37% ".

(11) Omit subsection (3A).

(12) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

Textual Amendments

F7 S. 23(4) omitted (with effect in accordance with s. 24(17) of the amending Act) by virtue of Finance Act 2014 (c. 26), **s. 24(16)**

F8 S. 23(5)(b) omitted (with effect in accordance with s. 24(17) of the amending Act) by virtue of Finance Act 2014 (c. 26), **s. 24(16)**

24 Gains from contracts for life insurance etc

Schedule 8 amends Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc).

25 Qualifying insurance policies

Schedule 9 amends Schedule 15 to ICTA (qualifying insurance policies) and makes other provision relating to qualifying policies under Schedule 15 to ICTA.

26 Transfer of assets abroad

Schedule 10 amends Chapter 2 of Part 13 of ITA 2007 (tax avoidance: transfer of assets abroad).

27 Payments of interest

Schedule 11 contains provision in connection with the payment of interest for the purposes of income tax.

28 Disguised interest

Schedule 12 contains provision about returns which are economically equivalent to interest.

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CHAPTER 3

CORPORATION TAX: GENERAL

Losses, other reliefs and deductions

29 Restriction on surrender of losses: controlled foreign company cases

(1) Section 105 of CTA 2010 (restriction on surrender of losses etc within section 99(1)(d) to (g)) is amended as follows.

(2) In subsection (2), for "the surrendering company's gross profits of the surrender period" substitute " the profit-related threshold ".

(3) In subsection (3), for "those gross profits" substitute " the profit-related threshold ".

(4) After subsection (3) insert—

"(3A) The profit-related threshold" is the sum of—

(a) the surrendering company's gross profits of the surrender period, and

(b) where chargeable profits of a CFC for an accounting period ending in the surrender period are apportioned to the surrendering company in accordance with step 3 in subsection (1) of 371BC of TIOPA 2010 and the surrendering company is in relation to that accounting period of the CFC a chargeable company for the purposes of step 4 in that subsection, the total of the chargeable profits so apportioned.

(3B) Where—

(a) an accounting period of a CFC ending in the surrender period is one to which (because of paragraph 50 of Schedule 20 of FA 2012) the repeal of Chapter 4 of Part 17 of ICTA does not apply,

(b) chargeable profits of the CFC for that accounting period are apportioned to the surrendering company in accordance with sections 747(3) and 752 of ICTA, and

(c) the surrendering company is not prevented by section 747(5) of ICTA from being chargeable to tax in respect of the CFC for that accounting period,

the profit-related threshold also includes the total of the chargeable profits so apportioned."

(5) After subsection (5) insert—

"(5A) For the purposes of this section—

"CFC" has the same meaning as in Part 9A of TIOPA 2010, except that in subsection (3B) it means a controlled foreign company as defined by section 747(2) of ICTA;

"chargeable profits", in relation to a CFC, is to be read in accordance with section 371BA(3) of TIOPA 2010, except that in subsection (3B) it is to be read in accordance with section 747(6) of ICTA."

(6) The amendments made by this section have effect where the surrender period of the surrendering company ends on or after 20 March 2013, but subject to the following.

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(7) For the purposes of section 105(3A)(b) and (3B)(b) of CTA 2010, chargeable profits do not include—

(a) chargeable profits for an accounting period within the meaning of Part 9A of TIOPA 2010 ending before 20 March 2013, or

(b) chargeable profits for an accounting period within the meaning of Chapter 4 of Part 17 of ICTA ending before that date.

(8) Subsection (9) applies where—

(a) an accounting period within the meaning of Part 9A of TIOPA 2010, or

(b) an accounting period within the meaning of Chapter 4 of Part 17 of ICTA,

falls partly before and partly on or after 20 March 2013.

(9) For the purposes of section 105 of CTA 2010, the chargeable profits of the CFC for that period, so far as apportioned to the surrendering company as mentioned in subsection (3A)(b) or (3B)(b) of that section (as the case requires), are to be further apportioned on a just and reasonable basis between the two parts of the period, and the chargeable profits referred to in subsection (3A)(b) or (3B)(b) are not to include the chargeable profits apportioned to the part ending before 20 March 2013.

[F9]30 Loss relief surrenderable by non-UK resident established in EEA state

. . . . . .

Textual Amendments

F9 S. 30 omitted (with effect in accordance with Sch. 4 para. 5(1) of the amending Act) by virtue of Finance Act 2022 (c. 3), **Sch. 4 para. 2**

31 Arrangements for transfers of companies

(1) In section 156 of CTA 2010 (definition of "arrangements" for purposes of sections 154 to 155B, etc)—

(a) in subsection (2), in paragraph (b), after "include" insert "—
(i)",

(b) at the end of that paragraph insert ", or
(ii) a condition or requirement imposed by, or agreed with, a Minister of the Crown, the Scottish Ministers, a Northern Ireland department or a statutory body.", and

(c) after that subsection insert—

"(2A) In subsection (2) "statutory body" means a body (other than a company as defined by section 1(1) of the Companies Act 2006) established by or under a statutory provision for the purpose of carrying out functions conferred on it by or under a statutory provision, except that the Treasury may, by order, specify that a body is or is not to be a statutory body for this purpose."

(2) In sections 154(3) and 155(3) of that Act (arrangements for transfers), for "154A" substitute " 155A ".

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(3) In section 188 of that Act (other definitions for Part 5), in subsection (1), after " "company"" insert " (except in section 156(2A) ".

(4) The amendments made by this section have effect in relation to accounting periods ending on or after 1 April 2013.

32 Change in company ownership: company reconstructions

(1) For section 676 of CTA 2010 (disallowance of trading losses where company reconstruction without a change of ownership) substitute—

"**676 Company reconstructions**

(1) Subsection (2) applies if, before the change in ownership—

(a) a trade carried on by another company ("the predecessor company") is transferred to the company, and

(b) the transfer is a transfer to which Chapter 1 of Part 22 applies (transfers of trade without a change of ownership).

(2) In determining any relief available to the company by virtue of section 944(3) (carry forward of trading losses in successor company), this Chapter applies as if—

(a) references to a trade carried on by the company included the trade as carried on by the predecessor company or by any predecessor of that company, and

(b) any loss sustained by the predecessor company or any predecessor of that company had been sustained by the company.

(3) Subsection (4) applies if, after the change in ownership—

(a) a trade carried on by the company is transferred to another company ("the successor company"), and

(b) the transfer is a transfer to which Chapter 1 of Part 22 applies.

(4) In determining—

(a) any relief available to the company under section 45 (carry forward of trading losses), or

(b) any relief available to the successor company or any successor of that company by virtue of section 944(3),

this Chapter applies as if references to a trade carried on by the company included the trade as carried on by the successor company or by any successor of that company.

(5) For the purposes of this section a company ("company A") is a predecessor of another company ("company B"), and company B is a successor of company A, if the first or second condition is met.

(6) The first condition is that Chapter 1 of Part 22 applies in relation to company A and company B as respectively the predecessor and the successor within the meaning of that Chapter.

(7) The second condition is that—

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(a) Chapter 1 of Part 22 applies in relation to company A and a third company ("company C") as respectively the predecessor and the successor within the meaning of that Chapter, and

(b) company C is (whether by virtue of the first condition or this condition) a predecessor of company B."

(2) The amendment made by this section has effect in relation to changes in ownership that occur on or after 20 March 2013.

33 Change in company ownership: shell companies

Schedule 13—

(a) inserts into Part 14 of CTA 2010 (change in company ownership) a new Chapter 5A (shell companies: restrictions on relief), and

(b) makes consequential provision.

34 Transfer of deductions

Schedule 14—

(a) inserts into CTA 2010 a new Part 14A (transfer of deductions), and

(b) makes consequential provision.

35 R&D expenditure credits

Schedule 15 contains provision about R&D expenditure credits.

36 Relief for television production and video games development

(1) Schedule 16 contains provision about television production.

(2) Schedule 17 contains provision about video games development.

(3) Schedule 18 contains consequential amendments.

Exemption from charge

37 Health service bodies: exemption

In section 986 of CTA 2010 (exemption from corporation tax: meaning of "health service body"), insert the following entries at the appropriate places in the table—

"a clinical commissioning group	section 1I of the National Health Service Act 2006"
"Health and Social Care Information Centre	section 252 of the Health and Social Care Act 2012"
"National Health Service Commissioning Board	section 1H of the National Health Service Act 2006"

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"National Institute for Health and Care Excellence	section 232 of the Health and Social Care Act 2012".

38 Chief constables etc (England and Wales): exemption

(1) In Chapter 8 of Part 22 of CTA 2010 (exemptions), after section 987 insert—

"Police

987A Chief constables etc (England and Wales)

The following are not liable to corporation tax—

(a) a chief constable of a police force maintained under section 2 of the Police Act 1996;

(b) the Commissioner of Police of the Metropolis."

(2) The amendment made by this section is treated as having come into force on 16 January 2012, but, in relation to any time before 22 November 2012, section 987A of CTA 2010 has effect as if paragraph (a) were omitted.

Other provisions

39 Real estate investment trusts: UK REITs which invest in other UK REITs

Schedule 19 amends Part 12 of CTA 2010 (real estate investment trusts).

40 Corporation tax relief for employee share acquisitions etc

(1) Chapter 6 of Part 12 of CTA 2009 (relief for employee share acquisitions: relationship between relief under Part 12 and other reliefs) is amended as follows.

(2) For section 1038 substitute—

"**1038 Exclusion of other deductions**

(1) Subsection (2) applies if relief is or, apart from condition 2 in section 1009(1), would be available under this Part.

For this purpose, it does not matter if the amount of the relief is or would be calculated as nil.

(2) Except as provided for by this Part, for the purpose of calculating any company's profits for corporation tax purposes for any accounting period, no deduction is allowed—

(a) in relation to the provision of the shares or to any matter connected with the provision of the shares, or

(b) so far as not covered by paragraph (a) in a case in which the shares are acquired pursuant to an option, in relation to the option or to any matter connected with the option.

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(3) In a case in which section 1022 has applied, in subsection (2)(b) references to the option cover the new option and any relevant earlier qualifying option.

(4) For the purposes of subsection (2) it does not matter if the accounting period in question falls wholly before or after the time at which the shares are acquired.

(5) In a case in which the shares are acquired under an employee share scheme, the deductions disallowed by subsection (2) include (in particular) deductions for amounts paid or payable by the employing company in relation to the participation of the employee in the scheme.

(6) But subsection (2) does not disallow deductions for—

(a) expenses incurred in setting up the scheme,

(b) expenses incurred in meeting, or contributing to, the costs of administering the scheme,

(c) the costs of borrowing for the purposes of the scheme, or

(d) fees, commission, stamp duty, stamp duty reserve tax, and similar incidental expenses of acquiring the shares.

(7) "Employee share scheme" means a scheme or arrangement for enabling shares to be acquired because of persons' employment.

(8) In a case in which relief is or, apart from condition 2 in section 1009(1), would be available under Chapter 5 by virtue of section 1030(2), subsection (2) does not disallow deductions in relation to the provision of the convertible securities."

(3) After section 1038 insert—

"**1038A Exclusion of deductions for share options: shares not acquired**

(1) Subsection (2) applies if—

(a) a person obtains an option to acquire shares and the requirements of section 1015(1)(a) to (c) are met in relation to the obtaining of the option, or

(b) so far as not covered by paragraph (a), a person obtains an option to acquire shares and the obtaining of the option is connected with an option previously obtained in a case covered by paragraph (a) or this paragraph.

(2) For the purpose of calculating any company's profits for corporation tax purposes for any accounting period, no deduction is allowed in relation to—

(a) the option, or

(b) any matter connected with the option,

unless the shares are acquired pursuant to the option.

(3) For the purposes of subsection (2) it does not matter if the accounting period in question falls wholly before or after the time at which the option is obtained.

(4) In a case in which the shares would be acquired under an employee share scheme, the deductions disallowed by subsection (2) include (in particular) deductions for amounts paid or payable by the employing company in relation to the participation of the employee in the scheme.

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(5) But subsection (2) does not disallow deductions for—

(a) expenses incurred in setting up the scheme,

(b) expenses incurred in meeting, or contributing to, the costs of administering the scheme,

(c) the costs of borrowing for the purposes of the scheme, or

(d) fees, commission, stamp duty, stamp duty reserve tax, and similar incidental expenses of acquiring the shares.

(6) "Employee share scheme" means a scheme or arrangement for enabling shares to be acquired because of persons' employment.

(7) Subsection (2) does not disallow deductions for—

(a) amounts on which the employee is subject to a charge under ITEPA 2003,

(b) amounts on which the employee would have been subject to a charge under ITEPA 2003 had the employee been a UK employee at all material times, or

(c) if the employee has died, amounts on which the employee would have been subject to a charge under ITEPA 2003 had the employee been alive.

(8) "UK employee" is to be read in accordance with section 1017(4)."

(4) For the purposes of the following subsections—

"pre-20 March 2013 relevant accounting period" means an accounting period which begins before 20 March 2013 but ends on or after that date, and

"relevant accounting period" means an accounting period which ends on or after 20 March 2013.

(5) The amendment made by subsection (2) above has effect for the purpose of disallowing deductions for relevant accounting periods.

For this purpose, it does not matter if the acquisition of shares which gives rise, or would give rise, to the relief under Part 12 of CTA 2009 occurs before a company's first relevant accounting period.

(6) But the amendment made by subsection (2) above has no effect for the purpose of disallowing a deduction for a pre-20 March 2013 relevant accounting period where the acquisition of shares which gives rise, or would give rise, to the relief under Part 12 of CTA 2009 occurs before 20 March 2013.

(7) The amendment made by subsection (3) above has effect for the purpose of disallowing deductions for relevant accounting periods.

For this purpose, it does not matter if the option is obtained before a company's first relevant accounting period.

(8) But the amendment made by subsection (3) above has no effect for the purpose of disallowing a deduction for a pre-20 March 2013 relevant accounting period where—

(a) the option is obtained before 20 March 2013, and

(b) before that date, an event (for example, the lapse or cancellation of the option) occurs in consequence of which the shares cannot be acquired pursuant to the option.

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41 Derivative contracts: property total return swaps etc

(1) Chapter 7 of Part 7 of CTA 2009 (chargeable gains arising in relation to derivative contracts) is amended as follows.

(2) In section 643 (contracts relating to land or certain tangible movable property)—

(a) in subsection (1), for "and C" substitute " , C and D ", and

(b) after subsection (4) insert—

"(4A) Condition D is that no two or more of the parties to the derivative contract are connected persons."

(3) In section 650 (property based total return swaps)—

(a) in subsection (1), for "to F" substitute " to H ", and

(b) after subsection (7) insert—

"(8) Condition G is that no two or more of the parties to the derivative contract are connected persons.

(9) Condition H is that the securing of a tax advantage is neither the main purpose, nor one of the main purposes, for which the company is a party to the derivative contract.

"Tax advantage" has the meaning given by section 1139 of CTA 2010."

(4) In section 659 (meaning of "relevant credits" and "relevant debits"), after subsection (4) insert—

"(4A) But if the derivative contract has effect such that the return arising from the contract, so far as calculated by reference to that index, is calculated by reference to a percentage ("the capped percentage") which is closer to zero than the full percentage change in that index over that period (or which is zero even though there has been a change in that index), for the purposes of subsection (4) R% is the capped percentage."

(5) The amendments made by this section have effect in relation to accounting periods beginning on or after 5 December 2012.

(6) But, for the purposes of subsection (5), an accounting period beginning before, and ending on or after, 5 December 2012 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.

42 Corporation tax: tax mismatch schemes

Schedule 20 contains provision about tax mismatch schemes.

[F10]43 Tier two capital

. . . . . .

***Changes to legislation:** Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F10 S. 43 repealed (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Taxation of Regulatory Capital Securities Regulations 2013 (S.I. 2013/3209), regs. 1(1), **12(b)**

F11 44 Financing costs and income: group treasury companies

. . . . . .

Textual Amendments

F11 S. 44 repealed (with effect in accordance with Sch. 5 para. 26(1) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 11(2)(d)**

45 Condition for company to be an "investment trust"

(1) In section 1158(2) of CTA 2010 (condition A for a company to be an "investment trust"), for "the business of the company consists of" substitute " all, or substantially all, of the business of the company is ".

(2) The amendment made by this section has effect in relation to accounting periods beginning on or after 1 January 2012.

46 Community amateur sports clubs

Schedule 21 contains provision about community amateur sports clubs.

CHAPTER 4

PENSIONS

47 Lifetime allowance charge: power to amend the transitional provision in Part 2 of Schedule 18 to FA 2011 etc

(1) Part 2 of Schedule 18 to FA 2011 (lifetime allowance charge: commencement and transitional provision relating to changes made for the tax year 2012-13 and onwards) is amended as follows.

(2) In paragraph 14—

(a) omit sub-paragraphs (2) and (15) to (17) (which confer power on the HMRC Commissioners to make provision specifying how notices under paragraph 14 are to be given),

(b) in sub-paragraph (7) omit "the annual rate of" where it first appears, and

(c) in sub-paragraph (11) after "(5)(a)" insert " and (c)(i) ".

(3) After paragraph 14 insert—

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"15 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend paragraph 14.

(2) Regulations under this paragraph may (for example) add to the cases in which paragraph 14 is to apply or is to cease to apply.

(3) Regulations under this paragraph may include provision having effect in relation to a time before the regulations are made; but—

(a) the time must be no earlier than 6 April 2012, and

(b) the provision must not increase any person's liability to tax.

(4) In relation to regulations under this paragraph made during 2013, sub-paragraph (3) has effect with the omission of paragraph (b) so long as the time in question is no earlier than 6 April 2013.

16 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision specifying how any notice required to be given to an officer of Revenue and Customs under paragraph 14 is to be given.

(2) In sub-paragraph (1) the reference to paragraph 14 is to that paragraph as amended from time to time by regulations under paragraph 15.

17 (1) Regulations under paragraph 15 or 16 may include supplementary or incidental provision.

(2) The powers to make regulations under paragraphs 15 and 16 are exercisable by statutory instrument.

(3) A statutory instrument containing regulations under paragraph 15 or 16 is subject to annulment in pursuance of a resolution of the House of Commons."

(4) The amendments made by subsection (2)(b) and (c) are treated as having come into force on 6 April 2012.

(5) The Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011 (S.I. 2011/1752) are to continue to have effect and, so far as they were made under paragraph 14(2) and (15) of Schedule 18 to FA 2011, are to be treated as if they were made under paragraphs 16 and 17(1) of that Schedule (as inserted by subsection (3) above).

48 Lifetime allowance charge: new standard lifetime allowance for the tax year 2014-15 and subsequent tax years

(1) Section 218 of FA 2004 (standard lifetime allowance etc) is amended as follows.

(2) For subsection (2) substitute—

"(2) The standard lifetime allowance for the tax year 2014-15 and, subject to subsection (3), subsequent tax years is £1,250,000."

(3) In subsection (3) for "the tax year 2012-13" substitute " the tax year 2014-15 ".

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(4) The amendments made by subsections (2) and (3) have effect for the tax year 2014-15 and subsequent tax years.

(5) Schedule 22 contains transitional provision etc.

49 Annual allowance: new annual allowance for the tax year 2014-15 and subsequent tax years

(1) Section 228 of FA 2004 (annual allowance) is amended as follows.

(2) For subsection (1) substitute—

"(1) The annual allowance for the tax year 2014-15 and, subject to subsection (2), each subsequent tax year is £40,000."

(3) In subsection (2) for "2011-12" substitute " 2014-15 ".

(4) The amendments made by this section have effect for the tax year 2014-15 and subsequent tax years.

50 Drawdown pensions and dependants' drawdown pensions

F12(1) . . . . . .

F12(2) . . . . . .

(3) In Schedule 16 to FA 2011 (benefits under pension schemes)—

(a) in paragraph 90(2)(a), after "year" insert " beginning before 26 March 2013 and ",

(b) in paragraph 90(3), omit paragraph (b) and the "and" before it,

(c) in paragraph 98(2)(a), after "year" insert " beginning before 26 March 2013 and ", and

(d) in paragraph 98(3), omit paragraph (b) and the "and" before it.

(4) The amendments made by subsections (1) and (2) have effect in relation to drawdown pension years beginning on or after 26 March 2013.

(5) The amendments made by subsection (3)(a) and (c) are treated as having come into force on 26 March 2013.

(6) The amendments made by subsection (3)(b) and (d) have effect in relation to transfers within paragraph 90(5) or 98(5) of Schedule 16 to FA 2011 occurring during a drawdown pension year ending on or after 25 March 2013.

Textual Amendments

F12 S. 50(1)(2) omitted (with effect in accordance with s. 41(6) of the amending Act) by virtue of Finance Act 2014 (c. 26), **s. 41(5)**

51 Bridging pensions

(1) FA 2004 is amended as follows.

F13(2) . . . . . .

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(3) In paragraph 1 of Schedule 29 (pension commencement lump sums), in sub-paragraph (4)(a), omit the words from "at a time" to "65".

(4) In consequence of subsection (3), paragraph 21 of Schedule 23 to the FA 2006 is repealed.

(5) The amendments made by this section have effect for the tax year 2013-14 and subsequent tax years.

Textual Amendments

F13 S. 51(2) omitted (6.4.2016) (with effect in accordance with s. 20(6) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 20(5)(b)**(6); S.I. 2016/1005, reg. 2 (with regs. 1(2)34)

52 Abolition of contracting out of state second pension: consequential amendments etc

(1) FA 2004 is amended as follows.

(2) In section 188 (relief for contributions), in subsection (3) (contributions excluded from relief), omit paragraph (c) and the word "and" immediately preceding that paragraph.

(3) In that section, omit subsection (6) (which treats certain amounts recovered by individual's employer as contributions paid by individual).

(4) Omit section 190(5) (certain reliefs not to count towards annual limit for relief).

(5) Omit section 196(5) (references to contributions to include references to minimum payments when determining relief for employers).

(6) Omit section 202 (minimum contributions under pensions legislation).

(7) Omit section 233(2) (references to contributions not to include references to minimum payments when determining pension input amount).

(8) In paragraph 5 of Schedule 29 (short service refund lump sum), after sub-paragraph (2) insert—

"(2A) In sub-paragraph (2) the reference to the member's contributions includes—

(a) any amount paid under section 7 of the Social Security Act 1986 (incentive payments to schemes becoming contracted-out between 1986 and 1993),

(b) any amount paid by the Commissioners for Her Majesty's Revenue and Customs under section 42A(3) of the Pension Schemes Act 1993 or section 38A(3) of the Pension Schemes (Northern Ireland) Act 1993 (rebates), and

(c) any amount recovered by the member's employer under regulations falling within sub-paragraph (2B) in respect of minimum payments made to the scheme in relation to any period before 6 April 2012.

(2B) Those regulations are regulations which were made under—

(a) section 8(3) of the Pension Schemes Act 1993 (recovery of minimum payments), or

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(b) section 4(3) of the Pension Schemes (Northern Ireland) Act 1993 (corresponding provision for Northern Ireland)."

(9) Omit paragraph 14(2) of Schedule 36 (which excludes minimum payments from being relevant contributions for the purposes of enhanced protection from lifetime allowance charge).

(10) Subsections (1), (3) to (5) and (7) to (9) come into force on 6 April 2013.

(11) Subsection (2) comes into force on 6 April 2015.

(12) Subsection (6) comes into force on 6 April 2016, except that the repeal of section 202(5) of FA 2004 comes into force on such day as the Treasury may appoint by order made by statutory instrument.

53 Overseas pension schemes: general

(1) In section 150(8) of FA 2004 (meaning of "recognised overseas pension scheme"), for the words from "which" to the end substitute " which satisfies any requirements prescribed for the purposes of this subsection by regulations made by the Commissioners for Her Majesty's Revenue and Customs. "

(2) Section 169 of that Act (pension schemes: recognised transfers) is amended as follows.

(3) In subsection (2)(c), for "any prescribed information requirements imposed on the scheme manager" substitute " any requirements imposed under subsection (4) ".

(4) For subsection (4) substitute—

"(4) Regulations may require the scheme manager of a QROPS or former QROPS to—

(a) give the Commissioners information of a prescribed description,

(b) give the Commissioners such evidence as they may require of a prescribed matter, and

(c) give a prescribed authority, in prescribed circumstances, information of a prescribed description.

(4A) Regulations under subsection (4) may make provision as to—

(a) the way and form in which information or evidence is to be given, and

(b) the times or intervals at which information or evidence is to be given.

(4B) The regulations may apply any provision of Part 7 of Schedule 36 to FA 2008 (penalties), with or without modifications, in relation to requirements imposed under the regulations on a former QROPS."

(5) In subsection (5)—

(a) for "the Inland Revenue has" substitute " the Commissioners have ",

(b) for paragraph (a) (but not the "and" at the end of it) substitute—

"(a) any of the following conditions is met in relation to the scheme—

(i) there has been a failure to comply with a relevant requirement and the failure is significant,

(ii) any information given pursuant to a relevant requirement is incorrect in a material respect,

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(iii) any declaration given pursuant to a relevant requirement is false in a material respect,

(iv) there is no scheme manager,", and

(c) in paragraph (b), for "the failure" substitute " that condition being met ".

(6) For subsection (6) substitute—

"(6) A failure to comply with a requirement is significant if—

(a) it is a failure to give information or evidence that is (or may be) of significance, or

(b) there are reasonable grounds for believing that the failure prejudices (or might prejudice) the assessment or collection of tax by the Commissioners."

(7) After subsection (7) insert—

"(8) In subsections (4) to (6) and this subsection—

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"prescribed" means prescribed by regulations;

"QROPS" means a qualifying recognised overseas pension scheme, and "former QROPS" means a scheme that has at any time been a QROPS;

"regulations" means regulations made by the Commissioners;

"relevant requirement" means—

(a) a requirement imposed by regulations under subsection (4), or

(b) a requirement imposed by virtue of Part 1 of Schedule 36 to FA 2008 (powers to obtain information and documents)."

(8) In section 280(1) of that Act (abbreviations), insert at the appropriate place—

""FA 2008" means the Finance Act 2008,".

54 Overseas pension schemes: information and inspection powers

(1) Part 6 of Schedule 36 to FA 2008 (information and inspection powers: special cases) is amended as follows.

(2) In paragraph 34B (registered pension schemes etc)—

(a) in sub-paragraph (2), omit the "or" at the end of paragraph (b) and, at the end of paragraph (c) insert—

"(d) a QROPS or former QROPS, or

(e) an annuity purchased with sums or assets held for the purposes of a QROPS or former QROPS.";

(b) after sub-paragraph (4) insert—

"(4A) In relation to a notice to which this paragraph applies that refers only to information or documents relating to a matter within sub-paragraph (2)(d) or (e), paragraph 20 (old documents) has effect as if the reference to 6 years were to 10 years.";

(c) after sub-paragraph (7) insert—

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"(7A) Where the notice relates to a matter within sub-paragraph (2)(d) or (e), the officer of Revenue and Customs who gives the notice must give a copy of the notice to the scheme manager in relation to the pension scheme.";

(d) in sub-paragraph (8), for "and (7)" substitute " to (7A) ".

(3) In paragraph 34C (registered pension schemes etc: interpretation), insert at the appropriate places—

""QROPS" and "former QROPS" have the meanings given by section 169(8) of FA 2004;";

"" "scheme manager", in relation to a pension scheme, has the meaning given by section 169(3) of FA 2004."

(4) In paragraphs 34B and 34C of Schedule 36 to FA 2008, references to a former QROPS include a scheme that ceased to be a QROPS before this Act was passed.

CHAPTER 5

OTHER PROVISIONS

Employee shareholder shares

55 Employee shareholder shares

Schedule 23 contains—

(a) provision about employee shareholder shares, and

(b) provision for an exemption from income tax in connection with advice relating to proposed employee shareholder agreements.

Seed enterprise investment scheme

56 SEIS: income tax relief

(1) ITA 2007 is amended as follows.

(2) In section 29 (tax reductions: supplementary), in subsection (4B), after the entry for Chapter 1 of Part 5 insert— " Chapter 1 of Part 5A (SEIS relief), ".

(3) In section 32 (liability not dealt with in the calculation), after the entry for section 235 insert— " under section 257G (withdrawal or reduction of SEIS relief), ".

(4) In section 257DG (the control and independence requirement), for subsection (2) substitute—

"(2) The independence element of the requirement is that—

(a) the issuing company must not at any time in period A (ignoring any on-the-shelf period) be within subsection (2A), and

(b) no arrangements must be in existence at any time in period A by virtue of which the issuing company could be within that subsection (whether during period A or otherwise).

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(2A) The issuing company is within this subsection at any time if it is under the control of any other company (or of another company and any other person connected with that other company).

(2B) In subsection (2)(a) "on-the-shelf period" means a period during which the issuing company—

(a) has not issued any shares other than subscriber shares, and

(b) has not begun to carry on, or make preparations for carrying on, any trade or business."

(5) The amendments made by subsections (2) and (3) have effect for the tax year 2013-14 and subsequent tax years.

(6) The amendment made by subsection (4) has effect in relation to shares issued on or after 6 April 2013.

57 SEIS: re-investment relief

(1) Schedule 5BB to TCGA 1992 (seed enterprise investment scheme: re-investment) is amended as follows.

(2) In paragraph 1 (SEIS re-investment relief)—

(a) in sub-paragraph (2)—

(i) in paragraph (a), after "the tax year 2012-13" insert " or the tax year 2013-14 (the year in question being referred to in this Schedule as "the relevant year") ", and

(ii) in paragraph (b), for "that year" substitute " the relevant year ",

(b) in sub-paragraph (3)(a), for "tax year 2012-13" substitute " relevant year ", and

(c) for sub-paragraph (5) substitute—

"(5) The relevant percentage of the available SEIS expenditure is to be set against a corresponding amount of the original gain.

(5A) In sub-paragraph (5)—

"the available SEIS expenditure" means so much of the SEIS expenditure as—

(a) is specified in the claim,

(b) is unused, and

(c) does not exceed so much of the original gain as is unmatched;

"the relevant percentage" means—

(a) if the relevant year is the tax year 2012-13, 100%, and

(b) if the relevant year is the tax year 2013-14, 50%."

(3) In paragraph 2 (restrictions on relief under paragraph 1)—

(a) in sub-paragraph (1), for "tax year 2012-13" substitute " relevant year ", and

(b) in sub-paragraph (2)—

(i) for "tax year 2012-13" substitute " relevant year ", and

(ii) for "that tax year" substitute " that year ".

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(4) In paragraph 5 (removal or reduction of relief) in sub-paragraph (2) for "2012-13" substitute " in which the shares were issued ".

(5) Accordingly, in section 150G of TCGA (which introduces Schedule 5BB), for "tax year 2012-13" substitute " tax years 2012-13 and 2013-14 ".

Disincorporation

58 Disincorporation relief

(1) A claim for relief under this section ("disincorporation relief") may be made where—

(a) a company transfers its business to some or all of the shareholders of the company,

(b) the transfer of the business is a qualifying business transfer (see section 59), and

(c) the business transfer date falls within the period of 5 years beginning with 1 April 2013.

(2) As to the consequences of a claim for disincorporation relief being made, see—

sections 162B and 162C of TCGA 1992;

section 849A of CTA 2009.

(3) In this section and sections 59 to 61 "the business transfer date", in relation to the transfer of a business, is the date on which the business is transferred.

For this purpose, where the business is transferred under a contract—

(a) the date on which the business is transferred is to be determined in accordance with section 28 of TCGA 1992, and

(b) if the business in question is transferred by more than one contract, then for the purposes of that section the contract under which the business is transferred is to be taken to be the contract under which the goodwill of the business is transferred.

(4) This section and sections 59 and 60 apply to a transfer of a business with a business transfer date of 1 April 2013 or a later date.

59 Qualifying business transfer

(1) The transfer of a business from a company to some or all of the shareholders of the company is a qualifying business transfer for the purposes of section 58 if conditions A to E are met.

(2) Condition A is that the business is transferred as a going concern.

(3) Condition B is that the business is transferred together with all of the assets of the business, or together with all of those assets other than cash.

(4) Condition C is that the total market value of the qualifying assets of the business included in the transfer does not exceed £100,000.

(5) Condition D is that all of the shareholders to whom the business is transferred are individuals.

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(6) Condition E is that each of those shareholders held shares in the company throughout the period of 12 months ending with the business transfer date.

(7) For the purposes of condition D, the reference to individuals includes an individual acting as a member of a partnership, but does not include an individual acting as a member of a limited liability partnership.

(8) Section 60 of TCGA 1992 (nominees and bare trustees) applies for the purposes of this section as it applies for the purposes of that Act.

(9) In this section "market value", in relation to an asset, means the price which the asset might reasonably be expected to fetch on a sale in the open market.

(10) In this section a "qualifying asset" means—

(a) goodwill, or

(b) an interest in land which is not held as trading stock.

60 Making a claim

(1) A claim for disincorporation relief under section 58—

(a) is to be made jointly by the company and all of the shareholders to whom the business is transferred, and

(b) is irrevocable.

(2) Any claim for disincorporation relief must be made within the period of 2 years beginning with the business transfer date.

61 Effect of disincorporation relief

(1) In Part 5 of TCGA 1992 (transfer of business assets), in Chapter 1 (general provisions), after section 162A insert—

"Transfer of business from company to shareholders

162B Disincorporation relief: assets (including pre-FA 2002 goodwill)

(1) This section applies where—

(a) a company transfers its business to some or all of the shareholders of the company, and

(b) a claim for disincorporation relief in respect of the transfer has been made under section 58 of the Finance Act 2013.

(2) The disposal and acquisition of any qualifying asset of the business included in the transfer is to be deemed to be for a consideration equal to the lower of—

(a) the sums allowable under section 38 as a deduction in the computation of the gain accruing to the company on the disposal of the asset in question, and

(b) the market value of the asset.

(3) In subsection (2) a "qualifying asset" means—

(a) goodwill, or

(b) an interest in land which is not held as trading stock.

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(4) But subsection (2) does not apply to the goodwill of the business if section 162C applies to it.

162C Disincorporation relief: post-FA 2002 goodwill

(1) This section applies where—

(a) a company transfers its business to some or all of the shareholders of the company,

(b) a claim for disincorporation relief in respect of the transfer has been made under section 58 of the Finance Act 2013, and

(c) section 849A of CTA 2009 (disincorporation relief: transfer values for post-FA 2002 goodwill) applies to the transfer of the goodwill of the business.

(2) The acquisition of the goodwill of the business is deemed to be for a consideration equal to the value at which the goodwill is treated as transferred by virtue of section 849A of CTA 2009."

(2) In Part 8 of CTA 2009 (intangible fixed assets), Chapter 13 (transactions between related parties) is amended as follows.

(3) In section 844 (overview of Chapter), in subsection (2) for "849" substitute " 849A ".

(4) In section 845 (transfer between company and related party treated as at market value), in subsection (4) (exceptions to basic rule)—

(a) omit the "and" at the end of paragraph (ca), and

(b) after paragraph (d) insert ", and

(e) section 849A (disincorporation relief: transfer values for post-FA 2002 goodwill)."

(5) After section 849 insert—

"**849A Disincorporation relief: transfer values for post-FA 2002 goodwill**

(1) This section applies where—

(a) a company transfers its business to some or all of the shareholders of the company, and

(b) a claim for disincorporation relief in respect of the transfer has been made under section 58 of the Finance Act 2013.

(2) If section 735 applies to the transfer of the goodwill of the business, the transfer is treated for the purposes of this Part as being at the lower of—

(a) the tax written-down value of the goodwill, and

(b) its market value.

(3) If section 736 applies to the transfer of the goodwill of the business, the transfer is treated for the purposes of this Part as being at the lower of—

(a) the cost of the goodwill, and

(b) its market value.

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(4) If section 738 applies to the transfer of the goodwill of the business, the proceeds of realisation of the goodwill are treated for the purposes of this Part as being nil.

(5) In subsection (2)(a) the reference to the tax written-down value of the goodwill is to its tax written-down value immediately before the transfer.

(6) In subsection (3)(a) "the cost of the goodwill" means the cost recognised for tax purposes (determined in accordance with section 736(6) and (7)).

(7) In this section market value has the meaning given in section 845(5)."

(6) The amendments made by this section have effect in relation to a transfer of a business with a business transfer date of 1 April 2013 or a later date.

Capital gains

62 Attribution of gains to members of non-resident companies

(1) TCGA 1992 is amended as follows.

(2) In subsection (4) of section 13 (members to whom rule for attributing gains to members of non-resident companies does not apply), for "one tenth" substitute " one quarter ".

(3) In subsection (5) of that section (cases where rule for attributing gains to members of non-resident companies does not apply), after the "or" at the end of paragraph (b) insert—

"(ca) a chargeable gain accruing on the disposal of an asset used, and used only, for the purposes of economically significant activities carried on by the company wholly or mainly outside the United Kingdom, or

(cb) a chargeable gain accruing to the company on a disposal of an asset where it is shown that neither—

(i) the disposal of the asset by the company, nor

(ii) the acquisition or holding of the asset by the company,

formed part of a scheme or arrangements of which the main purpose, or one of the main purposes, was avoidance of liability to capital gains tax or corporation tax, or".

(4) After section 13 insert—

"**13A Section 13(5): interpretation**

(1) For the purposes of section 13(5)(b) a disposal of an asset is to be regarded as a disposal of an asset used for the purposes of a trade carried on wholly outside the United Kingdom by a company if—

(a) the asset is accommodation, or an interest or right in accommodation, which is situated outside the United Kingdom, and

(b) the accommodation has for each relevant period been furnished holiday accommodation of which a person has made a commercial letting.

(2) For the purposes of subsection (1)(b) each of the following is "a relevant period"—

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(a) the period of 12 months ending with the date of the disposal and each of the two preceding periods of 12 months, or

(b) if the company has been the beneficial owner of the accommodation (or interest or right) for a period longer than 36 months, the period of 12 months ending with the date of the disposal and each of the preceding periods of 12 months throughout which the company has been the beneficial owner of the accommodation (or interest or right).

(3) The reference in subsection (1)(b) to the commercial letting of furnished holiday accommodation is to be read in accordance with Chapter 6 of Part 4 of CTA 2009, but—

(a) as if sections 266, 268 and 268A were omitted, and

(b) as if, in section 267(1), the reference to an accounting period were a reference to a relevant period as defined by subsection (2) above.

(4) For the purposes of section 13(5)(ca) activities carried on by a company are "economically significant activities" if they are activities which consist of the provision by the company of goods or services to others on a commercial basis and involve—

(a) the use of staff in numbers, and with competence and authority,

(b) the use of premises and equipment, and

(c) the addition of economic value, by the company, to those to whom the goods or services are provided,

commensurate with the size and nature of those activities.

(5) In subsection (4) "staff" means employees, agents or contractors of the company."

(5) The amendments made by this section have effect in relation to disposals made on or after 6 April 2012.

(6) But, in the case of a disposal made on or after that date but before 6 April 2013, a person to whom a part of a chargeable gain or allowable loss would (but for the amendments made by this section) have accrued on the disposal may make an election in writing for section 13 of TCGA 1992 to apply in relation to the disposal without those amendments.

(7) An election under subsection (6) in respect of a disposal must be made—

(a) in the case of a person within the charge to capital gains tax, within 4 years from the end of the tax year in which the disposal was made, and

(b) in the case of a person within the charge to corporation tax, within 4 years from the end of the accounting period in which the disposal was made.

63 Heritage maintenance settlements

(1) In section 169D of TCGA 1992 (gifts to settlor-interested settlements etc: exceptions to sections 169B and 169C), in subsection (1), after "elected" insert " , or could have elected, ".

(2) The amendment made by this section has effect for the tax year 2012-13 and subsequent tax years.

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64 EMI options and entrepreneurs' relief etc

Schedule 24 makes provision for capital gains tax purposes in connection with shares acquired under options which are qualifying options under the EMI code.

65 Charge on certain high value disposals by companies etc

Schedule 25 contains provision for a new capital gains tax charge on gains accruing to companies etc on certain high value disposals.

66 Currency used in tax calculations: chargeable gains and losses

(1) Chapter 4 of Part 2 of CTA 2010 (currency) is amended as follows.

(2) In section 5 (basic rule: sterling to be used), after subsection (2) insert—

"(3) See section 9C for provision about the application of subsection (1) so far as it relates to calculating chargeable gains."

(3) After section 9B insert—

"**9C Chargeable gains and losses of companies**

(1) This section applies if—

(a) a company disposes of an asset which is a ship, an aircraft, shares or an interest in shares, and

(b) at any time beginning with the company's acquisition of the asset (or, if earlier, the time allowable expenditure was first incurred in respect of the asset) and ending with the disposal, the company's relevant currency is not sterling.

(2) A company's relevant currency at any time is its functional currency at that time, subject to subsection (3).

(3) If, at any time—

(a) a company is a UK resident investment company, and

(b) the company has a designated currency (see sections 9A and 9B) which is different from its functional currency,

the company's relevant currency at that time is that designated currency.

(4) If the relevant currency of the company at the time of the disposal is not sterling, the chargeable gain or loss accruing to the company on the disposal must be calculated as follows—

Step 1 Calculate the chargeable gain or loss in the relevant currency of the company at the time of the disposal.

Step 2 Translate the amount of the chargeable gain or loss into sterling by reference to the spot rate of exchange on the day of the disposal.

(5) In any case, subsections (6) to (10) apply for the purposes of calculating the chargeable gain or loss.

(6) Where any allowable expenditure is incurred in a currency which is not the company's relevant currency at the time it is incurred, that expenditure is to be

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translated into that relevant currency by reference to the spot rate of exchange for the day on which it is incurred.

(7) Where, at any time after any allowable expenditure is incurred but before the asset is disposed of, there is a change in the company's relevant currency, that expenditure is to be translated (or, if it has previously been translated under this section, further translated) into the relevant currency of the company immediately following the change, by reference to the spot rate of exchange for the day of the change.

(8) Any amount of consideration for the disposal which is given in a currency other than the company's relevant currency is to be translated into that relevant currency by reference to the spot rate of exchange on the day of disposal.

(9) For the purposes of subsections (6) and (7)—

(a) any translation of expenditure under subsection (6) is to be done before any translation of the expenditure under subsection (7), and

(b) if subsection (7) applies as a result of more than one change in the company's relevant currency, it is to be applied in relation to each change in the order the changes were made (with the earliest first).

(10) Where, by virtue of any enactment, the company was at any time treated for the purposes of corporation tax on chargeable gains as acquiring the asset—

(a) for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the person disposing of the asset, or

(b) for a consideration equal to the market value of the asset,

for the purposes of this section that allowable expenditure is treated as incurred by the company at that time.

(11) For the purposes of this section, a reference to a ship or aircraft includes a reference to the benefit of a contract—

(a) to which section 67 of CAA 2001 applies, and

(b) which relates to plant or machinery which is a ship or aircraft.

(12) In this section—

"allowable expenditure" means expenditure which, immediately before the disposal, was attributable to the asset under section 38(1)(a) to (c) of TCGA 1992;

"interest in shares" has the same meaning as in Schedule 7AC to TCGA 1992 (see paragraph 29 of that Schedule);

"shares" includes stock."

(4) The amendments made by this section come into force in accordance with provision made by the Treasury by order.

Commencement Information

I1 S. 66 in force at 1.9.2013 for the purposes of the amendments made by that section, with effect in relation to disposals after that date by S.I. 2013/1815, **art. 2**

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Capital allowances

F14 67 Allowances for energy-saving plant and machinery: Northern Ireland

. . . . . .

Textual Amendments

F14 S. 67 repealed (with effect in accordance with s. 33(5) of the amending Act) by Finance Act 2019 (c. 1), s. 33(2)**(c)(x)(a)**

68 Cars with low carbon dioxide emissions

(1) In section 45D of CAA 2001 (first year qualifying expenditure on cars with low carbon dioxide emissions)—

(a) in subsection (1)(a), for "2013" substitute "2015", and

(b) in subsection (4), for "110" substitute "95".

F15(2) . . . . . .

(3) In section 104AA of that Act (special rate expenditure: meaning of "main rate car"), in subsection (4) for "160" substitute "130".

(4) Accordingly, in section 77 of FA 2008 omit—

(a) subsection (2), and

(b) subsection (3).

(5) The amendments made by subsections (1)(b), (2) and (4)(b) have effect in relation to expenditure incurred on or after 1 April 2013.

(6) The amendment made by subsection (3) has effect in relation to expenditure incurred on or after the relevant date.

(7) But in relation to expenditure incurred on the hiring of a car—

(a) for a period of hire which begins before the relevant date, and

(b) under a contract entered into before that date,

section 49(1A) of ITTOIA 2005 and section 57(1A) of CTA 2009 apply on or after the relevant date as if the amendment made by subsection (3) did not have effect.

(8) "The relevant date" means—

(a) in the case of income tax, 6 April 2013, and

(b) in the case of corporation tax, 1 April 2013.

Textual Amendments

F15 S. 68(2) repealed (with effect in accordance with s. 33(5) of the amending Act) by Finance Act 2019 (c. 1), s. 33(2)**(c)(x)(b)**

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69 Gas refuelling stations: extension of time limit for capital allowance

In section 45E(1)(a) of CAA 2001 (time limit for incurring of expenditure qualifying for first-year allowance), for "2013" substitute " 2015 ".

70 First-year allowance to be available for ships and railway assets

(1) In section 46(2) of CAA 2001 (general exclusions from first-year allowance), omit—

(a) general exclusion 3 (ships), and

(b) general exclusion 4 (railway assets),

and the italicised headings preceding them.

(2) The amendments made by this section have effect for expenditure incurred on or after 1 April 2013.

71 Restrictions on buying capital allowances

Schedule 26 contains provision amending Chapter 16A of Part 2 of CAA 2001 (restrictions on allowance buying).

72 Hire cars for disabled persons

(1) In section 268D of CAA 2001 (hire cars for disabled persons), in subsection (2), after paragraph (a) insert—

"(aa) personal independence payment under the Welfare Reform Act 2012, or the corresponding provision having effect in Northern Ireland, because of entitlement to the mobility component,

(ab) armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004,".

(2) The amendment made by this section has effect in relation to expenditure incurred on or after 1 April 2013.

73 Contribution allowances: plant and machinery

(1) Section 538 of CAA 2001 (contribution allowances: plant and machinery) is amended as follows.

(2) In subsection (1), omit the "and" at the end of paragraph (a) and after that paragraph insert—

"(aa) C's contribution is to expenditure on the provision of plant or machinery, and".

(3) In subsection (2)—

(a) in paragraph (a), for "asset provided by means of C's contribution" substitute " plant or machinery ",

(b) in paragraph (b), for "asset" substitute " plant or machinery ", and

(c) in paragraph (c)—

(i) for "asset" substitute " plant or machinery ", and

(ii) after "times" insert " plant or machinery ".

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(4) The amendments made by this section have effect in relation to expenditure pooled, and to claims made, on or after 29 May 2013 ("the commencement date").

(5) In relation to such expenditure and claims, when determining for the purposes of section 536(3)(a) of CAA 2001 whether an allowance can be made under Chapter 2 of Part 11 of that Act, the amendments made by this section are to be treated as always having had effect.

(6) Nothing in this section applies to a claim by a person for a contribution allowance under Part 2 of CAA 2001 in respect of a contribution made before the commencement date.

(7) Subsection (8) applies if—

(a) expenditure which a person has been regarded as having incurred (despite section 532(1) of CAA 2001) by virtue of section 536(1) of that Act has been pooled by virtue of section 53 of that Act—

(i) on or after 1 January 2013 but before the commencement date, or

(ii) before 1 January 2013 in circumstances where no claim was made in respect of the expenditure before that date, and

(b) had the amendments made by this section had effect at the time the expenditure was incurred, that person would not have been regarded as having incurred that expenditure ("the relevant expenditure").

(8) Part 2 of CAA 2001 has effect as if an event had occurred as a result of which the person is required to bring into account as a disposal receipt under that Part, for the chargeable period in which the commencement date falls, a disposal value of an amount equal to E-A.

(9) For the purposes of subsection (8)—

E is the amount of the relevant expenditure, and

A is the total amount of writing-down allowances made in respect of the relevant expenditure.

(10) For the purpose of calculating A, the total amount of writing-down allowances made in respect of expenditure on an item of plant or machinery is to be determined as if that item were the only item of plant or machinery in relation to which Chapter 5 of Part 2 of CAA 2001 had effect.

(11) The event mentioned in subsection (8) is not to be regarded as a disposal event for the purposes of section 60(3) of CAA 2001.

Miscellaneous

74 Community investment tax relief

Schedule 27 makes provision about community investment tax relief.

75 Lease premium relief

Schedule 28 makes provision in relation to relief for lease premiums.

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76 Manufactured payments: stock lending arrangements

(1) Section 596 of ITA 2007 (deemed manufactured payments: stock lending arrangements) is amended in accordance with subsections (2) and (3).

(2) For subsection (1) substitute—

"(1) This section applies if conditions A to C are met.

(1A) Condition A is that there is a stock lending arrangement in respect of securities.

(1B) Condition B is that a dividend or interest on the securities is paid, as a result of the arrangement, to a person other than the person who is the lender under the arrangement.

(1C) Condition C is that—

(a) no provision is made for securing that the lender receives payments representative of the dividend or interest, or

(b) provision is made for securing that the lender receives—

(i) payments representative of the dividend or interest, and

(ii) another benefit in respect of the dividend or interest (including the release of the whole or part of any liability to pay an amount)."

(3) In subsection (2), for paragraph (a) substitute—

"(a) were required, under the arrangement—

(i) in a case falling within paragraph (a) of subsection (1C), to pay the lender an amount representative of the dividend or interest, or

(ii) in a case falling within paragraph (b) of that subsection, to pay the lender an amount representative of the dividend or interest but deducting from that amount any payment mentioned in sub-paragraph (i) of that paragraph on which tax has been, or is to be, charged, and".

(4) Section 812 of CTA 2010 (deemed manufactured payments: stock lending arrangements) is amended in accordance with subsections (5) to (7).

(5) For subsection (1) substitute—

"(1) This section applies if conditions A to C are met.

(1A) Condition A is that there is a stock lending arrangement in respect of securities.

(1B) Condition B is that a dividend or interest on the securities is paid, as a result of the arrangement, to a person other than the person who is the lender under the arrangement.

(1C) Condition C is that—

(a) no provision is made for securing that the lender receives payments representative of the dividend or interest, or

(b) provision is made for securing that the lender receives—

(i) payments representative of the dividend or interest, and

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(ii) another benefit in respect of the dividend or interest (including the release of the whole or part of any liability to pay an amount).”

(6) In subsection (2), for paragraph (a) substitute—

“(a) were required, under the arrangement—

(i) in a case falling within paragraph (a) of subsection (1C), to pay the lender an amount representative of the dividend or interest, or

(ii) in a case falling within paragraph (b) of that subsection, to pay the lender an amount representative of the dividend or interest but deducting from that amount any payment mentioned in sub-paragraph (i) of that paragraph on which tax has been, or is to be, charged, and”.

(7) After subsection (6) insert—

“(7) This section has effect regardless of section 358 of CTA 2009 (exclusion of credits on release of connected companies debts) or any other provision of Part 5 of that Act (loan relationships) which prevents a credit from being brought into account.”

(8) The amendments made by this section have effect in relation to cases in which a dividend or interest is paid, or is treated as paid, on or after 5 December 2012.

77 Manufactured payments: general

Schedule 29 contains provision for, and in connection with, the application of the Tax Acts to manufactured payment relationships and payments representative of dividends and interest.

78 Relationship between rules prohibiting and allowing deductions

(1) In section 31 of ITTOIA 2005 (trade profits: relationship between rules prohibiting and allowing deductions)—

(a) after subsection (1) insert—

“(1A) But, if the relevant permissive rule would allow a deduction in calculating the profits of a trade in respect of an amount which arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements, that rule—

(a) does not have priority under subsection (1)(a), and

(b) is subject to any relevant prohibitive rule in this Part (and to the provisions mentioned in subsection (1)(b)).”, and”

(b) after subsection (3) insert—

“(4) In this section “relevant tax avoidance arrangements” means arrangements—

(a) to which the person carrying on the trade is a party, and

(b) the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage (within the meaning of section 1139 of CTA 2010).

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"Arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

(2) In section 274 of ITTOIA 2005 (property businesses: relationship between rules prohibiting and allowing deductions)—

(a) after subsection (1) insert—

"(1A) But, if the relevant permissive rule would allow a deduction in calculating the profits of a property business in respect of an amount which arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements, that rule—

(a) does not have priority under subsection (1)(a), and

(b) is subject to any relevant prohibitive rule in this Part (and to the provisions mentioned in subsection (1)(b)).", and"

(b) after subsection (3) insert—

"(3A) In this section "relevant tax avoidance arrangements" means arrangements—

(a) to which the person carrying on the property business is a party, and

(b) the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage (within the meaning of section 1139 of CTA 2010).

"Arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

(3) In section 51 of CTA 2009 (trade profits: relationship between rules prohibiting and allowing deductions)—

(a) after subsection (1) insert—

"(1A) But, if the relevant permissive rule would allow a deduction in calculating the profits of a trade in respect of an amount which arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements, that rule—

(a) does not have priority under subsection (1)(a), and

(b) is subject to any relevant prohibitive rule (and to the provisions mentioned in subsection (1)(b)).", and

(b) after subsection (3) insert—

"(4) In this section "relevant tax avoidance arrangements" means arrangements—

(a) to which the company carrying on the trade is a party, and

(b) the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage (within the meaning of section 1139 of CTA 2010).

"Arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

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(4) In section 214 of CTA 2009 (property businesses: relationship between rules prohibiting and allowing deductions)—

(a) after subsection (1) insert—

"(1A) But, if the relevant permissive rule would allow a deduction in calculating the profits of a property business in respect of an amount which arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements, that rule—

(a) does not have priority under subsection (1)(a), and

(b) is subject to any relevant prohibitive rule (and to the provisions mentioned in subsection (1)(b)).", and

(b) after subsection (3) insert—

"(3A) In this section "relevant tax avoidance arrangements" means arrangements—

(a) to which the company carrying on the property business is a party, and

(b) the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage (within the meaning of section 1139 of CTA 2010).

"Arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

(5) The amendments made by this section have effect in relation to deductions in respect of amounts which arise directly or indirectly in consequence of, or otherwise in connection with—

(a) arrangements which are entered into on or after 21 December 2012, or

(b) any transaction forming part of arrangements which is entered into on or after that date.

(6) But those amendments do not have effect where the arrangements are, or any such transaction is, entered into pursuant to an unconditional obligation in a contract made before that date.

(7) "An unconditional obligation" means an obligation which may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

79 Close companies

Schedule 30 (which makes provision about close companies) has effect.

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PART 2

OIL

Decommissioning relief agreements

80 Decommissioning relief agreements

(1) There are to be paid out of money provided by Parliament any sums which a Minister of the Crown is liable to pay under a decommissioning relief agreement.

(2) A "decommissioning relief agreement" is an agreement which—

(a) is made between a Minister of the Crown and a qualifying company, and

(b) provides that, in such circumstances as are specified in the agreement, if the amount of tax relief in respect of any decommissioning expenditure incurred by that or another qualifying company is less than an amount determined in accordance with the agreement ("the reference amount"), the difference is payable to the company that incurred the expenditure.

(3) "Qualifying company" means—

(a) any company that has at any time carried on a ring fence trade,

(b) any company that is associated with a company carrying on a ring fence trade,

(c) any company that has at any time been associated with a company that was carrying on a ring fence trade at that time, and

(d) in the case of decommissioning expenditure incurred in connection with any plant or machinery, or any land, situated in the UK sector of a cross-boundary field, any company that is a party to a joint operating agreement or unitisation agreement in relation to that field.

(4) For the purposes of subsection (2)(b) the amount of tax relief in respect of any decommissioning expenditure is to be determined in accordance with the agreement; and in making such a determination tax relief in respect of expenditure incurred by the qualifying company that is not decommissioning expenditure may, in such circumstances as are specified in the agreement, be treated as if it were tax relief in respect of decommissioning expenditure.

(5) A payment made to a company under a decommissioning relief agreement is not to be regarded as income or a gain of the company for any purpose of the Tax Acts.

(6) Section 18(1) of CRCA 2005 (restriction on disclosure by Revenue and Customs officials) does not prevent—

(a) disclosure to a Minister of the Crown for the purpose of enabling the Minister of the Crown to determine the extent of any liability under a decommissioning relief agreement, or

(b) disclosure to a company that has rights under a decommissioning relief agreement for the purpose of enabling the company to determine the reference amount.

(7) In this section—

"company" has the meaning given by section 1121 of CTA 2010,

"cross-boundary field" has the meaning given by section 10(9) of the Petroleum Act 1998,

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"decommissioning expenditure" has the meaning given by section 81,

"Minister of the Crown" includes the Treasury,

"ring fence trade" has the same meaning as in Part 8 of CTA 2010 (see section 277 of that Act),

"the UK sector of a cross-boundary field" means that part of a cross-boundary field lying within the UK marine area (as defined by section 42 of the Marine and Coastal Access Act 2009), and

"unitisation agreement" has the meaning given by paragraph 1(2) of Schedule 17 to FA 1980.

(8) Subsections (8) to (9) of section 30 of the Petroleum Act 1998 (which specifies when one body corporate is associated with another) apply for the purposes of this section as they apply for the purposes of that section.

81 Meaning of "decommissioning expenditure"

(1) In section 80 "decommissioning expenditure" means expenditure incurred in connection with—

(a) demolishing any plant or machinery,

(b) preserving any plant or machinery pending its reuse or demolition,

(c) preparing any plant or machinery for reuse,

(d) arranging for the reuse of any plant or machinery, or

(e) the restoration of any land.

(2) It is immaterial for the purposes of subsection (1)(b) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.

(3) It is immaterial for the purposes of subsection (1)(c) and (d) whether the plant or machinery is in fact reused.

(4) In subsection (1)(e) "restoration" includes landscaping.

(5) The Treasury may by order amend this section.

(6) An order under subsection (5) may include transitional provision and savings.

(7) The power to make an order under subsection (5) is exercisable by statutory instrument.

(8) A statutory instrument containing an order under subsection (5) is subject to annulment in pursuance of a resolution of the House of Commons.

82 Annual report

(1) For each financial year the Treasury must prepare a report containing the information in subsection (2).

(2) The information is—

(a) the number of decommissioning relief agreements entered into in that year,

(b) the total number of decommissioning relief agreements in force at the end of that year,

(c) the number of payments made under any decommissioning relief agreements during that year, and the amount of each payment,

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(d) the total number of payments that have been made under any decommissioning relief agreements as at the end of that year, and the total amount of those payments, and

(e) an estimate of the maximum amount liable to be paid under any decommissioning relief agreements.

(3) The report for a financial year must be laid before the House of Commons as soon as is reasonably practicable after the end of that year.

(4) In this section "decommissioning relief agreement" has the same meaning as in section 80.

(5) This section has effect in relation to financial years ending on or after 31 March 2014.

83 Effect of claim on PRT

(1) This section applies where a sum is payable to a company ("the claimant") under a decommissioning relief agreement.

(2) Subsection (3) applies where the reference amount is calculated by reference to what the claimant's assessable profit in any chargeable period would be if any expenditure incurred by it were used to reduce its profit in a particular way (rather than in any way that it has in fact been used).

(3) For the purposes of petroleum revenue tax—

(a) the expenditure is treated as having been used to reduce the claimant's profit in that way (rather than in any way that it has in fact been used), and

(b) the claimant is treated as if it had received the tax relief it would receive if its profit were reduced in that way (so no repayment of tax is to be made by virtue of this subsection).

(4) Subsection (5) applies where the reference amount is calculated by reference to what any other company's assessable profit in any chargeable period would be if any expenditure incurred by the claimant—

(a) had been incurred by the other company, and

(b) were used to reduce the other company's profit in a particular way.

(5) For the purposes of petroleum revenue tax—

(a) the expenditure is treated as incurred by the other company (and not the claimant),

(b) the expenditure is treated as having been used by the other company to reduce its profit in that way, and

(c) the other company is treated as if it had received the tax relief it would receive if its profit were reduced in that way (so no repayment of tax is to be made by virtue of this subsection).

(6) In this section—

"assessable profit" and "chargeable period" have the same meaning as in Part 1 of OTA 1975,

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning relief agreement" has the same meaning as in section 80, and

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"the reference amount" means the reference amount (within the meaning of that section) that relates to the sum mentioned in subsection (1).

84 Terminal losses accruing by virtue of another's default

(1) This section applies where—

(a) a company defaults on a liability under—

(i) a relevant agreement, or

(ii) an abandonment programme,

to make a payment towards decommissioning expenditure in respect of an oil field,

(b) in consequence of the default, another company ("the other company") that has rights under a decommissioning relief agreement at the time of the default incurs decommissioning expenditure in respect of that oil field, and

(c) but for paragraph 15 of Schedule 17 to FA 1980 (terminal losses), a sum (or a sum of a greater amount) would be payable to the other company under the decommissioning relief agreement.

(2) Paragraph 15 of Schedule 17 to FA 1980 does not apply in relation to any allowable loss accruing to the other company from that oil field.

(3) Any allowable unrelievable field loss (within the meaning of section 6 of OTA 1975) that—

(a) consists of the unrelieved portion of an allowable loss within subsection (2), and

(b) would (in the absence of this subsection) arise as a result of subsection (2),

is not to be regarded as arising.

(4) Nothing in this section affects the operation of section 83(3) or (5).

(5) In this section—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning expenditure" has the same meaning as in section 80,

"decommissioning relief agreement" has the same meaning as in that section,

"oil field" has the same meaning as in OTA 1975,

"relevant agreement" has the meaning given by section 104(5)(a) of FA 1991, and

"unrelieved portion", in relation to an allowable loss, is to be read in accordance with section 6 of OTA 1975.

85 Claims under agreement not to affect oil allowance

(1) This section applies where—

(a) a company defaults on a liability under—

(i) a relevant agreement, or

(ii) an abandonment programme,

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to make a payment towards decommissioning expenditure in respect of an oil field,

(b) in consequence of the default, another company that has rights under a decommissioning relief agreement at the time of the default incurs decommissioning expenditure in respect of that oil field, and

(c) by virtue of section 83, any expenditure incurred by that company (whether or not that decommissioning expenditure) is treated as having been used by that company or any other company ("the affected company") to reduce its assessable profit in a chargeable period in a particular way.

(2) If, in the absence of section 83, the assessable profit accruing to the affected company from an oil field in that chargeable period would be reduced under section 8(1) of OTA 1975, the amount of the oil allowance for the oil field utilised by the affected company in that chargeable period for the purposes of section 8 of that Act is to be determined as if section 83 did not apply.

(3) In this section—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),

"company" has the meaning given by section 1121 of CTA 2010,

"decommissioning expenditure" has the same meaning as in section 80,

"decommissioning relief agreement" has the same meaning as in that section,

"oil field" has the same meaning as in OTA 1975, and

"relevant agreement" has the meaning given by section 104(5)(a) of FA 1991.

Decommissioning security settlements

86 Removal of IHT charges in respect of decommissioning security settlements

(1) In Chapter 3 of Part 3 of IHTA 1984 (settled property: settlements without interests in possession etc), section 58 (relevant property) is amended as follows.

(2) In subsection (1), omit the "and" at the end of paragraph (ea) and before paragraph (f) insert—

"(eb) property comprised in a decommissioning security settlement; and".

(3) At the end insert—

"(6) For the purposes of subsection (1)(eb) above a settlement is a "decommissioning security settlement" if the sole or main purpose of the settlement is to provide security for the performance of obligations under an abandonment programme.

(7) In subsection (6)—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised);

"security" has the same meaning as in section 38A of that Act."

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(4) This section is treated as having come into force on 20 March 1993.

(5) For the purposes of section 58 of IHTA 1984—

(a) any reference in that section to Part 4 of the Petroleum Act 1998 has effect, in relation to any period before the coming into force of that Part, as a reference to Part 1 of the Petroleum Act 1987, and

(b) section 38A of the Petroleum Act 1998 is to be treated as having come into force at the same time as this section.

(6) There is to be no charge to tax under section 65 of IHTA 1984 if the only reason for such a charge would be that property ceases to be relevant property by virtue of the coming into force of this section.

87 Loan relationships arising from decommissioning security settlements

(1) In Part 8 of CTA 2010 (oil activities), after section 287 insert—

"**287A Restriction where debits or credits relate to decommissioning security settlement**

(1) No debits or credits are to be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in respect of a company's loan relationship so far as the loan relationship is in respect of property comprised in a decommissioning security settlement.

(2) For the purposes of this section a settlement is a "decommissioning security settlement" if the sole or main purpose of the settlement is to provide security for the performance of obligations under an abandonment programme.

(3) In subsection (2)—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised), and

"security" has the same meaning as in section 38A of that Act."

(2) In section 464 of CTA 2009 (priority of Part 5 for corporation tax purposes), in subsection (3)(e), for "and 287" substitute " to 287A ".

(3) The amendments made by this section have effect in relation to accounting periods beginning on or after the day on which this Act is passed.

Decommissioning expenditure etc

88 Decommissioning expenditure taken into account for PRT purposes

(1) Section 330B of CTA 2010 (decommissioning expenditure taken into account for PRT purposes) is amended as follows.

(2) In subsection (1), omit the "and" at the end of paragraph (a) and after paragraph (b) insert ", and

(c) an amount equal to the appropriate fraction of the used-up amount of that expenditure is added under section 330A(2) in calculating the participator's adjusted ring fence profits for an accounting period."

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(3) For subsection (2) substitute—

"(2) In calculating for the purposes of section 330(1) the amount of the participator's adjusted ring fence profits for the accounting period, there is to be deducted the amount given by—

$$RP \times AF \times D$$

where—

RP is the relevant percentage of the decommissioning expenditure,

AF is the appropriate fraction, and

D is the PRT difference."

(4) In subsection (3)—

(a) before the definition of "the appropriate fraction" insert—

""the relevant percentage of the decommissioning expenditure" is the percentage of that expenditure that is the used-up amount referred to in subsection (1)(c),";

(b) in the definition of "the appropriate fraction", omit "relevant";

(c) in the definition of "the PRT difference", for "subsection (1)" substitute " subsection (1)(a) ".

(5) In subsection (4), for "subsection (1)" substitute " subsection (1)(a) ".

(6) In subsection (7)—

(a) omit the definition of "the relevant accounting period", and

(b) at the end insert—

""the used-up amount", in relation to any expenditure, has the same meaning as in section 330A (see subsection (3) of that section)."

(7) The amendments made by this section have effect in relation to expenditure incurred in connection with decommissioning carried out on or after the day on which this Act is passed.

89 Miscellaneous amendments relating to decommissioning

(1) Part 1 of Schedule 31 contains provision about expenditure on and under abandonment guarantees and abandonment expenditure.

(2) Part 2 of Schedule 31 contains provision about calculating the profits of a ring fence trade carried on by a person who incurs expenditure on meeting another person's decommissioning liabilities.

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Capital allowances

90 Expenditure on decommissioning onshore installations

(1) Section 163 of CAA 2001 (meaning of "general decommissioning expenditure") is amended as follows.

(2) In subsection (1)—

(a) the words after "if" become paragraph (a) of that subsection,

(b) in that paragraph, for "subsections (3) to (4)" substitute " subsections (3), (3A) and (4) ", and

(c) at the end of that paragraph insert ", or

(b) the conditions in subsections (3B) and (4) are met."

(3) After subsection (3A) insert—

"(3B) The expenditure must have been incurred on decommissioning plant or machinery—

(a) which has been brought into use wholly or partly for the purposes of a ring fence trade, and

(b) which—

(i) is, or forms part of, a relevant onshore installation, or

(ii) when last in use for the purposes of a ring fence trade, was, or formed part of, such an installation.

(3C) In subsection (3B) "relevant onshore installation" means any building or structure which—

(a) falls within any of sub-paragraphs (ii) to (iv) of section 3(4)(c) of OTA 1975,

(b) is not an offshore installation, and

(c) is or has been used for purposes connected with the winning of oil from an oil field any part of which lies within—

(i) the boundaries of the territorial sea of the United Kingdom, or

(ii) an area designated under section 1(7) of the Continental Shelf Act 1964."

(4) In subsection (5)(a), for " "oil field" has" substitute " "oil" and "oil field" have".

(5) The amendments made by this section have effect in relation to expenditure incurred on decommissioning carried out on or after the day on which this Act is passed.

91 Expenditure on decommissioning certain redundant plant or machinery

(1) In section 164 of CAA 2001 (general decommissioning expenditure incurred before cessation of ring fence trade), after subsection (1B) insert—

"(1C) If the plant or machinery concerned is incidentally-acquired redundant plant or machinery (see subsection (1D)), it is to be regarded for the purposes of this section as having been brought into use for the purposes of the ring fence trade.

(1D) Plant or machinery is "incidentally-acquired redundant plant or machinery" if—

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(a) it has not been brought into use for the purposes of the ring fence trade,

(b) it forms part of a relevant installation (see subsection (1E)) which has been brought into use for the purposes of the ring fence trade,

(c) at the time R acquired an interest in the relevant installation, the plant or machinery was not being used for any purposes, and

(d) the acquisition of the interest in the plant or machinery was merely incidental to the acquisition of the interest in the relevant installation.

(1E) For the purposes of subsection (1D)—

"relevant installation" means—

(a) an offshore installation,

(b) a submarine pipeline, or

(c) a relevant onshore installation;

"offshore installation" and "submarine pipeline" have the same meaning as in Part 4 of the Petroleum Act 1998;

"relevant onshore installation" has the meaning given by section 163(3C)."

(2) The amendment made by this section has effect in relation to expenditure incurred on decommissioning carried out on or after the day on which this Act is passed.

92 Expenditure on site restoration

(1) Part 5 of CAA 2001 (mineral extraction allowances) is amended as follows.

(2) In section 395 (qualifying expenditure), in subsection (1)(d), omit "post-trading".

(3) In section 403 (qualifying expenditure on acquiring a mineral asset), after subsection (2) insert—

"(2A) For the purposes of this section the reference to expenditure on acquiring a mineral asset does not include expenditure incurred on the restoration of a relevant site (within the meaning of section 416 or 416ZA)."

(4) In section 416 (expenditure on restoration within 3 years of ceasing to trade)—

(a) in subsections (1)(a) and (6)(a), before "mineral extraction trade" insert " relevant ";

(b) in subsection (5), at the end insert—

"But it does not include decommissioning any plant or machinery (within the meaning of section 163).";

(c) after subsection (7) insert—

"(7A) Relevant mineral extraction trade" means a mineral extraction trade that is not a ring fence trade within the meaning of Part 8 of CTA 2010 (see section 277 of that Act).";

(d) the heading of section 416 becomes " **Non-ring fence trades: expenditure on restoration within 3 years of ceasing to trade** ".

(5) In Chapter 5, after section 416 insert—

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"**416ZA Ring fence trades: expenditure on site restoration**

(1) If—

(a) a person who is carrying on, or has ceased to carry on, a ring fence trade incurs expenditure on the restoration of a relevant site,

(b) that part of the restoration work to which the expenditure relates has been carried out, and

(c) the expenditure has not been deducted in calculating for tax purposes the profits of any trade carried on by the person,

the net cost of the restoration is qualifying expenditure for the relevant period in which that part of the work to which the expenditure relates was carried out.

(2) "Relevant period" means—

(a) in the case of restoration work carried out while the person is carrying on the trade, a chargeable period, and

(b) in the case of restoration work carried out after the person has ceased to carry on the trade, a notional accounting period.

For the meaning of "notional accounting period", see section 416ZB.

(3) The qualifying expenditure for a notional accounting period is treated as incurred on the last day of trading.

(4) If the amount of expenditure incurred on any part of the restoration work carried out in a relevant period is disproportionate to that part of the restoration work, only so much of the net cost of the restoration as is proportionate to that part of the restoration work (the "allowable expenditure for the period") is to be treated as qualifying expenditure for that period.

(5) But subsection (4) does not prevent that part of the expenditure that is not allowable expenditure for the period from being treated as qualifying expenditure for a subsequent relevant period.

(6) If any expenditure incurred by a person is qualifying expenditure under this section—

(a) the whole of the expenditure on the restoration (not just the net cost) is not deductible in calculating the person's income for any tax purposes, and

(b) none of the amounts subtracted to produce the net cost is to be treated as the person's income for any tax purposes.

(7) "Restoration" includes—

(a) landscaping,

(b) in relation to land in the United Kingdom, the carrying out of any works required as a condition of granting planning permission for development relating to the winning of oil from an oil field,

(c) in relation to land in the UK marine area, the carrying out of any works required in order to comply with—

(i) an approved abandonment programme,

(ii) a condition to which the approval of an abandonment programme is subject, or

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(iii) a requirement imposed by the Secretary of State, or an agreement made with the Secretary of State, in relation to a relevant site, and

(d) in relation to land in a foreign sector of the continental shelf, the carrying out of any works required in order to comply with anything corresponding to a matter within paragraph (c)(i), (ii) or (iii) under the law of a territory outside the United Kingdom.

But it does not include decommissioning any plant or machinery (within the meaning of section 163).

(8) A "relevant site" means—

(a) the site of a source to the working of which the ring fence trade relates (or related), or

(b) land used in connection with working such a source.

(9) "The net cost of the restoration" means the expenditure incurred on the restoration less any amounts that—

(a) are received, or are to be received, by the person, and

(b) are attributable to the restoration of the relevant site.

(10) All such adjustments are to be made, by way of discharge or repayment of tax or otherwise, as are necessary to give effect to this section.

(11) In this section—

"abandonment programme", "approval" and "approved" (in relation to an abandonment programme) have the same meaning as in Part 4 of the Petroleum Act 1998,

"foreign sector of the continental shelf" means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a territory outside the United Kingdom,

"oil" and "oil field" have the same meaning as in Part 1 of OTA 1975,

"ring fence trade" has the same meaning as in Part 8 of CTA 2010 (see section 277 of that Act), and

"UK marine area" has the meaning given by section 42 of the Marine and Coastal Access Act 2009.

416ZB "Notional accounting period"

(1) For the purposes of section 416ZA "notional accounting period", in relation to a person ("the former trader") who has ceased to carry on a ring fence trade, means each of the following periods—

(a) the period that—

(i) begins with the day following the last day on which the former trader carried on the ring fence trade, and

(ii) ends with the day on which the first termination event subsequently occurs, and

(b) each period that—

(i) begins with the day following the last day of a period determined under paragraph (a) or this paragraph, and

(ii) ends with the day on which the first termination event subsequently occurs.

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(2) But there are to be no notional accounting periods after the end of the post-cessation period (see subsection (4)).

(3) "Termination event", in relation to a notional accounting period, means each of the following—

(a) the end of the period of 12 months beginning with the first day of the notional accounting period,

(b) the occurrence of an accounting date of the former trader or, if there is a period for which the former trader does not make up accounts, the end of that period (but see subsections (6) and (7)), and

(c) the end of the post-cessation period.

(4) "The post-cessation period" means the period that—

(a) begins with the day following the last day on which the former trader carried on the ring fence trade, and

(b) ends with the day on which the appropriate authority is satisfied that the restoration of the relevant site has been completed.

(5) In subsection (4) "the appropriate authority" means—

(a) in the case of restoration falling within section 416ZA(7)(c), the Secretary of State, and

(b) in any other case, such person or body as the Commissioners for Her Majesty's Revenue and Customs may specify.

(6) If the former trader—

(a) carries on more than one trade,

(b) makes up accounts of any of them to different dates, and

(c) does not make up general accounts for the whole of the former trader's activities,

subsection (3)(b) applies with reference to the accounting date of such one of the trades as the former trader may determine.

(7) If the Commissioners for Her Majesty's Revenue and Customs are of the opinion, on reasonable grounds, that a date determined by the former trader for the purposes of subsection (6) is inappropriate, the Commissioners may by notice direct that the accounting date of such other of the trades referred to in that subsection as appears to the Commissioners to be appropriate is to be used instead.

(8) Expressions used in this section and in section 416ZA have the same meaning in this section as they do in that section."

(6) In section 416B (first-year qualifying expenditure), in subsection (2), at the end insert " (within the meaning of section 403) ".

(7) Part 4 of CTA 2010 (loss relief) is amended as follows.

(8) In section 40 (ring fence trades: extension of periods for which relief may be given), in subsection (1)(b), for "403" substitute " by virtue of section 416ZA ".

(9) In section 43 (claim period in case of ring fence or mineral extraction trades), in subsection (1)(b)—

(a) after "416" insert " or 416ZA ", and

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(b) for the words from "restoration" to "trade" substitute " site restoration ".

(10) The amendments made by this section have effect in relation to expenditure incurred on restoration carried out on or after the day on which this Act is passed.

93 Restrictions on allowances for certain oil-related expenditure

Schedule 32 contains provision in connection with restrictions on allowances for certain oil-related expenditure.

PART 3

ANNUAL TAX ON ENVELOPED DWELLINGS

Modifications etc. (not altering text)
C1 Pt. 3 applied (17.7.2014) by Finance Act 2014 (c. 26), s. 223(8)(9)(e)
C2 Pt. 3 modified (temp.) (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 24 para. 2**

The charge to tax

94 Charge to tax

(1) A tax (called "annual tax on enveloped dwellings") is to be charged in accordance with this Part.

(2) Tax is charged in respect of a chargeable interest if on one or more days in a chargeable period—

(a) the interest is a single-dwelling interest and has a taxable value of more than **[**[F16]£500,000**]**, and

(b) a company, partnership or collective investment scheme meets the ownership condition with respect to the interest.

(3) The tax is charged for the chargeable period concerned.

(4) A company meets the ownership condition with respect to a single-dwelling interest on any day on which the company is entitled to the interest (otherwise than as a member of a partnership or for the purposes of a collective investment scheme).

(5) A partnership meets the ownership condition with respect to a single-dwelling interest on any day on which a member of the partnership that is a company is entitled to the interest (as a member of the partnership).

(6) A collective investment scheme meets the ownership condition with respect to a single-dwelling interest on any day on which the interest is held for the purposes of the scheme.

(7) If a company is jointly entitled to a chargeable interest (as a member of a partnership or otherwise), then regardless of whether the company is entitled as a joint tenant or tenant in common (or, in Scotland, as a joint owner or owner in common) the ownership condition is regarded as met in relation to the whole chargeable interest.

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(8) The chargeable periods are—

(a) the period beginning with 1 April 2013 and ending with 31 March 2014, and

(b) each subsequent period of 12 months beginning with 1 April.

(9) See also section 95.

Textual Amendments

F16 Words in s. 94(2)(a) substituted (1.4.2016) (with effect in accordance with s. 110(4) of the amending Act) by Finance Act 2014 (c. 26), **s. 110(2)**

95 Entitlement to interests

(1) In this Part "entitled" means beneficially entitled—

(a) whether solely or jointly with another person, and

(b) whether as a member of a partnership or otherwise.

This is subject to subsection (2).

(2) References in this Part to entitlement to a single-dwelling interest (or any other chargeable interest) do not include—

(a) entitlement in the capacity of a trustee or personal representative, or

(b) entitlement as a beneficiary under a settlement.

(3) Subsection (1)(b) does not apply where the contrary is specified.

(4) In this section "settlement" has the same meaning as in Part 4 of FA 2003 (see paragraph 1 of Schedule 16 to that Act).

96 Person liable

(1) The chargeable person is liable to pay tax charged under this Part.

(2) "The chargeable person" means—

(a) in relation to tax charged by virtue of section 94(4), the company;

(b) in relation to tax charged by virtue of section 94(5), the responsible partners.

(3) In relation to tax charged by virtue of section 94(6) "the chargeable person" means—

(a) if the collective investment scheme is a unit trust scheme, the trustee of the scheme;

(b) if the collective investment scheme is an open-ended investment company, the body corporate referred to in section 236(2) of the Financial Services and Markets Act 2000;

(c) in relation to an EEA UCITS which is not an open-ended investment company or unit trust scheme, the management company for that UCITS;

(d) in any other case, the person who has day-to-day control over the management of the property subject to the scheme.

(4) The liability of the responsible partners to pay tax charged on them under this Part is joint and several.

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(5) References in this section to "the responsible partners" are to all the persons who are members of the partnership concerned on the first day in the chargeable period on which the partnership meets the ownership condition with respect to the single-dwelling interest.

(6) Tax charged under this Part is said to be "charged on" the chargeable person (and that person is said to be "chargeable to" the tax).

97 Liability of persons jointly entitled

(1) Subsection (2) applies if—

(a) a company is within the charge for a chargeable period with respect to a single-dwelling interest by virtue of section 96(2)(a), and

(b) one or more other persons are jointly entitled to the interest on the first day in that period on which the company is within the charge with respect to it.

(2) The company and the other person or persons are jointly and severally liable for the tax charged for that period with respect to the interest (whether or not those other persons are also within the charge with respect to the interest on the day in question).

(3) Subsection (4) applies if—

(a) a company that is a member of a partnership is entitled (as a member of the partnership) to a single-dwelling interest on a day in a chargeable period, and

(b) as a result, the responsible partners are within the charge with respect to the interest for the period.

(4) If, on the first day in the chargeable period on which the responsible partners are within the charge a person ("P") who is not one of the responsible partners is jointly entitled to the chargeable interest, P and the responsible partners are jointly and severally liable for the tax charged for the period with respect to the interest (whether or not P is also within the charge with respect to the interest on the day in question).

98 Collective investment schemes: liability for and collection of tax

(1) Subsection (2) applies where tax is charged for a chargeable period with respect to a single-dwelling interest by virtue of section 94(6).

(2) The persons who are major participants in the scheme on the first day of the chargeable period on which the chargeable person is within the charge with respect to the interest are jointly and severally liable with the chargeable person for the tax charged.

(3) Subsection (2) does not permit the recovery from a major participant of an amount exceeding the market value of the participant's holding in the scheme.

(4) The reference in subsection (3) to a participant's holding in a collective investment scheme is to the interests or rights by virtue of which the participant takes part in the scheme.

(5) Tax chargeable by virtue of section 94(6) may be recovered from the depositary (if any) of a collective investment scheme, but only up to the amount or value of any money or other property subject to the scheme that has been entrusted to the depositary for safekeeping.

(6) The depositary—

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(a) may retain out of any money entrusted to it as mentioned in subsection (5) enough money to pay that tax, and

(b) is entitled to be fully reimbursed by the participants in the scheme (by that method or another) for amounts recovered under subsection (5).

(7) In this section—

(a) "depositary", in relation to a collective investment scheme (other than a unit trust scheme), has the meaning given by section 237(2) of the Financial Services and Markets Act 2000;

(b) "major participant", in relation to a collective investment scheme, is to be read in accordance with section 136(4);

(c) "participant", in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000.

(8) For the purposes of this Part "market value" is to be determined as for the purposes of TCGA 1992 (see, particularly, section 272 of that Act).

99 Amount of tax chargeable

(1) The amount of tax charged for a chargeable period with respect to a single-dwelling interest is stated in subsection (2) or (3).

(2) If the chargeable person is within the charge with respect to the single-dwelling interest on the first day of the chargeable period, the amount of tax charged is equal to the annual chargeable amount.

(3) Otherwise, the amount of tax charged is equal to the relevant fraction of the annual chargeable amount.

(4) The annual chargeable amount for a single-dwelling interest and a chargeable period is determined in accordance with the following table, by reference to the taxable value of the interest on the relevant day.

Annual chargeable amount	***Taxable value of the interest on the relevant day***
[F17£3,500	More than £500,000 but not more than £1 million.**]**
[F18£7,000	More than £1 million but not more than £2 million.**]**
[F19£23,350	More than £2 million but not more than £5 million.**]**
[F19£54,450	More than £5 million but not more than £10 million.**]**
[F19£109,050	More than £10 million but not more than £20 million.**]**
[F19£218,200	More than £20 million.**]**

(5) The "relevant day" is—

(a) for the purposes of subsection (2), the first day of the chargeable period;

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(b) for the purposes of subsection (3), the first day in the chargeable period on which the chargeable person is within the charge with respect to the interest.

(6) The relevant fraction is—

$$\frac{N}{Y}$$

where—

"N" is the number of days from (and including) the relevant day to the end of the chargeable period;

"Y" is the number of days in the chargeable period.

(7) See also—

(a) section 100 (interim relief), and

(b) section 106 (adjustment of amount chargeable).

Textual Amendments

F17 Words in s. 99(4) inserted (1.4.2016) (with effect in accordance with s. 110(4) of the amending Act) by Finance Act 2014 (c. 26), **s. 110(3)**

F18 Words in s. 99(4) inserted (1.4.2015) (with effect in accordance with s. 109(4) of the amending Act) by Finance Act 2014 (c. 26), **s. 109(3)**

F19 Words in s. 99(4) substituted (with effect in accordance with s. 70(2) of the amending Act) by Finance Act 2015 (c. 11), **s. 70(1)**

100 Interim relief

(1) Where tax is charged for a chargeable period with respect to a single-dwelling interest, the chargeable person may claim relief before the end of the chargeable period if—

(a) one or more days in the period is relievable with respect to the interest (by virtue of any of sections 133 to 150),

(b) one or more days in the chargeable period (after the first day in the period on which the chargeable person is within the charge with respect to the interest) are days on which the chargeable person is not within the charge with respect to the interest, or

(c) the taxable value of the single-dwelling interest on the first day in the chargeable period on which the chargeable person is within the charge with respect to the interest is higher than its taxable value on a later day in the chargeable period on which the chargeable person remains within the charge with respect to the interest.

(2) Relief under this section is called "interim relief", and must be claimed—

(a) in an annual tax on enveloped dwellings return, or

(b) by amending such a return.

(3) Where interim relief is claimed under this section, section 163(1) (payment of tax by filing date for annual tax on enveloped dwellings return) has effect as if the amount

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of tax charged with respect to the single-dwelling interest were the sum of amounts A and B.

(4) Amount A is the total of all the daily amounts for days in the pre-claim period on which the chargeable person is within the charge with respect to the single-dwelling interest, other than days that are relievable with respect to the single-dwelling interest.

(5) Amount B is zero if—

(a) the day of the claim is relievable with respect to the single-dwelling interest by virtue of any of sections 133 to 150, or

(b) the chargeable person is not within the charge with respect to the single-dwelling interest on the day of the claim.

(6) Otherwise, amount B is the appropriate fraction of the annual chargeable amount for the single-dwelling interest.

For this purpose the annual chargeable amount is determined (under section 99(4)) on the basis that the day of the claim is the relevant day.

(7) In subsection (6) "appropriate fraction" means—

$$\frac{X}{Y}$$

where—

"X" is the number of days in the period beginning with the day of the claim and ending at the end of the chargeable period, and

"Y" is the number of days in the chargeable period.

(8) In this section—

"day of the claim" means the day on which the return mentioned in subsection (2)(a), or notice of the amendment made under subsection (2)(b), is delivered to HMRC;

"pre-claim period" means the period—

(a) beginning with the first day in the chargeable period mentioned in subsection (1) on which the chargeable person is within the charge with respect to the single-dwelling interest, and

(b) ending with the day before the day of the claim.

(9) See sections 105 and 106 for provision about the adjustment of the amount of tax charged.

101 Indexation of annual chargeable amounts

(1) If the consumer prices index for September in 2013 or any later year ("the later year") is higher than it was for the previous September, section 99(4) applies in relation to chargeable periods beginning on or after 1 April in the year after the later year with the following amendments.

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(2) For each of the annual chargeable amounts stated in the table in section 99(4) (as it applies in relation to chargeable periods beginning in the previous 12 months) there is substituted the indexed amount.

(3) "The indexed amount" is found by—

(a) increasing the previous amount by the same percentage increase as the percentage increase in the consumer prices index, and

(b) rounding down the result to the nearest multiple of £50.

(4) In this section "consumer prices index" means the all items consumer prices index published by the Statistics Board.

(5) The Treasury must, before 1 April 2014 and before each subsequent 1 April, make an order stating the amounts that by virtue of this section are to be the annual chargeable amounts for chargeable periods beginning on or after that date.

Modifications etc. (not altering text)

C3 S. 101(1) excluded (26.3.2015) by Finance Act 2015 (c. 11), **s. 70(3)**

C4 S. 101(5) modified (26.3.2015) by Finance Act 2015 (c. 11), **s. 70(4)**

102 Taxable value

(1) The taxable value of a single-dwelling interest on any day ("the relevant day") is equal to its market value at the end of the latest day that—

(a) falls on or before that day, and

(b) is a valuation date in the case of that interest.

(2) Each of the following is a valuation date in the case of any single-dwelling interest—

(a) 1 April 2012;

(b) each 1 April falling 5 years, or a multiple of 5 years, after 1 April 2012.

[F20(2A) But a day that is a valuation date only because of subsection (2)(b) (a "5-yearly valuation date") is to be treated as if it were not a valuation date for the purpose of determining the taxable value of a single-dwelling interest on any day in the chargeable period beginning with that 5-yearly valuation date.**]**

(3) The following are also valuation dates in the case of any single-dwelling interest to which a company is entitled on the relevant day (otherwise than as a member of a partnership)—

(a) the effective date of any substantial acquisition by the company of a chargeable interest in or over the dwelling concerned;

(b) the effective date of any substantial disposal of part (but not the whole) of the single-dwelling interest.

(4) The following are also valuation dates in the case of any single-dwelling interest to which a company is entitled on the relevant day as a member of a partnership—

(a) the effective date of any substantial acquisition as a result of which a chargeable interest in or over the dwelling concerned became an asset of the partnership,

(b) the effective date of any substantial disposal of part (but not the whole) of the single-dwelling interest.

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(5) The following are also valuation dates in the case of any single-dwelling interest that is on the relevant day held for the purposes of a collective investment scheme—

(a) the effective date of any substantial acquisition, made for the purposes of the scheme, of a chargeable interest in or over the dwelling concerned;

(b) the effective date of any substantial disposal of part (but not the whole) of the single-dwelling interest.

(6) In this section references to a disposal of part of a single-dwelling interest include the grant of a chargeable interest out of the single-dwelling interest.

(7) The grant of an option does not count as the grant of a chargeable interest for the purposes of subsection (6).

Textual Amendments

F20 S. 102(2A) inserted (26.3.2015) by Finance Act 2015 (c. 11), **s. 71**

103 Section 102: "substantial" acquisitions and disposals

(1) For the purposes of section 102—

(a) the acquisition of a chargeable interest in a dwelling is a "substantial acquisition" only if the chargeable consideration for the acquisition is £40,000 or more;

(b) the disposal of part (but not the whole) of a single-dwelling interest is a "substantial disposal" only if the chargeable consideration for the acquisition of the chargeable interest by the person acquiring it is £40,000 or more.

(2) If the acquisition mentioned in subsection (1)(a) is a transaction between persons who are connected with each other or not acting at arm's length, subsection (1)(a) applies as if the reference to the chargeable consideration for the acquisition were to the market value of the chargeable interest acquired.

(3) If the disposal mentioned in subsection (1)(b) is a transaction between persons who are connected with each other or not acting at arm's length, subsection (1)(b) applies as if the reference to the chargeable consideration for the acquisition in question were to the market value of the part of the single-dwelling interest disposed of.

(4) The chargeable consideration for the acquisition mentioned in subsection (1)(a) is taken to include the chargeable consideration for any linked acquisition of a chargeable interest in or over the same dwelling.

(5) The chargeable consideration for the transaction mentioned in subsection (1)(b) is taken to include the chargeable consideration for any linked disposal of part (but not the whole) of the single-dwelling interest concerned.

(6) For the purposes of subsection (2) the market value of the chargeable interest acquired is taken to be the sum of the market values of that chargeable interest and any chargeable interest in or over the same dwelling that is acquired in a linked transaction.

(7) For the purposes of subsection (3) the market value of the part of the single-dwelling interest disposed of is taken to be the sum of the market values of that chargeable interest and any chargeable interest in or over the same dwelling that is disposed of in a linked transaction.

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(8) For the purposes of this section two or more transactions are "linked" if they form part of a single scheme, arrangement or series of transactions between the same vendor and purchaser or, in either case, persons connected with them.

(9) In this section "chargeable consideration", "purchaser" and "vendor" have the same meaning as in Part 4 of FA 2003.

(10) In this section references to a disposal of part of a single-dwelling interest include the grant of a chargeable interest out of the single-dwelling interest.

104 No double charge

Tax in respect of a given single-dwelling interest is charged only once for any chargeable day even if more than one person is "the chargeable person" with respect to the tax charged.

Adjustment of amount charged

105 "Adjusted chargeable amount"

(1) In relation to a person on whom tax is charged for a chargeable period with respect to a single-dwelling interest, the "adjusted chargeable amount" is the total of the daily amounts for all the days in the period on which the chargeable person is within the charge with respect to the interest.

(2) The daily amount for any such day ("the actual day") is—

$$\frac{1}{Y} \times A$$

where—

"Y" is the number of days in the chargeable period;

"A" is the annual chargeable amount for the single-dwelling interest, determined (under section 99(4)) on the basis that the actual day is the relevant day.

106 Adjustment of amount chargeable

(1) Where tax is charged for a chargeable period with respect to a single-dwelling interest and the adjusted chargeable amount is greater than the initial charged amount, the amount of tax charged is taken to be increased to the adjusted chargeable amount.

(2) In this section "the initial charged amount" means the amount of tax charged under section 99 for the period in respect of the interest.

(3) Subsection (4) applies where—

(a) tax is charged for a chargeable period with respect to a single-dwelling interest,

(b) the adjusted chargeable amount is less than the initial charged amount, and

(c) a claim for relief is made under this subsection.

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(4) The amount of tax charged for the period with respect to the interest is taken to be reduced (at the end of the chargeable period) to the adjusted chargeable amount.

(5) Relief under subsection (3) must be claimed—

(a) in an annual tax on enveloped dwellings return, or

(b) by amending an annual tax on enveloped dwellings return.

(6) The claim must be delivered by the end of the chargeable period following the one to which the claim relates.

(7) Relief under subsection (3) may be given by repayment of tax or otherwise.

(8) See also section 160 (return of adjusted amount chargeable); and see section 163(2) for provision about payment of additional tax by reference to the adjusted chargeable amount.

Chargeable interests and "single-dwelling interest"

107 Chargeable interests

(1) In this Part "chargeable interest" means—

(a) an estate, interest, right or power in or over land in the United Kingdom, or

(b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.

(2) Where two or more persons are jointly entitled to a chargeable interest the chargeable interest is not regarded, for the purposes of this Part, as consisting of separate interests corresponding to the shares (if any) that those persons have by virtue of their joint entitlement.

(3) An exempt interest is not a chargeable interest for the purposes of this Part.

(4) The following are exempt interests—

(a) any security interest;

(b) a licence to use or occupy land;

(c) in England and Wales or Northern Ireland, a tenancy at will.

(5) In subsection (4) "security interest" means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any other obligation.

(6) In the application of this Part in Scotland the reference in subsection (5) to a rentcharge is to be read as a reference to a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000 (asp 5).

(7) The Treasury may by regulations provide that any other description of interest or right in or over a dwelling is an exempt interest.

108 Meaning of "single-dwelling interest"

(1) References in this Part to a "single-dwelling interest" are to be read in accordance with this section.

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(2) A chargeable interest that is exclusively in or over land consisting (on any day) of a single dwelling is a single-dwelling interest (on that day).

(3) Where a person is entitled to a chargeable interest that is exclusively in or over land consisting (on any day) of two or more single dwellings—

(a) provisions referring to a "single-dwelling interest" operate as if the person had (on that day) a separate chargeable interest in or over each dwelling, and

(b) the chargeable interest in or over each dwelling is therefore a single-dwelling interest.

(4) Where a person is entitled to a chargeable interest in or over land that on any day consists of one or more single dwellings and non-residential land—

(a) provisions referring to a "single-dwelling interest" operate as if the person had (on that day) a separate chargeable interest in or over each dwelling and a further separate chargeable interest in or over the non-residential land, and

(b) the chargeable interest in or over each dwelling is therefore a single-dwelling interest.

(5) A single-dwelling interest is referred to as a single-dwelling interest "in" the dwelling concerned.

(6) A single-dwelling interest in one dwelling is distinct from any single-dwelling interest in another dwelling, even if the dwellings stand successively on the same land.

(7) In this section—

(a) "non-residential land" means land that is not a dwelling or part of a dwelling;

(b) references to a dwelling include a part of a dwelling.

109 Different interests held in the same dwelling

(1) Subsection (2) applies if on one or more days in a chargeable period—

(a) a company is entitled to two or more single-dwelling interests in the same dwelling, or

(b) two or more single-dwelling interests in the same dwelling are held for the purposes of the same collective investment scheme.

(2) This Part has effect with respect to that chargeable period as if those separate interests constituted just one single-dwelling interest, the taxable value of which on any day is the sum of the taxable values of the separate interests.

(3) In calculating the taxable values of the separate interests for the purposes of subsection (2), the market value of each interest is determined, under the provisions of TCGA 1992 applied by section 98(8), on the assumption that the other interest or interests are placed on the open market with that interest (on the valuation date appropriate to that interest).

110 Interests held by connected persons

(1) If on any day **[**F21("the relevant day") **]** a company ("C") is entitled to a single-dwelling interest in a dwelling and another person ("P") who is connected with C is entitled to a different single-dwelling interest in the same dwelling, this Part has effect—

(a) in relation to C as if C were on that day entitled to P's single-dwelling interest as well as C's single-dwelling interest, and

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(b) (if P is a company) in relation to P as if P were on that day entitled to C's single-dwelling interest as well as P's single-dwelling interest.

(2) This subsection provides for an exception to subsection (1).

Where P is an individual, C is not treated [F22]... as entitled to P's single-dwelling interest **[**[F23] on the relevant day**]** unless on that day C is entitled to a single-dwelling interest in the dwelling that is a freehold or leasehold interest with a taxable value of more than **[**[F24]£250,000**]**.

[[F25](2A) Subsection (2B) applies in any case where—

(a) C would (without subsection (2B)) be treated, as a result of subsection (1) (read with section 109), as entitled to a single-dwelling interest with a taxable value (on the relevant day) of more than £2 million, but

(b) C would not be so treated if the value specified in subsection (2) were £500,000 (instead of £250,000).

(2B) Subsection (2) has effect as if the value specified in it were £500,000 (instead of £250,000).**]**

(3) If on any day a single-dwelling interest ("the scheme interest") is held for the purposes of a collective investment scheme and a person ("P") who is connected with the scheme is entitled to a different single-dwelling interest in the same dwelling, this Part has effect—

(a) in relation to the scheme, as if both those separate interests were on that day held for the purposes of the scheme, and

(b) (if P is a company) in relation to P as if P were on that day entitled to the scheme interest as well as P's single-dwelling interest.

(4) If on any day a single-dwelling interest in a dwelling is held for the purposes of a collective investment scheme ("the first scheme") and another interest in the same dwelling is held for the purposes of another collective investment scheme ("the second scheme") that is connected with the first scheme, this Part has effect—

(a) in relation to the first scheme, as if both the interests were held on that day for the purposes of that scheme, and

(b) in relation to the second scheme, as if both interests were held on that day for the purposes of that scheme.

(5) See also—

(a) section 97, for provision about the liability to tax of persons treated under this section (read with section 104) as jointly entitled to a single-dwelling interest;

(b) paragraph 55 of Schedule 33, for provision about returns in cases involving joint entitlement.

(6) The provisions mentioned in subsection (5) are to be read as including corresponding provision for cases where the same single-dwelling interest is treated under this section as held—

(a) for the purposes of different collective investment schemes, or

(b) by a company and for the purposes of a collective investment scheme.

(7) In the application of this section to Scotland—

(a) the reference to a freehold interest is to the interest of the owner;

(b) the reference to a leasehold interest is to a tenant's right over or interest in property subject to a lease.

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Textual Amendments

F21 Words in s. 110(1) inserted (with effect in accordance with s. 72(5) of the amending Act) by Finance Act 2015 (c. 11), **s. 72(2)**

F22 Words in s. 110(2) omitted (with effect in accordance with s. 72(5) of the amending Act) by virtue of Finance Act 2015 (c. 11), **s. 72(3)(a)**

F23 Words in s. 110(2) inserted (with effect in accordance with s. 72(5) of the amending Act) by Finance Act 2015 (c. 11), **s. 72(3)(b)**

F24 Word in s. 110(2) substituted (with effect in accordance with s. 72(5) of the amending Act) by Finance Act 2015 (c. 11), **s. 72(3)(c)**

F25 S. 110(2A)(2B) inserted (with effect in accordance with s. 72(5) of the amending Act) by Finance Act 2015 (c. 11), **s. 72(4)**

111 Different interests held in the same dwelling: effect of reliefs etc

(1) References in section 110 to a person do not include—

(a) a public body, as defined in section 153,

(b) a body listed in section 154(2) (bodies established for national purposes).

(2) Subsections (1) to (4) of section 110 do not apply in relation to a single-dwelling interest if—

(a) the day in question is relievable with respect to that interest by virtue of section 150 (providers of social housing),

(b) by virtue of section 151 (charitable companies) the ownership condition is regarded as not met with respect to the interest on that day, or

(c) the taxable value of the interest on that day is taken to be zero by virtue of section 155 (dwelling conditionally exempt from inheritance tax).

(3) Subsection (4) applies where the separate interests (the "relevant interests") that under section 110 (or that section and section 109) are treated as constituting, on a day, just one single-dwelling interest ("the combined interest") include—

(a) a freehold or leasehold interest, and

(b) a leasehold interest ("the inferior interest") granted out of that interest.

(4) If the inferior interest is the most inferior relevant interest, the combined interest, and the dwelling itself (where relevant), are regarded for the purposes of the relevant relieving provisions as being exploited, on the day mentioned in subsection (3), in the way the inferior interest is exploited on that day.

(5) If the inferior interest is an interest in part only ("the sub-let part") of the land that is the subject-matter of the combined interest, subsection (4) has effect in relation to the combined interest only so far as that interest relates to the sub-let part.

(6) In this section "the relevant relieving provisions" means sections 132 to 150.

(7) The inferior interest counts as "the most inferior relevant interest" if no relevant interest (see subsection (3)) is a leasehold interest granted out of it.

(8) In this section the reference to a leasehold interest includes the interest of a lessee under an agreement for a lease.

(9) In the application of this section to Scotland—

(a) the reference to a freehold interest is to the interest of the owner;

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(b) the reference to a leasehold interest is to a tenant's right over or interest in property subject to a lease;
(c) the reference to an agreement for lease includes missives of let.

Meaning of "dwelling"

112 Meaning of "dwelling"

(1) A building or part of a building counts as a dwelling at any time when—
(a) it is used or suitable for use as a single dwelling, or
(b) it is in the process of being constructed or adapted for such use.

(2) Land that is, or is at any time intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling at that time.

(3) Land that subsists, or is at any time intended to subsist, for the benefit of a dwelling is taken to be part of the dwelling at that time.

(4) A building, or part of a building, used for a purpose specified in section 116(2) or (3) of FA 2003 is not used as a dwelling for the purposes of subsection (1).

(5) Where a building, or part of a building, is used for a purpose mentioned in subsection (4), no account is to be taken for the purposes of subsection (1) of its suitability for any other use.

(6) If a building or part of a building becomes temporarily unsuitable for use as a dwelling for any reason (including accidental damage, repairs or any other physical change to the building or its environment), that temporary unsuitability is ignored in determining whether or not the building or part of a building is, during the period in question, a dwelling for the purposes of this Part.

This subsection does not affect any of the provisions in sections 126 to 131.

113 Substantial performance of "off plan" purchase

(1) Subsection (2) applies where—
(a) a contract is entered into for the acquisition of a chargeable interest in or over land that consists of or includes a building, or part of a building, that is to be constructed or adapted for use as a single dwelling,
(b) substantial performance is treated as constituting the acquisition of the chargeable interest (under section 122), and
(c) construction or adaptation of the building, or the part of a building, has not begun by the time the contract is substantially performed.

(2) The chargeable interest deemed to be acquired as mentioned in subsection (1)(b) is taken to be in or over land that consists of or (as appropriate) includes a dwelling.

(3) If at any time after the substantial performance of the contract the obligation under the contract to carry out the construction or adaptation ceases to have effect without the construction or adaptation having been begun, subsection (2) ceases to apply at that time.

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(4) A building or part of a building used for a purpose specified in section 116(2) or (3) of FA 2003 is not used as a dwelling for the purposes of subsection (1).

(5) In this section—

"contract" includes any agreement (including, in the case of Scotland, missives of let not constituting a lease);

"substantially performed" has the same meaning as in section 44 of FA 2003.

114 Power to modify meaning of "use as a dwelling"

(1) The Treasury may by order amend this Part so as to specify cases where use of a building is to be use of a building as a dwelling for the purposes of section 112(1) or 113(1).

(2) The reference in section 116(8)(a) of FA 2003 (power to amend section 116(2) and (3)) to "the purposes of subsection (1)" includes a reference to the purposes of sections 112(1) and 113(1).

115 Parts of a greater whole

(1) The fact that a part of a building is suitable for use as a dwelling does not prevent that part from forming part of a larger single dwelling.

(2) The fact that a building or structure that is—

(a) in the garden or grounds of a dwelling, and

(b) occupied or enjoyed with the dwelling,

is itself suitable for use as a single dwelling does not prevent it from being treated (in accordance with section 112(2)) as part of the dwelling.

116 Dwelling in grounds of another dwelling

(1) Subsection (4) applies where the conditions in subsection (2) are met in relation to two dwellings (the "main dwelling" and the "associated dwelling") on a day ("the day in question") in a chargeable period.

(2) The conditions are that—

(a) the main dwelling has a garden or grounds,

(b) the associated dwelling stands within the garden or grounds of the main dwelling, but is not occupied or enjoyed with that dwelling,

(c) the associated dwelling does not have separate access, and is not part of the same building as the main dwelling, and

(d) the common ownership condition is met.

(3) The common ownership condition is that—

(a) a company is entitled to a chargeable interest in the main dwelling, and the company or a person connected with the company is entitled to a chargeable interest in the associated dwelling, or

(b) a chargeable interest in the main dwelling is held for the purposes of a collective investment scheme, and a chargeable interest in the associated dwelling is held for the purposes of the same collective investment scheme.

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(It does not matter whether or not the interest in the main dwelling and the interest in the associated dwelling are held for the same title.)

(4) This Part has effect in relation to the interests mentioned in paragraph (a) or (as the case may be) (b) of subsection (3) as if the main dwelling and the associated dwelling were, on the day in question, suitable for use as a single dwelling.

(5) Subsection (4) does not apply if—

(a) the day in question is, in relation to the interest in the main dwelling or the interest in the associated dwelling, relievable by virtue of a provision mentioned in subsection (6), or

(b) the ownership condition is, by virtue of section 151 (charitable companies), regarded as not being met on that day with respect to one or other of those interests.

(6) Those provisions are—

section 133 (property rental businesses);

section 134 (rental property: preparation for sale etc);

section 137 (dwellings opened to the public);

section 138 (property developers);

section 139 (property developers: exchange of dwellings);

section 141 (property traders);

section 143 (financial institutions acquiring dwellings in the course of lending);

[[F26]section 144A (regulated home reversion plans);**]**

section 145 (occupation by **[**[F27]employees or partners of a qualifying trade or property rental business**]**);

[[F28]section 147A (caretaker flat owned by management company);**]**

section 148 (farmhouses);

section 150 (providers of social housing).

(7) The reference in subsection (3)(a) to a person connected with the company does not include a public body (as defined in section 153) or a body listed in section 154(2) (bodies established for national purposes).

(8) The reference in subsection (3)(b) to a chargeable interest being held for the purposes of the same collective investment scheme includes a reference to a person connected with the scheme being entitled to the interest.

(9) The associated dwelling has "separate access" only if—

(a) there is access to the associated dwelling directly from a highway (in Scotland, a road) that the dwelling adjoins, or

(b) the person entitled to possession of the associated dwelling has access to that dwelling from a highway (in Scotland, a road), exclusively by passing over land that the person is entitled to pass over by reason of one or more rights of way or other interests in land to which the person is separately entitled.

(10) In this section—

in relation to a dwelling or dwellings, references to the "garden or grounds" are to land occupied or enjoyed with the dwelling or dwellings as a garden or grounds;

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references to the person entitled to possession of a dwelling are to the person entitled to possession of the dwelling by reason of an estate or interest held by that person;

"separately entitled" means entitled otherwise than by reason of a chargeable interest in or over the main dwelling.

Textual Amendments

F26 Words in s. 116(6) inserted (15.9.2016) (with effect in accordance with s. 134(7) of the amending Act) by Finance Act 2016 (c. 24), **s. 134(3)**

F27 Words in s. 116(6) substituted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(8)(a)**

F28 Words in s. 116(6) inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(8)(b)**

117 Dwellings in the same building

(1) Two parts of a building are "linked dwellings" if—

(a) each of them counts as a dwelling,

(b) there is private access between the two dwellings,

(c) the two parts of the building are not (together) used or suitable for use as a single dwelling, and

(d) the common ownership condition and the use condition are met.

(2) The common ownership condition is that—

(a) a company is entitled to a chargeable interest in one of the dwellings, and the company or a person connected with the company is entitled to a chargeable interest in the other dwelling, or

(b) a chargeable interest in one of the dwellings is held for the purposes of a collective investment scheme, and a chargeable interest in the other dwelling is held for the purposes of the same collective investment scheme.

(It does not matter whether or not the interests are held for the same title.)

(3) If on a day in a chargeable period ("the day in question") two parts of a building constitute linked dwellings, this Part has effect in relation to the interests mentioned in paragraph (a) or (as the case may be) (b) of subsection (2) as if the two parts were, on the day in question, suitable for use as a single dwelling.

(4) Subsection (3) does not apply if—

(a) the day in question is, in relation to a chargeable interest mentioned in subsection (2)(a) or (as the case may be) (2)(b), relievable by virtue of a provision mentioned in subsection (5), or

(b) (in a case where paragraph (a) of subsection (2) applies) the ownership condition is, by virtue of section 151 (charitable companies), regarded as not being met on that day with respect to one or other of the chargeable interests mentioned in that paragraph.

(5) Those provisions are—

section 133 (property rental businesses);

section 134 (rental property: preparation for sale etc);

section 137 (dwellings opened to the public);

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section 138 (property developers);
section 139 (property developers: exchange of dwellings);
section 141 (property traders);
section 143 (financial institutions acquiring dwellings in the course of lending);
[[F29]section 144A (regulated home reversion plans);**]**
section 145 (occupation by **[**[F30]employees or partners of a qualifying trade or property rental business**]**);
[[F31]section 147A (caretaker flat owned by management company);**]**
section 148 (farmhouses);
section 150 (providers of social housing).

(6) The reference in subsection (2)(a) to a person connected with the company does not include a public body (as defined in section 153) or a body listed in section 154(2) (bodies established for national purposes).

(7) If two dwellings in a building (dwelling A and dwelling B) are treated under this section as suitable for use as a single dwelling, and dwelling B and a third dwelling in the building ("dwelling C") are treated under this section as suitable for use as a single dwelling, all three are treated as suitable for use as a single dwelling (and so on).

Textual Amendments

F29 Words in s. 117(5) inserted (15.9.2016) (with effect in accordance with s. 134(7) of the amending Act) by Finance Act 2016 (c. 24), **s. 134(4)**

F30 Words in s. 117(5) substituted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(9)(a)**

F31 Words in s. 117(5) inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(9)(b)**

118 Section 117: supplementary

(1) The reference in section 117(2)(b) to a chargeable interest being held for the purposes of the same collective investment scheme includes a reference to a person connected with the scheme being entitled to the interest.

(2) For the purposes of section 117, there is private access between two dwellings if the person entitled to possession of each dwelling is entitled, by reason of a right of way or other interest in land, to have access to that person's dwelling from the other dwelling, without passing over any part of the building (or any other land) in which a third party has an interest entitling that third party to enter it.

(3) In subsection (2) "third party" means a person other than—

(a) the persons entitled to possession of the dwellings mentioned in subsection (2), and

(b) persons connected with any of them.

(4) The use condition mentioned in section 117(1)(d) is that each of the two dwellings—

(a) is occupied (or usually occupied) by a relevant individual,

(b) is intended to be so occupied (or usually so occupied), or

(c) is not occupied.

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(5) In subsection (4) "relevant individual" means—

(a) an individual connected with the company mentioned in section 117(2)(a),

(b) an individual connected with the collective investment scheme mentioned in section 117(2)(b),

(c) an individual who occupies (or is to occupy) the dwelling concerned otherwise than on commercial terms, or

(d) an individual who is employed wholly or partly in connection with the occupation by a person falling within any of paragraphs (a) to (c) of a dwelling in the building, or provides services in connection with such a person's occupation of a dwelling in the building.

(6) In this section references to the person entitled to possession of a dwelling are to the person entitled to possession of the dwelling by reason of an estate or interest held by that person.

119 Terraces etc

Any structure (such as a terrace of houses or a pair of semi-detached houses) that is composed of or includes dwellings is regarded as a building for the purposes of sections 117 and 118.

Acquisitions and disposals

120 Acquisitions and disposals of chargeable interests

(1) References in this Part to the acquisition of a chargeable interest include any acquisition however effected (including an acquisition effected by the act of parties to a transaction, by order of a court or other authority, by or under any statutory provision or by operation of law).

(2) The surrender or release of a chargeable interest is—

(a) an acquisition of that interest by any person whose interest or right is benefited or enlarged by the transaction, and

(b) a disposal by the person ceasing to be entitled to that interest.

(3) The variation of a chargeable interest is—

(a) an acquisition of a chargeable interest by the person benefiting from the variation, and

(b) a disposal of a chargeable interest by the person whose interest is subject to or limited by the variation.

121 Date of acquisition or disposal

(1) A person who acquires a chargeable interest in or over land that consists of or includes a dwelling is treated for the purposes of this Part as acquiring the interest on the effective date of the acquisition (and therefore as entitled to the interest with effect from that date: see section 171).

(2) A person who disposes of a chargeable interest in or over land that consists of or includes a dwelling is treated for the purposes of this Part as ceasing to be entitled to

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the interest on the effective date of the disposal (and therefore as not being entitled to the interest on that day: see section 171).

(3) If a person's acquisition and disposal of a chargeable interest are completed on the same day, then for the purposes of this Part—

(a) the person's acquisition of the interest is ignored if it precedes the disposal;

(b) the person's disposal of the interest is ignored if it precedes the acquisition.

(4) The effective date of an acquisition of a chargeable interest is—

(a) the date on which the acquisition is completed, or

(b) any alternative date the Commissioners for Her Majesty's Revenue and Customs may prescribe by regulations.

(5) The effective date of a disposal of a chargeable interest is—

(a) the date on which the disposal is completed, or

(b) any alternative date the Commissioners for Her Majesty's Revenue and Customs may specify by regulations.

122 Contract and conveyance: the purchaser

(1) This section applies where a person ("P") enters into a contract under which—

(a) P is to acquire a relevant chargeable interest, and

(b) the acquisition is to be completed by a conveyance.

(2) P is not regarded as acquiring any chargeable interest by reason of entering into the contract.

(3) If the contract is substantially performed without having been completed, this Part has effect as if the substantial performance of the contract were the completion of the acquisition provided for by the contract.

(4) Accordingly, where subsection (3) applies and the contract is subsequently completed by a conveyance, that completion is not treated for the purposes of section 102 (taxable value) as effecting the acquisition of a chargeable interest.

(5) Where subsection (3) applies and—

(a) the contract is afterwards rescinded or annulled, or

(b) performance of the contract is for any other reason terminated before the contract has been carried fully into effect,

this Part has effect as if P had at the relevant time disposed of the chargeable interest referred to in subsection (1)(a).

(6) In subsection (5) "the relevant time" means—

(a) the time when the rescission or annulment takes effect, or

(b) (as the case requires) the time when performance of the contract ceases.

(7) Where subsection (3) applies and the contract is afterwards varied (or partially rescinded) so that the chargeable interest to be acquired under the contract is not the same as the chargeable interest to which the contract originally related, this Part (including subsection (3)) has effect as if the variation of the contract effected—

(a) the disposal by P of the chargeable interest referred to in subsection (1)(a), and

(b) the substantial performance of the contract, as varied.

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(8) If the parties to the contract proceed as if they had varied the contract in the way mentioned in subsection (7) (without actually doing so), subsection (7) applies as if they had actually made the corresponding variation in the terms of the contract.

(9) In this section—

(a) references to completion are to the completion of the acquisition proposed, whether or not between the original parties;

(b) "contract" includes any agreement;

(c) "conveyance" includes any instrument;

(d) "relevant chargeable interest" means a chargeable interest in or over land that consists of or includes a dwelling;

(e) "substantially performed" has the same meaning as in section 44 of FA 2003.

123 Contract and conveyance: the vendor

(1) This section applies where a person ("V") enters into a contract under which—

(a) V is to dispose of a relevant chargeable interest, and

(b) the disposal is to be completed by a conveyance.

(2) V is not regarded as disposing of a chargeable interest by reason of entering into the contract.

(3) If the contract is substantially performed without having been completed, this Part has effect as if the substantial performance of the contract were the completion of the disposal provided for by the contract.

(4) Accordingly, where subsection (3) applies and the contract is subsequently completed by a conveyance, that completion is not treated for the purposes of section 102 as effecting the disposal of a chargeable interest.

(5) Where subsection (3) applies and—

(a) the contract is afterwards rescinded or annulled, or

(b) performance of the contract is for any other reason terminated before the contract has been carried fully into effect,

this Part has effect as if V had at the relevant time re-acquired the chargeable interest referred to in subsection (1)(a).

(6) In subsection (5) "the relevant time" means—

(a) the time when the rescission or annulment takes effect, or

(b) (as the case requires) the time when performance of the contract ceases.

(7) Where subsection (3) applies and the contract is afterwards varied (or partially rescinded) so that the chargeable interest to be disposed of under the contract is not the same as the chargeable interest to which the contract originally related, this Part (including subsection (3)) has effect as if the variation of the contract effected—

(a) the re-acquisition by V of the chargeable interest referred to in subsection (1)(a), and

(b) the substantial performance of the contract, as varied.

(8) If the parties to the contract proceed as if they had varied the contract in the way mentioned in subsection (7) (without actually doing so), subsection (7) applies as if they had actually made the corresponding variation in the terms of the contract.

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(9) In this section—

(a) references to completion are to the completion of the disposal proposed, between the same parties, in substantial conformity with the contract;

(b) "contract" includes any agreement;

(c) "conveyance" includes any instrument;

(d) "relevant chargeable interest" means a chargeable interest in or over land that consists of or includes a dwelling;

(e) "substantially performed" has the same meaning as in section 44 of FA 2003.

New dwellings, conversions, demolition etc

124 New dwellings

(1) Where a new dwelling is being or has been constructed (whether or not as part of a larger building) the earlier of the following days is a valuation date in the case of a single-dwelling interest in that dwelling—

(a) the completion day;

(b) the day on which the dwelling is first occupied.

(2) The reference in subsection (1) to the construction of a new dwelling—

(a) includes the production of a new dwelling by the alteration (whether structural or otherwise) of an existing building, but

(b) does not include a case to which section 125 (dwellings produced from other dwellings) or section 128 (demolition and replacement: new dwellings) applies.

(3) The reference in subsection (1) to the "completion day" is to the day on which the new dwelling is treated as having come into existence for the purposes of—

(a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or

(b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or

(c) the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)) (see Article 25B of that Order).

(4) In this section "building" includes a part of a building.

125 Dwellings produced from other dwellings

(1) This section applies where an existing building that is a dwelling or dwellings ("the old dwelling" or "the old dwellings") becomes a different dwelling or dwellings (" new " dwellings) as a result of structural alteration.

(2) Any question as to whether or not a person has a single-dwelling interest at any time either in the old dwelling or dwellings or in a new dwelling is determined on the assumption that the old dwelling or dwellings cease to exist, and any new dwelling come into existence, only when the conversion is completed.

(3) The day after the conversion is completed is a valuation date in the case of any single-dwelling interest in a new dwelling.

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(4) References to when the conversion is completed are to the end of the day on which the new dwelling is treated as having come into existence (or the first day on which all the new dwellings are treated as having come into existence) for the purposes of—

(a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or

(b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or

(c) the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)) (see Article 25B of that Order).

(5) In this section "building" includes a part of a building.

126 Demolition of a dwelling

(1) This section and sections 127 to 129 apply where a building that is a dwelling ("the old dwelling") is demolished after 1 April 2013.

(2) Except so far as express provision to the contrary is made in sections 127 to 129, any question as to whether a person has a single-dwelling interest in the dwelling, and any question as to the taxable value of such an interest, is determined as if the dwelling had not been demolished.

(3) For the purposes of subsection (1) the demolition of a building is treated as having occurred after 1 April 2013 if a day after 1 April 2013 is the first day on which—

(a) the demolition has begun, and

(b) as a result, the building is no longer suitable for use as a dwelling.

(4) In this section "building" includes a part of a building.

127 Demolition without replacement

(1) Subsection (2) applies if a person entitled to a single-dwelling interest in the old dwelling notifies an officer of Revenue and Customs that to the best of the person's knowledge there is no proposal to construct any dwelling or dwellings on the site of the old dwelling.

(2) Any question as to whether a person has a single-dwelling interest in the old dwelling is determined on the assumption that the old dwelling ceases (or ceased) to exist with effect from the end of the day mentioned in subsection (3).

(3) That day is the first day on which—

(a) the demolition has begun, and

(b) as a result, the building in question is no longer suitable for use as a dwelling.

(4) A notification under subsection (1) must be given—

(a) in an annual tax on enveloped dwellings return, or

(b) by amending such a return.

(5) In this section—

(a) "building" includes part of a building;

(b) "the site of the old dwelling" means the land on which the dwelling stood and that counted as part of the dwelling;

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(c) the reference to the construction of a dwelling or dwellings on that site is to the construction of a dwelling or dwellings wholly or partly on the site.

128 Demolition and replacement: new dwellings

(1) Subsection (2) applies if one or more dwellings (referred to below as "new dwellings") are constructed on the site of the old dwelling after the demolition.

(2) Any question as to whether or not a person has a single-dwelling interest at any time either in the old dwelling or in a new dwelling is determined on the assumption that the old dwelling ceases to exist, and the new dwellings come into existence, only when the rebuilding is completed.

(3) The day after the rebuilding is completed is a valuation date in the case of any single-dwelling interest in a new dwelling.

(4) In subsection (1)—

(a) "the site of the old dwelling" means the land on which the dwelling stood and that counted as part of the dwelling;

(b) the reference to the construction of a dwelling on that site is to the construction of a dwelling wholly or partly on the site.

(5) References to when the rebuilding is completed are to the end of whichever of the following days is earlier—

(a) the completion day;

(b) the day on which the last of the new dwellings to be occupied is first occupied.

(6) The reference in subsection (5) to the "completion day" is to the day on which the new dwelling is treated as having come into existence (or the first day on which all the new dwellings are treated as having come into existence) for the purposes of—

(a) Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) (see section 17 of that Act), or

(b) Part 2 of that Act (council tax: Scotland) (see section 83 of that Act), or

(c) the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)) (see Article 25B of that Order).

129 Demolition and replacement: other cases

(1) This section applies if—

(a) a building is constructed on the site of the old dwelling after the demolition, and

(b) section 128 does not apply.

(2) Any question as to whether a person has a single-dwelling interest in the old dwelling is determined on the assumption that the old dwelling ceases to exist on the day after—

(a) the day on which the change of use is approved, or

(b) if later, the day on which the old dwelling ceased to be occupied.

(3) In subsection (1)—

(a) "the site of the old dwelling" means the land on which the dwelling stood and that counted as part of the dwelling;

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(b) the reference to the construction of a dwelling on that site is to the construction of a dwelling wholly or partly on the site.

130 Conversion of dwelling for non-residential use

(1) This section applies where a building or part of a building—

(a) has been suitable for use as a dwelling, and

(b) is altered for the purpose of making it suitable for use otherwise than as a dwelling.

(2) The question whether or not the alterations make the building or part unsuitable for use as a dwelling is one of fact (but see subsection (3)).

(3) The building or part will not be regarded as having become unsuitable for use as a dwelling as a result of the alterations at any time unless by that time any planning permission or development consent required for the alterations has been granted (and the alterations have been made in accordance with any such permission or consent).

(4) In this section "planning permission" has the meaning given by the relevant planning enactment.

(5) "The relevant planning enactment" means—

(a) in relation to land in England and Wales, section 336(1) of the Town and Country Planning Act 1990;

(b) in relation to land in Scotland, section 277(1) of the Town and Country Planning (Scotland) Act 1997;

(c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1991 (S.I. 1991/1220 (N.I. 11)).

(6) In this section "development consent" means development consent under the Planning Act 2008.

131 Damage to a dwelling

(1) This section applies where a dwelling is damaged so as to be temporarily unsuitable for use as a dwelling.

(2) The unsuitability for use as a dwelling is taken into account in applying the definition of "dwelling" for the purposes of this Part (see section 112) only if the first and second conditions are met.

(3) The first condition is that the damage is—

(a) accidental, or

(b) otherwise caused by events beyond the control of the person entitled to the single-dwelling interest.

(4) The second condition is that, as a result of the damage, the building concerned is unsuitable for use as a dwelling for at least 90 consecutive days.

(5) Where the first and second conditions are met—

(a) the entire period of unsuitability for use as a dwelling (including the first 90 days) is taken into account in applying the definition of "dwelling", and

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(b) work done in that period to restore the building to suitability for use as a dwelling does not count, for the purposes of section 112 or 113, as construction or adaptation of the building for use as a dwelling.

(6) The first condition is regarded as not being met if the damage occurs in the course of work that—

(a) is done for the purpose of altering the dwelling (or a building of which it forms part), and

(b) itself involves, or could be expected to involve, making the building unsuitable for use as a dwelling for 30 days or more.

(7) In this section—

(a) references to alteration include partial demolition;

(b) references to a building include a part of a building.

(8) In this section references to damage include damage done before 1 April 2013; and days before 1 April 2013 may be taken into account for the purposes of subsection (4).

Reliefs

132 Effect of reliefs under sections 133 to 150

(1) Subsection (2) applies where tax is charged, in respect of a single-dwelling interest, for a chargeable period that includes one or more days that are relievable as a result of any of the provisions listed in subsection (3) (or for more than one such period).

(2) For any such period, the adjusted chargeable amount is to be calculated on the basis that the chargeable person is not within the charge with respect to the interest on any relievable day.

(3) The provisions are—

section 133 (property rental businesses);
section 134 (rental property: preparation for sale etc);
section 137 (dwellings opened to the public);
section 138 (property developers);
section 139 (property developers: exchange of dwellings);
section 141 (property traders);
section 143 (financial institutions acquiring dwellings in the course of lending);
[F32section 144A (regulated home reversion plans);**]**
section 145 (occupation by **[**F33employees or partners of a qualifying trade or property rental business**]**);
[F34section 147A (caretaker flat owned by management company);**]**
section 148 (farmhouses);
section 150 (providers of social housing).

(4) See also section 106 (adjustment of amount chargeable and claim for relief).

Textual Amendments

F32 Words in s. 132(3) inserted (15.9.2016) (with effect in accordance with s. 134(7) of the amending Act) by Finance Act 2016 (c. 24), **s. 134(5)**

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F33 Words in s. 132(3) substituted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(10)(a)**

F34 Words in s. 132(3) inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(10)(b)**

133 Property rental businesses

(1) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day the interest—

(a) is being exploited as a source of rents or other receipts (other than excluded rents) in the course of a qualifying property rental business carried on by a person entitled to the interest, or

(b) steps are being taken to secure that the interest will, without undue delay, be so exploited in the course of a qualifying property rental business that is being carried on, or is to be carried on, by a person entitled to the interest.

(2) A day is not relievable by virtue of subsection (1) or section 134 in the case of a single-dwelling interest if on that day a non-qualifying individual is permitted to occupy the dwelling.

(3) In this Part "qualifying property rental business" means a property rental business that is run on a commercial basis and with a view to profit.

(4) A business is a "property rental business" for the purposes of subsection (3) if it is a property business as defined in Chapter 2 of Part 4 of CTA 2009, but—

(a) the question whether or not a business is a property rental business for the purposes of subsection (3) is determined without reference to whether or not any profits of the business are chargeable to corporation tax (and section 204(2) of CTA 2009 is therefore disregarded), and

(b) for the purposes of this subsection the "rents or other receipts" referred to in section 207(1) of CTA 2009 are taken not to include excluded rents

(5) In subsection (1)(b) "without undue delay" means without delay except so far as delay is justified by commercial considerations or cannot be avoided.

(6) In this Part "excluded rents" means rents within any of classes 2 to 6 in the table in section 605(2) of CTA 2010.

134 Rental property: preparation for sale, demolition etc

(1) A day ("day X") on which a person ("P") is entitled to a single-dwelling interest is relievable in relation to that interest if—

(a) on day X the dwelling is unoccupied and any of the first to fourth conditions is met (see below),

(b) day X is preceded by one or more days ("qualifying days") that are relievable under section 133 in relation to the interest and on which P, or a relevant partner, was entitled to the interest, and

(c) the days (if any) between day X and the last of the qualifying days to precede day X are all relievable under this section.

First condition The first condition is that steps are being taken to secure that the interest will be sold without undue delay.

Second condition The second condition is that—

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(a) steps are being taken to secure that the dwelling will be demolished without undue delay, and

(b) if it is intended that a new dwelling will be constructed on the site of the existing dwelling, the intention is that it will be used in a relievable way.

Third condition The third condition is that—

(a) steps are being taken to secure that the dwelling will be converted into a different dwelling without undue delay, and

(b) it is intended that the new dwelling will be used in a relievable way.

Fourth condition The fourth condition is that steps are being taken to secure that the dwelling will be converted into a building other than a dwelling without undue delay.

(2) A dwelling is "used in a relievable way" for the purposes of subsection (1) if the single-dwelling interest in question is exploited in such a way, or held in such a way and for such purposes, (or, as the case requires, the dwelling itself is exploited or used in such a way) that a day of such exploitation, ownership or use would be relievable under any of sections 133, 137, 145 and 148.

(3) In this section—

"relevant partner", where P is (on day X) entitled to the interest as a member of a partnership, means a person who was at the time in question carrying on the qualifying rental property business concerned as a member of that partnership;

"without undue delay" means without delay, except so far as delay is justified by commercial considerations or cannot be avoided.

135 Non-qualifying occupation: look-forward and look-back

(1) Subsection (2) applies if on a day in a chargeable period ("the day of non-qualifying occupation")—

(a) a single-dwelling interest to which a person ("the landlord") is entitled is being exploited as mentioned in section 133(1)(a), or steps are being taken to secure that the interest will be so exploited, as mentioned in section 133(1)(b), and

(b) a non-qualifying individual is permitted to occupy the dwelling.

(2) No subsequent day in that chargeable period, or in any of the subsequent 3 chargeable periods, that meets the continuity of ownership condition and would (in the absence of this subsection) be relievable by virtue of section 133(1)(b) is treated as relievable by virtue of that provision unless a day of qualifying use falls between that day and the day of non-qualifying occupation.

(3) A day meets the continuity of ownership condition if on that day—

(a) the landlord is entitled to the single-dwelling interest, or

(b) if the landlord carried on or (as the case requires) intended to carry on the property rental business in partnership, another member of the partnership is entitled to the interest.

(4) Subsection (5) applies if a person who is a non-qualifying individual in relation to a single-dwelling interest occupies the dwelling on a day in a chargeable period ("the day of non-qualifying occupation").

(5) An earlier day in that or the preceding chargeable period ("the earlier day") is not relievable by virtue of section 133(1)(b) or 134 if a relevant person is entitled to the single-dwelling interest on that day.

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(6) In subsection (5) "relevant person" means—

(a) a person who is entitled to the single-dwelling interest on the day of non-qualifying occupation, or

(b) if a person falling within paragraph (a) is or has been a member of a partnership whose members have at any time exploited the single-dwelling interest as a source of rents and receipts in a property rental business, any other member of that partnership.

(7) Subsection (5) does not apply in relation to the earlier day if a day that is relievable by virtue of section 133(1)(a) falls between that earlier day and the day of non-qualifying occupation.

(8) For the purposes of this section—

(a) "day of qualifying use", in relation to a single-dwelling interest, means a day that is relievable in the case of the interest by virtue of section 133(1)(a);

(b) occupation of any part of a dwelling is regarded as occupation of the dwelling.

136 Meaning of "non-qualifying individual"

(1) In sections 133 and 135 "non-qualifying individual", in relation to a single-dwelling interest, means any of the following—

(a) an individual who is entitled to the interest (otherwise than as a member of a partnership),

(b) an individual ("a connected person") who is connected with a person entitled to the interest,

(c) if a person is entitled to the interest as a member of a partnership, an individual who is, or is connected with, a qualifying member of that partnership,

(d) an individual ("a relevant settlor") who is the settlor in relation to a settlement of which a trustee is (in the capacity of trustee) connected with a person who is entitled to the interest,

(e) the spouse or civil partner of a connected person or of a relevant settlor,

(f) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor,

(g) a relative of the spouse or civil partner of a connected person or of a relevant settlor,

(h) the spouse or civil partner of a person falling within paragraph (g), or

(i) an individual who is a major participant in a relevant collective investment scheme or is connected with a major participant in a relevant collective investment scheme.

(2) In subsection (1)(c) "qualifying member", in relation to a partnership, means a member of the partnership who is entitled to a 50% or greater share—

(a) in the income profits of the partnership, or

(b) in the partnership's assets.

(3) In subsection (1)(i) "relevant collective investment scheme", in relation to a single-dwelling interest, means a collective investment scheme that meets the ownership condition with respect to the interest.

(4) A person who participates in a collective investment scheme is a "major participant" in the scheme if the person—

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(a) is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or income arising from the scheme that may be distributed to participants, or

(b) would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.

(5) The reference in subsection (4)(a) to profits or income arising from the scheme is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the scheme.

(6) For the purposes of subsection (1), section 1122 of CTA 2010 (as applied by section 172) has effect as if subsections (7) and (8) of that section (application of rules about connected persons to partnerships) were omitted.

(7) In this section—

"relative" means brother, sister, ancestor or lineal descendant;

"settlement" and "settlor" have the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).

(8) In subsection (1)(d) "trustee" is to be read in accordance with section 1123(3) of CTA 2010 ("connected persons": supplementary).

137 Dwellings opened to the public

(1) A day in a chargeable period is relievable in relation to a single-dwelling interest if the first or second condition is met on that day.

(2) The first condition is that the dwelling is being exploited as a source of income in the course of a qualifying trade in the normal course of which the public are offered the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade on least 28 days in any year.

(3) The second condition is that steps are being taken to secure—

(a) that the dwelling will (in that or a future chargeable period) be exploited as a source of income in the course of a qualifying trade such as is mentioned in subsection (2), and

(b) that it will be so exploited without delay, except so far as delay is justified by commercial considerations or cannot otherwise be avoided.

(4) In this section "qualifying trade" means a trade carried on on a commercial basis and with a view to profit.

(5) For the purposes of this section persons are not taken to have an opportunity to make use of, stay in or otherwise enjoy a dwelling unless the areas that they are permitted to make use of, stay in or otherwise enjoy include a significant part of the interior of the dwelling.

(6) The size (relative to the size of the whole dwelling), nature, and function of the area or areas concerned are to be taken into account in determining whether they form a significant part of the interior of the dwelling.

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138 Property developers

(1) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day—

(a) a person carrying on a property development trade ("the property developer") is entitled to the interest, and

(b) the interest is held exclusively for the purpose of developing and reselling the land in the course of the trade.

(2) If the property developer holds an interest for the purpose mentioned in subsection (1)(b), any additional purpose the property developer may have of exploiting the interest as a source of rents or other receipts in the course of a qualifying property rental business (after developing the land and before reselling it) is treated as not being a separate purpose in applying the test in subsection (1)(b).

(3) A day is not relievable by virtue of subsection (1) if on the day a non-qualifying individual is permitted to occupy the dwelling.

(4) In this Part "property development trade" means a trade that—

(a) consists of or includes buying and developing for resale residential or non-residential property, and

(b) is run on a commercial basis and with a view to profit.

(5) In this section references to development include redevelopment.

139 Property developers: exchange of dwellings

(1) A day in a chargeable period is relievable in relation to a single-dwelling interest if—

(a) a person ("the property developer") is on that day entitled to a single-dwelling interest ("the returned interest") that was acquired (by the relevant person) in the course of a property development trade, and

(b) that acquisition ("the reverse acquisition") was part of a qualifying exchange.

(2) A day is not relievable by virtue of this section if on that day a non-qualifying individual is permitted to occupy the dwelling.

(3) In this section "the relevant person" means—

(a) if the property developer is entitled to the returned interest as a member of a partnership, the persons who acquired the interest as members of the partnership, or

(b) otherwise, the property developer (and any person who acquired the returned interest jointly with the property developer).

(4) The reverse acquisition is "part of a qualifying exchange" only if—

(a) it was made by way of transfer,

(b) the person from whom the acquisition was made itself acquired (by way of grant or transfer) a chargeable interest in or over a new dwelling from the relevant person, and

(c) each of those acquisitions was entered into in consideration of the other.

(5) A building or part of a building is a "new dwelling" if—

(a) it has been constructed for use as a single dwelling and has not previously been occupied, or

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(b) it has been adapted for use as a single dwelling and has not been occupied since its adaptation.

140 Property developers: supplementary

(1) Subsection (2) applies if on a day in a chargeable period—

(a) a person carrying on a property development trade ("the property developer") is entitled to a single-dwelling interest that has been acquired in the course of that trade (whether or not the acquisition was part of a qualifying exchange for the purposes of section 139), and

(b) a non-qualifying individual is permitted to occupy the dwelling.

(2) No subsequent day is relievable in the case of the single-dwelling interest by virtue of section 138(1) or 139(1) if—

(a) the day falls within that chargeable period, or any of the subsequent 3 chargeable periods, and

(b) there is continuity of ownership on that day.

(3) There is "continuity of ownership" on any day on which—

(a) the property developer is entitled to the single-dwelling interest, or

(b) if the property developer carried on the property development trade in partnership, another member of the partnership is entitled to the interest.

(4) Subsection (5) applies if—

(a) on a day in a chargeable period ("the day of non-qualifying occupation") a person who is a non-qualifying individual in relation to a single-dwelling interest is occupying the dwelling in question, and

(b) on an earlier day in that, or the preceding, chargeable period ("the earlier day") the conditions in section 138(1)(a) and (b) are met in relation to the same single-dwelling interest.

(5) The earlier day is not relievable by virtue of section 138(1) in the case of the single-dwelling interest if—

(a) a person who is entitled to the interest on the earlier day is also entitled to it on the day of non-qualifying occupation, or

(b) if the trade mentioned in section 138(1) is carried on in partnership, a person who has at any time carried that business on in partnership is entitled to the interest on the day of non-qualifying occupation.

(6) Subsection (7) applies if—

(a) on a day in a chargeable period ("the day of non-qualifying occupation") a person who is a non-qualifying individual in relation to a single-dwelling interest is occupying the dwelling in question, and

(b) on an earlier day in that, or the preceding, chargeable period ("the earlier day") the conditions in section 139(1)(a) and (b) are met in relation to the same single-dwelling interest.

(7) The earlier day is not relievable by virtue of section 139(1) in the case of the single-dwelling interest if—

(a) a person who is entitled to the interest on the earlier day is also entitled to it on the day of non-qualifying occupation, or

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(b) where the trade mentioned in section 139(1) is carried on in partnership, a person who has at any time carried that trade on in partnership is entitled to the interest on the day of non-qualifying occupation.

(8) If a day that is relievable by virtue of section 133(1)(a) falls between the earlier day mentioned in subsection (5) or (as the case may be) (7) and the day of non-qualifying occupation, that subsection does not apply in relation to that earlier day.

(9) For the purposes of sections 138 and 139 and this section—

(a) "non-qualifying individual" has the meaning given by section 136(1);

(b) occupation of any part of a dwelling is regarded as occupation of the dwelling.

141 Property traders

(1) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day—

(a) a person carrying on a property trading business is entitled to the interest, and

(b) the interest is held as stock of the business and for the sole purpose of resale in the course of the business.

(2) A single-dwelling interest in a dwelling is taken not to be held for the sole purpose of resale in the course of a property trading business at any time when a non-qualifying individual is permitted to occupy the dwelling.

(3) In this Part "property trading business" means a business that—

(a) consists of or includes activities in the nature of a trade of buying and selling dwellings, and

(b) is carried on on a commercial basis and with a view to profit.

142 Property traders: supplementary

(1) Subsection (2) applies if on a day in a chargeable period ("the day of non-qualifying occupation")—

(a) a person carrying on a property trading business ("the property trader") is entitled to a single-dwelling interest that is held as mentioned in section 141(1)(b), and

(b) a non-qualifying individual is permitted to occupy the dwelling.

(2) No subsequent day is relievable in the case of the single-dwelling interest by virtue of section 141(1) if—

(a) the day falls within that chargeable period, or any of the subsequent 3 chargeable periods, and

(b) the property trader or a relevant partner is entitled to the interest on that day.

(3) If on the day of non-qualifying occupation mentioned in subsection (1) the property trader carries on the property trading business in partnership, "relevant partner" means any other person who is, at any time, a member of that partnership.

(4) Subsection (5) applies if—

(a) on a day in a chargeable period ("the day of non-qualifying occupation") a person who is a non-qualifying individual in relation to a single-dwelling interest is occupying the dwelling in question, and

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(b) on an earlier day in that, or the preceding, chargeable period ("the earlier day") the conditions in section 141(1)(a) and (b) are met in relation to the same single-dwelling interest.

(5) The earlier day is not relievable by virtue of section 141(1) in the case of the single-dwelling interest if—

(a) a person who is entitled to the interest on the earlier day is also entitled to it on the day of non-qualifying occupation, or

(b) if the business mentioned in section 141(1) is carried on in partnership, a person who has at any time carried that business on in partnership is entitled to the interest on the day of non-qualifying occupation.

(6) Subsection (5) does not apply in relation to the earlier day if a day that is relievable by virtue of section 133(1)(a) falls between the earlier day and the day of non-qualifying occupation.

(7) For the purposes of this section and section 141—

(a) "non-qualifying individual" has the meaning given by section 136(1);

(b) occupation of any part of a dwelling is regarded as occupation of the dwelling.

143 Financial institutions acquiring dwellings in the course of lending

(1) A day in a chargeable period is relievable in relation to a single-dwelling interest if matters stand as follows on that day—

(a) a financial institution carrying on a business that involves the lending of money is entitled to the interest,

(b) the financial institution has acquired the interest in the course of that business and in connection with those lending activities, and

(c) the interest is held with the intention that it will be sold in the course of that business without delay (except so far as delay is justified by commercial considerations or cannot be avoided).

(2) A single-dwelling interest in a dwelling is taken not to be held with the intention mentioned in subsection (1)(c) at any time when a non-qualifying individual is permitted to occupy the dwelling.

(3) In this Part (except where otherwise stated) "financial institution" has the meaning given by section 564B of ITA 2007; but for this purpose section 564B(1) is to be read as if paragraph (d) of that subsection were omitted.

144 Section 143: supplementary

(1) Subsection (2) applies if on a day in a chargeable period—

(a) a financial institution that carries on a business involving the lending of money is entitled to a single-dwelling interest that has been acquired by it as mentioned in section 143(1)(b), and

(b) a non-qualifying individual is permitted to occupy the dwelling.

(2) No subsequent day is relievable in the case of the single-dwelling interest by virtue of section 143(1) if—

(a) the day falls within that chargeable period, or any of the subsequent 3 chargeable periods, and

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(b) there is continuity of ownership on that day.

(3) There is continuity of ownership on a day on which—

(a) the financial institution is entitled to the single-dwelling interest, or

(b) if the financial institution carried on the business mentioned in subsection (1)(a) in partnership, another member of the partnership is entitled to the interest.

(4) Subsection (5) applies if—

(a) on a day in a chargeable period ("the day of non-qualifying occupation") a person who is a non-qualifying individual in relation to a single-dwelling interest is occupying the dwelling in question, and

(b) on an earlier day in that, or the preceding, chargeable period ("the earlier day") the conditions in section 143(1)(a) to (c) are met in relation to the same single-dwelling interest.

(5) The earlier day is not relievable by virtue of section 143(1) in the case of the single-dwelling interest if—

(a) a person who is entitled to the interest on the earlier day is also entitled to it on the day of non-qualifying occupation, or

(b) if the business mentioned in section 143(1) is carried on in partnership, a person who has at any time carried that business on in partnership is entitled to the interest on the day of non-qualifying ownership.

(6) Subsection (5) does not apply in relation to the earlier day if a day that is relievable by virtue of section 133(1)(a) falls between the earlier day and the day of non-qualifying occupation.

(7) For the purposes of this section and section 143—

(a) "non-qualifying individual" has the meaning given by section 136(1);

(b) occupation of any part of a dwelling is regarded as occupation of the dwelling.

[F35 144A Regulated home reversion plans

(1) A day in a chargeable period is relievable in relation to a single dwelling interest held by a person ("P") who is an authorised plan provider if—

(a) P has, as plan provider, entered into a regulated home reversion plan relating to the single dwelling interest, and

(b) the occupation condition is met on that day.

(2) If no qualifying termination event has occurred, the "occupation condition" is that a person who was originally entitled to occupy the dwelling (or any part of it) under the regulated home reversion plan is still entitled to do so.

(3) If a qualifying termination event has occurred, the "occupation condition" is that—

(a) the single dwelling interest is being held with the intention that it will be sold without delay (except so far as delay is justified by commercial considerations or cannot be avoided), and

(b) no non-qualifying individual is permitted to occupy the dwelling (or any part of it).

(4) In this section—

"authorised plan provider" means a person authorised under the Financial Services and Markets Act 2000 to carry on in the United Kingdom the

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regulated activity specified in article 63B(1) of the Regulated Activities Order (entering into regulated home reversion plan as plan provider);

"qualifying termination event" is to be interpreted in accordance with article 63B of the Regulated Activities Order;

"the Regulated Activities Order" means the Financial Services and Markets (Regulated Activities) Order 2001 (S.I. 2001/544);

"regulated home reversion plan" means an arrangement which is a regulated home reversion plan for the purposes of Chapter 15A of Part 2 of the Regulated Activities Order (but see also subsection (6)).

(5) In this section references to entering into a regulated home reversion plan "as plan provider" are to be interpreted as if the references were in the Regulated Activities Order (but see also subsection (6)).

(6) For the purposes of this section—

(a) an arrangement which P entered into before 6 April 2007 is treated for the purposes of this section as a regulated home reversion plan entered into by P as plan provider if that arrangement would have been so treated for the purposes of article 63B(1) of the Regulated Activities Order had P entered into that arrangement on the day mentioned in subsection (1);

(b) an arrangement in relation to which P acquired rights or obligations before 6 April 2007 is treated for the purposes of this section as a regulated home reversion plan entered into by P as plan provider if that arrangement would have been so treated for the purposes of article 63B(1) of the Regulated Activities Order had P acquired those rights or obligations on the day mentioned in subsection (1).

(7) Section 136 (meaning of "non-qualifying individual") applies in relation to this section as in relation to sections 133 and 135.**]**

Textual Amendments

F35 S. 144A inserted (15.9.2016) (with effect in accordance with s. 134(7) of the amending Act) by Finance Act 2016 (c. 24), **s. 134(2)**

145 [F36Occupation by employees or partners of a qualifying trade or property rental business]

(1) A day in a chargeable period is a relievable if matters stand as follows on that day—

(a) a person ("P") is entitled to a single-dwelling interest,

(b) P, or a relevant group member, carries on a qualifying trade **[**F37or qualifying property rental business**]** ,

(c) the interest is held for the purpose of making the dwelling available to one or more qualifying employees or qualifying partners for use as living accommodation, and

(d) the dwelling is, or is to be, made available as mentioned in paragraph (c) for purposes that are solely or mainly purposes of the **[**F38qualifying trade or qualifying property rental business**]** .

(2) "Qualifying trade" means a trade that is carried on on a commercial basis and with a view to profit.

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(3) In this section references to making a dwelling available to a qualifying employee or qualifying partner include making it available to persons who are to share the accommodation with such an individual as their family.

(4) Where P is a company, "a relevant group member" means a company which is a member of the same group as P for the purposes mentioned in paragraph 1(2) of Schedule 7 to FA 2003 (stamp duty land tax: group relief).

[F39(5) For the meaning of "qualifying property rental business" see section 133(3).**]**

Textual Amendments

F36 S. 145 heading substituted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(5)**

F37 Words in s. 145(1)(b) inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(3)(a)**

F38 Words in s. 145(1)(d) substituted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(3)(b)**

F39 S. 145(5) inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(4)**

146 Meaning of "qualifying employee" and "qualifying partner" in section 145

(1) In a case where the person carrying on the trade **[**F40or property rental business**]** mentioned in section 145(1)(b) carries it on in partnership with one or more other persons, "qualifying partner" means any individual who is a member of the partnership, except one who is entitled to a 10% or greater share—

(a) in the income profits of the partnership, or

(b) in any company that is entitled to the single-dwelling interest mentioned in section 145(1)(a), or

(c) in the partnership's assets.

(2) "Qualifying employee" means any individual employed for the purposes of the qualifying trade **[**F41or qualifying property rental business**]** , except one who—

(a) is entitled to a 10% or greater share—

(i) in the income profits of the trade **[**F42or (as the case may be) property rental business**]** , or

(ii) in any company that is entitled to the single-dwelling interest mentioned in section 145(1)(a), or

(iii) in that single-dwelling interest, or

(b) provides excluded domestic services.

(3) The reference in subsection (2)(b) to an individual who provides excluded domestic services is to an individual the duties of whose employment include the provision of services in connection with the (actual or intended) occupation, by a non-qualifying individual, of the dwelling mentioned in section 145(1)(c) ("the relevant dwelling"), or a linked dwelling.

(4) In subsection (3) "non-qualifying individual" means an individual connected with a person who is entitled to the single-dwelling interest.

(5) The following are "linked" dwellings for the purposes of subsection (3)—

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(a) if the conditions in section 116(2) are met in relation to the relevant dwelling and another dwelling, that other dwelling;

(b) a dwelling that is linked to the relevant dwelling, as described in section 117(1).

(6) In this section references to employment include the holding of an office.

(7) For the purposes of subsections (1)(c) and (2)(a)(iii) persons who are entitled to a chargeable interest as beneficial joint tenants (or, in Scotland, as joint owners) are taken to be entitled to the chargeable interest as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.

Textual Amendments

F40 Words in s. 146(1) inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(6)(a)**

F41 Words in s. 146(2) inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(6)(b)(i)**

F42 Words in s. 146(2)(a)(i) inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(6)(b)(ii)**

147 Meaning of "10% or greater share in a company"

(1) This section applies for the purposes of section 146.

(2) An individual ("P") is taken to be entitled to a 10% or greater share in a company ("C") if P possesses (directly or indirectly) or is entitled to acquire—

(a) 10% or more of the share capital of C,

(b) 10% or more of the issued share capital of C,

(c) 10% or more of the voting power in C,

(d) so much of the issued share capital of C as would, on the assumption that the whole of the income of C were distributed among the participators, entitle P to receive 10% or more of the amount so distributed, or

(e) such rights as would entitle P, in the event of the winding up of C or in any other circumstances, to receive 10% or more of the assets of C which would then be available for distribution among the participators.

(3) Any rights that P or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in subsection (2)(d).

(4) For the purposes of subsection (2) a person is treated as entitled to acquire anything which the person—

(a) is entitled to acquire at a future date, or

(b) will at a future date be entitled to acquire.

(5) If a person—

(a) possesses any rights or powers on behalf of another person ("A"), or

(b) may be required to exercise any rights or powers on A's direction or behalf,

those rights or powers are to be attributed to A.

(6) The following are also to be attributed to a person—

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(a) the rights and powers of any company of which the person has, or the person and associates of the person have, control;

(b) the rights and powers of any two or more companies within paragraph (a);

(c) the rights and powers of any associate of the person (or of any two or more associates of the person).

(7) The rights and powers which are to be attributed under subsection (6)—

(a) include those attributed to a company or associate under subsection (5), but

(b) do not include those attributed to an associate under subsection (6).

(8) A person who does not meet the conditions in subsection (2) is nevertheless treated as having a 10% or greater share in a company if the person exercises, is able to exercise or is entitled to acquire, direct or indirect control over the company's affairs.

(9) In this section—

"associate" has the same meaning as in Part 10 of CTA 2010 (see section 448 of that Act); but for this purpose section 448 is to be read as if the words "or partner" were omitted in subsection (1)(a);

"control" has the same meaning as in that Part (see section 450 of that Act);

"loan creditor" has the same meaning as in that Part (see section 453 of that Act);

"participator" has the same meaning as in that Part (see section 454 of that Act).

Modifications etc. (not altering text)

C5 S. 147 applied by 2003 c. 14, Sch. 4A para. 5E(9) (as inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 40 para. 2(4)**)

[F43 147A Caretaker flat owned by management company

(1) A day in a chargeable period is relievable in relation to a single-dwelling interest if the dwelling in question is a flat in relation to which the conditions in subsection (2) are met.

(2) The conditions are that on that day—

(a) a company ("the management company") holds the single-dwelling interest for the purpose of making the flat available as caretaker accommodation,

(b) the flat is contained in premises which also contain two or more other flats,

(c) the tenants of at least two of the other flats in the premises are members of the management company,

(d) the management company owns the freehold of the premises, and

(e) the management company is not carrying on a trade or property rental business.

(3) For the purposes of subsection (2), the management company makes a flat available "as caretaker accommodation" if it makes it available to an individual for use as living accommodation in connection with the individual's employment as caretaker of the premises.

(4) In this section "premises" means premises constituting the whole or part of a building.]

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Textual Amendments

F43 S. 147A inserted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(7)**

148 Farmhouses

(1) This section applies where on a day in a chargeable period—

(a) a dwelling ("the farmhouse") forms part of land occupied for the purposes of a qualifying trade of farming, and

(b) a person carrying on the trade is entitled to, or connected with a person who is entitled to, a single-dwelling interest in the farmhouse.

(2) That day is relievable in relation to the single-dwelling interest if on that day the farmhouse is occupied—

(a) by a farm worker who occupies it for the purposes of the trade, or

(b) by a former long-serving farm worker, or the surviving spouse or civil partner of a former farm worker.

(3) A trade of farming is a "qualifying trade of farming" only if it is carried on—

(a) on a commercial basis, and

(b) with a view to profit.

(4) In this section—

"farming" has the same meaning as in the Corporation Tax Acts (see section 1125 of CTA 2010), except that in this section "farming" includes market gardening;

"market gardening" has the same meaning as in the Corporation Tax Acts (see section 1125(5) of CTA 2010).

149 "Farm worker" and "former long-serving farm worker"

(1) An individual is a "farm worker" in relation to the qualifying trade of farming mentioned in section 148(1) at any time when the individual has a substantial involvement in—

(a) the day-to-day work of the trade, or

(b) the direction and control of the conduct of the trade.

(2) Where section 148 applies, an individual occupying the farmhouse on the day mentioned in section 148(1) is a "former long-serving farm worker" if the individual had, before that day, been a farm worker in relation to the qualifying trade of farming for—

(a) a qualifying period of 3 or more years, or

(b) qualifying periods together amounting to 3 or more years within a 5 year period.

(3) In subsection (2) "qualifying period" means a period throughout which—

(a) the individual occupied the farmhouse for the purposes of the trade,

(b) the land of which the farmhouse forms part was occupied for the purposes of the trade,

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(c) the trade was carried on by—

(i) a person who is entitled to the single-dwelling interest in the farmhouse on the day mentioned in section 148(1), or

(ii) a person connected with such a person, and

(d) a person who is entitled to the single-dwelling interest in the farmhouse on the day mentioned in section 148(1) was entitled to that interest.

(4) A person occupying part of a dwelling is regarded as occupying the dwelling for the purposes of this section and section 148.

150 Providers of social housing [F44etc]

(1) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day—

(a) a profit-making registered provider of social housing (P) is entitled to the interest, and

(b) P's acquisition of the interest (or of any part of the interest) was funded with the assistance of public subsidy.

(2) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day—

(a) a relevant housing provider (that is, a non-profit registered provider of social housing or a registered social landlord) is entitled to the interest, and

(b) the condition in subsection (3) is met.

(3) The condition mentioned in subsection (2) is that—

(a) the relevant housing provider is controlled by its tenants,

(b) the person from whom the relevant housing provider acquired the interest (or any part of the interest) is a qualifying body, or

(c) the relevant housing provider's acquisition of the interest (or of any part of the interest) was funded with the assistance of a public subsidy.

[F45(3A) A day in a chargeable period is relievable in relation to a single-dwelling interest if on that day a qualifying housing co-operative (as defined by section 150A) is entitled to the interest.**]**

(4) In this section—

(a) the reference to a relevant housing provider "controlled by its tenants" is to be read in accordance with subsection (2) of section 71 of FA 2003;

(b) "qualifying body" has the meaning given by subsection (3) of that section;

(c) "public subsidy" has the same meaning as in that section.

Textual Amendments

F44 Word in s. 150 heading inserted (with effect in accordance with s. 90(3)-(6) of the amending Act) by Finance Act 2021 (c. 26), **s. 90(1)(b)**

F45 S. 150(3A) inserted (with effect in accordance with s. 90(3)-(6) of the amending Act) by Finance Act 2021 (c. 26), **s. 90(1)(a)**

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[F46 150A Meaning of "qualifying housing co-operative"

(1) A company is a "qualifying housing co-operative" for the purposes of section 150(3A) on any day if on that day—

(a) it is a housing association within the meaning of—

(i) the Housing Associations Act 1985, or

(ii) Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)),

(b) it is a registered society within the meaning of—

(i) the Co-operative and Community Benefit Societies Act 2014, or

(ii) the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969, and

(c) the rules of the association comply with subsection (2).

(2) The rules of the association—

(a) must restrict membership to persons who are tenants, or prospective tenants, of the association,

(b) must preclude the granting or assignment of tenancies to persons other than members,

(c) must prevent members from transferring any of their shares,

(d) must prevent members from receiving any more than the nominal value of their shares on a return of share capital, and

(e) must confer on members equal voting rights.**]**

Textual Amendments

F46 S. 150A inserted (with effect in accordance with s. 90(3)-(6) of the amending Act) by Finance Act 2021 (c. 26), **s. 90(2)**

Exemptions

151 Charitable companies

(1) A charitable company that is entitled to a single-dwelling interest is regarded as not meeting the ownership condition with respect to the interest on any day on which the interest is held by the company for qualifying charitable purposes, other than an excluded day.

(2) The interest is "held for qualifying charitable purposes" if it is held—

(a) for use in furtherance of the charitable purposes of the charitable company or of another charity, or

(b) as an investment from which the profits are (or are to be) applied to the charitable purposes of the charitable company.

(3) A day is an "excluded day" if the following conditions are met—

(a) a person ("the donor") has on or before that day made, or agreed to make, a gift to the charitable company or to a charity that is connected with it,

(b) there exist on that day arrangements under which or as a result of which a linked individual is permitted, or is to be or may in the future be permitted, to occupy the dwelling, and

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(c) it is reasonable to assume from either or both of—

(i) the likely effects of the gift and the arrangements, or

(ii) the circumstances in which the gift was made and the circumstances in which the arrangements were entered into,

that the gift would not have been made and the arrangements would not have been entered into independently of one another;

but see the exception in subsection (5).

(4) In subsection (3)(b) "linked individual" means an individual who—

(a) is the donor, or

(b) was, when the arrangements were entered into, an associate of the donor.

(5) A day is not an "excluded day" if the first, second or third condition is met on that day.

The first condition is that the activities undertaken for carrying out the primary purposes of the charitable company include, or normally include, opening the dwelling to the public.

The second condition is that the dwelling is being exploited through commercial activities that involve, or normally involve, opening the dwelling to the public.

The third condition is that steps are being taken—

(a) to secure that the first or second condition will be met without undue delay, or

(b) to secure that the single-dwelling interest will be sold without undue delay.

(6) In subsection (5)—

(a) "opening the dwelling to the public" means offering the public the opportunity to make use of, stay in or otherwise enjoy, on at least 28 days in any year, areas that constitute a significant part of the interior of the dwelling or of the dwelling's garden or grounds;

(b) "without undue delay" means without delay, except so far as delay is justified by commercial considerations or for the sake of a primary purpose of the charitable company.

(7) For the purposes of subsection (6)(a), the size (relative to the size of the whole dwelling or of the whole garden or grounds), nature, and function of the areas concerned are to be taken into account in determining whether they form a significant part of the interior of the dwelling or (as the case may be) of the garden or grounds.

(8) For the purposes of subsection (3)(a)—

(a) "connected" means connected in a matter relating to the structure, administration or control of the charitable company, and

(b) section 172 does not apply.

152 Section 151: supplementary

(1) In section 151 "associate", in relation to the donor, means any of the following—

(a) an individual ("a connected person") who is connected with the donor,

(b) an individual who is the settlor in relation to a settlement of which a trustee is (in the capacity of trustee) connected with the donor,

(c) the spouse or civil partner of a connected person or of a relevant settlor,

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(d) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor,

(e) a relative of the spouse or civil partner of a connected person or of a relevant settlor, or

(f) the spouse or civil partner of a person falling within paragraph (e).

(2) In subsection (1)—

"relative" means brother, sister, ancestor or lineal descendant;

"settlement" and "settlor" have the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).

(3) In subsection (1)(b) "trustee" is to be read in accordance with section 1123(3) of CTA 2010 ("connected persons": supplementary).

(4) For the purposes of section 151 occupation of any part of a dwelling is regarded as occupation of the dwelling.

(5) For the purposes of section 151(3)—

(a) the making of a gift is disregarded if it is made before the day on which this Act is passed, and

(b) an agreement to make a gift is disregarded if the agreement is made before that day.

(6) Arrangements entered into before the day on which this Act is passed are disregarded for the purposes of section 151(3) unless a material alteration has been made to them on or after that date.

"Material alteration" means an alteration affecting anything in the arrangements that relates to the individual's having (at any time), or potentially having, permission to occupy the dwelling.

(7) References in section 151 and this section to a gift include the disposal of an asset for consideration of an amount or value which is less than the market value of the asset.

(8) In section 151 and this section "arrangements" includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.

153 Public bodies

(1) A public body is not regarded as a company for the purposes of this Part.

(2) In this section—

(a) "public body" means any body corporate that is a public body for the purposes of section 66 of FA 2003, and

(b) references to a public body accordingly include a company such as is mentioned in subsection (5) of that section (companies wholly owned by the listed bodies).

(3) The power of the Treasury to prescribe persons by an order under section 66(4) of FA 2003 may be exercised so as to make different provision for purposes relating to annual tax on enveloped dwellings and stamp duty land tax.

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(4) In paragraph (b) of subsection (2) "company" means a company as defined by section 1 of the Companies Act 2006 (and subsection (1) is to be ignored in interpreting that paragraph).

154 Bodies established for national purposes

(1) A body listed in subsection (2) is not regarded as a company for the purposes of this Part.

(2) The bodies are—

the Historic Buildings and Monuments Commission for England;

the Trustees of the British Museum;

the Trustees of the National Heritage Memorial Fund;

the Trustees of the Natural History Museum.

155 Dwelling conditionally exempt from inheritance tax

(1) Subsection (2) applies to a single-dwelling interest if—

(a) the whole or part of the dwelling has been designated under section 31 of IHTA 1984 (buildings of outstanding historic or architectural interest etc),

(b) an undertaking has been made with respect to the dwelling under section 30 of that Act (conditionally exempt transfers), and

(c) a transfer of value is exempt from inheritance tax by virtue of that designation and that undertaking.

(2) The taxable value of the single-dwelling interest on any day is taken to be zero if no chargeable event has occurred with respect to the dwelling in the time between the transfer of value and the beginning of that day.

(3) Subsection (4) applies to a single-dwelling interest if—

(a) the whole or part of the dwelling has been designated under section 31 of IHTA 1984,

(b) an undertaking has been made with respect to the dwelling under section 78 of that Act (settled property: conditionally exempt occasions), and

(c) a transfer of property or other event is a conditionally exempt occasion by virtue of that designation and that undertaking.

(4) The taxable value of the single-dwelling interest on any day is taken to be zero if no chargeable event has occurred with respect to the dwelling in the time between the conditionally exempt occasion and the beginning of that day.

(5) In this section—

"chargeable event" means an event which is a chargeable event under section 32 of IHTA 1984;

"conditionally exempt occasion" is to be read in accordance with section 78(2) of that Act;

"transfer of value" has the same meaning as in that Act.

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Power to modify reliefs

156 Modification of reliefs

(1) The Treasury may by regulations—

(a) amend this Part for the purpose of providing further relief, or further exemptions, from tax (whether by modifying an existing relief or exemption or otherwise);

(b) amend or repeal any of sections 132 to 155 for purposes not falling within paragraph (a);

(c) make any amendment of any other provision of this Part that may be necessary in consequence of provision under paragraph (b).

(2) In subsection (1)—

(a) the reference to providing further relief from tax includes the provision of relief for additional persons or categories of person or in additional cases or circumstances;

(b) the reference to providing further exemptions from tax includes the provision of exemptions for additional persons or categories of person or in additional cases or circumstances.

Alternative property finance

157 [F47Land in England, Wales or Northern Ireland sold to financial institution and leased to person]

(1) This section applies where—

(a) section 71A of FA 2003 (land sold to financial institution and leased to person) F48... applies in relation to arrangements entered into between a financial institution and another person ("the lessee"), and

(b) the land in which the institution purchases a major interest under the first transaction [F49is in England, Wales or Northern Ireland and] consists of or includes one or more dwellings (or parts of a dwelling).

(2) If the lessee is a company, this Part has effect in relation to times when the arrangements are in operation as if—

(a) the interest held by the financial institution as mentioned in subsection (3)(b) were held by the lessee (and not by the financial institution), and

(b) the lease or sub-lease granted under the second transaction had not been granted.

(3) The reference in subsection (2) to times when the arrangements are in operation is to times when—

(a) the lessee holds the leasehold interest granted to it under the second transaction, and

(b) the interest purchased under the first transaction (or that interest except so far as transferred by a further transaction) is held by a financial institution.

(4) A company treated under subsection (2)(a) as holding an interest at a particular time is treated as holding it as a member of a partnership if at the time in question the company

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holds the leasehold interest as a member of the partnership (and this Part has effect accordingly in relation to the other members of the partnership).

(5) In relation to times when the arrangements operate for the benefit of a collective investment scheme, this Part has effect as if—

(a) the interest held by the financial institution as mentioned in subsection (6)(b) were held by the lessee for the purposes of a collective investment scheme (and were not held by the financial institution), and

(b) the lease or sub-lease granted under the second transaction had not been granted.

(6) The reference in subsection (5) to times when the arrangements operate for the benefit of a collective investment scheme is to times when—

(a) the lessee holds the leasehold interest for the purposes of a collective investment scheme, and

(b) the interest purchased under the first transaction (or that interest except so far as transferred by a further transaction) is held by a financial institution.

(7) In this section—

"financial institution" has the meaning given by section 73BA of FA 2003;

"the first transaction" has the same meaning as in section 71A [F50]... of FA 2003;

"further transaction" has the same meaning as in section 71A of FA 2003;

"the leasehold interest" means the interest granted to the lessee under the second transaction;

"the second transaction" has the same meaning as in section 71A [F51]... of FA 2003.

(8) The reference in subsection (1) to a major interest in land is to be read in accordance with section 117 of FA 2003.

(9) Where the lessee is an individual, references in subsections (5) and (6) to the lessee are to be read, in relation to times after the death of the lessee, as references to the lessee's personal representatives.

[F52](10) . . . . . .

Textual Amendments

F47 S. 157 heading substituted (15.9.2016) (with effect in accordance with s. 136(8) of the amending Act) by Finance Act 2016 (c. 24), **s. 136(6)**

F48 Words in s. 157(1)(a) omitted (15.9.2016) (with effect in accordance with s. 136(8) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 136(3)(a)**

F49 Words in s. 157(1)(b) inserted (15.9.2016) (with effect in accordance with s. 136(8) of the amending Act) by Finance Act 2016 (c. 24), **s. 136(3)(b)**

F50 Words in s. 157(7) omitted (15.9.2016) (with effect in accordance with s. 136(8) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 136(4)(a)**

F51 Words in s. 157(7) omitted (15.9.2016) (with effect in accordance with s. 136(8) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 136(4)(b)**

F52 S. 157(10) omitted (15.9.2016) (with effect in accordance with s. 136(8) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 136(5)**

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[F53 157A Land in Scotland sold to financial institution and leased to person

(1) This section applies where Conditions A and B are met.

(2) Condition A is that arrangements are entered into between a person ("the lessee") and a financial institution under which the institution—

(a) purchases a major interest in land ("the first transaction"),

(b) grants to the lessee out of that interest a lease (if the interest acquired is the interest of the owner) or a sub-lease (if the interest acquired is the tenant's right over or interest in a property subject to a lease) ("the second transaction"), and

(c) enters into an agreement under which the lessee has a right to require the institution to transfer the major interest purchased by the institution under the first transaction.

(3) Condition B is that the land in which the institution purchases a major interest under the first transaction is in Scotland and consists of or includes one or more dwellings or parts of a dwelling.

(4) If the lessee is a company, this Part has effect in relation to times when the arrangements are in operation (see subsection (5)) as if—

(a) the interest held by the financial institution as mentioned in subsection (5)(b) were held by the lessee (and not by the financial institution), and

(b) the lease or sub-lease granted under the second transaction had not been granted.

(5) The reference in subsection (4) to times when the arrangements are in operation is to times when—

(a) the lessee holds the interest granted to it under the second transaction, and

(b) the interest purchased under the first transaction is held by a financial institution.

(6) A company treated under subsection (4)(a) as holding an interest at a particular time is treated as holding it as a member of a partnership if at the time in question the company holds the interest granted to it under the second transaction as a member of the partnership (and this Part has effect accordingly in relation to the other members of the partnership).

(7) In relation to times when the arrangements operate for the benefit of a collective investment scheme (see subsection (8)), this Part has effect as if—

(a) the interest held by the financial institution as mentioned in subsection (8)(b) were held by the lessee for the purposes of a collective investment scheme (and were not held by the financial institution), and

(b) the lease or sub-lease granted under the second transaction had not been granted.

(8) The reference in subsection (7) to times when the arrangements operate for the benefit of a collective investment scheme is to times when—

(a) the lessee holds the interest granted to it under the second transaction for the purposes of a collective investment scheme, and

(b) the interest purchased under the first transaction is held by a financial institution.

(9) In this section "financial institution" has the same meaning as in section 71A of FA 2003 (see section 73BA of that Act).

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(10) References in this section to a "major interest" in land are to—

(a) ownership of land, or

(b) the tenant's right over or interest in land subject to a lease.

(11) Where the lessee is an individual, references in subsections (7) and (8) to the lessee are to be read, in relation to times after the death of the lessee, as references to the lessee's personal representatives.**]**

Textual Amendments

F53 S. 157A inserted (15.9.2016) (with effect in accordance with s. 136(8) of the amending Act) by Finance Act 2016 (c. 24), **s. 136(7)**

Administration and payment of tax

158 Responsibility for collection and management

The Commissioners for Her Majesty's Revenue and Customs are responsible for the collection and management of annual tax on enveloped dwellings.

159 Annual tax on enveloped dwellings return

(1) Where tax is charged on a person for a chargeable period with respect to a single-dwelling interest the person must deliver a return for the period with respect to the interest.

(2) A return under subsection (1) must be delivered by the end of the period of 30 days beginning with first day in the period on which the person is within the charge with respect to the interest.

(3) If the first day in the chargeable period on which the person is within the charge with respect to the interest ("day 1") is a valuation date only because of section 124 (new dwellings) or section 125 (dwellings produced from other dwellings)—

(a) subsection (2) does not apply, and

(b) the return must be delivered by the end of the period of 90 days beginning with day 1.

[F54(3A) Where a person—

(a) would (apart from this subsection) be required in accordance with subsection (2) to deliver a return for a chargeable period ("the later period") by 30 April in that period, and

(b) is also required in accordance with subsection (3) to deliver a return for the previous chargeable period by a date ("the later date") which is later than 30 April in the later period,

subsection (2) has effect as if it required the return mentioned in paragraph (a) to be delivered by the later date.**]**

(4) A return under this section must be delivered to an officer of Revenue and Customs, and is called an "annual tax on enveloped dwellings return".

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Textual Amendments

F54 S. 159(3A) inserted (with effect in accordance with s. 73(6) of the amending Act) by Finance Act 2015 (c. 11), **s. 73(2)**

Modifications etc. (not altering text)

C6 S. 159 modified (17.7.2014) by Finance Act 2014 (c. 26), **s. 109(5)**(6)

C7 S. 159 modified (26.3.2015) by Finance Act 2015 (c. 11), **s. 73(7)**(8)

[F55 159A Relief declaration returns

(1) "Relief declaration return" means an annual tax on enveloped dwellings return which—

(a) states that it is a relief declaration return,

(b) relates to one (and only one) of the types of relief listed in the table in subsection (9), and

(c) specifies which type of relief it relates to.

(2) A relief declaration return may be made in respect of one or more single-dwelling interests.

(3) A relief declaration return delivered to an officer of Revenue and Customs on a particular day ("the day of the claim") is treated as made in respect of any single-dwelling interest in relation to which the conditions in subsection (4) are met (but need not contain information which identifies the particular single-dwelling interest or interests concerned).

(4) The conditions are that—

(a) the person making the return is within the charge with respect to the single-dwelling interest on the day of the claim;

(b) the day of the claim is relievable in relation to the single-dwelling interest by virtue of a provision which relates to the type of relief specified in the return (see subsection (9));

(c) none of the days in the pre-claim period is a taxable day.

(5) The statement under subsection (1)(a) in a relief declaration return is treated as a claim for interim relief (see section 100) with respect to the single-dwelling interest (or interests) in respect of which the return is made.

(6) Subsection (7) applies where—

(a) a person has delivered to an officer of Revenue and Customs on any day a relief declaration return for a chargeable period with respect to one or more single-dwelling interests ("the existing return"), and

(b) there is a subsequent day ("day S") in the same chargeable period on which the relevant conditions are met in relation to another single-dwelling interest.

(7) The existing return is treated as also made with respect to that other single-dwelling interest.

(8) For the purposes of subsection (6)(b), the "relevant conditions" are the same as the conditions in subsection (4), except that for this purpose references in subsection (4) to the day of the claim are to be read as references to day S.

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(9) This table sets out the numbered types of relief to which the provisions specified in the left hand column relate—

Provision	***Type of relief to which it relates***
Section 133 or 134 (property rental business)	1
Section 137 (dwellings opened to the public)	2
Section 138 or 139 (property developers)	3
Section 141 (property traders)	4
Section 143 (financial institutions acquiring dwellings)	5
[F56144A (regulated home reversion plans)	5A**]**
Section 145 **[**F57or 147A (occupation by certain employees etc)**]**	6
Section 148 (farmhouses)	7
Section 150 (providers of social housing)	8

(10) Where a person—

(a) has failed to make annual tax on enveloped dwellings returns in respect of two or more single-dwelling interests, and

(b) could have discharged the duties in question by making a single relief declaration return in respect of all the interests,

the failure may be taken, for the purposes of Schedule 55 to FA 2009, to be a failure to make a single annual tax on enveloped dwellings return.

(11) In this section—

"pre-claim period" has the same meaning as in section 100;

"taxable day", in relation to a person and a single-dwelling interest, means a day on which the person is within the charge with respect to the interest, other than a day which is relievable in relation to the interest.**]**

Textual Amendments

F55 S. 159A inserted (with effect in accordance with s. 73(6) of the amending Act) by Finance Act 2015 (c. 11), **s. 73(3)**

F56 Words in s. 159A(9) inserted (15.9.2016) (with effect in accordance with s. 134(7) of the amending Act) by Finance Act 2016 (c. 24), **s. 134(6)**

F57 Words in s. 159A(9) substituted (15.9.2016) (with effect in accordance with s. 135(12) of the amending Act) by Finance Act 2016 (c. 24), **s. 135(11)**

160 Return of adjusted chargeable amount

(1) A person on whom tax is charged for a chargeable period with respect to a single-dwelling interest must deliver a further return for the period with respect to the interest if the first or second condition is met.

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(2) The return must be delivered by the end of the period of 30 days beginning with the first day of the period following the period for which the tax is charged (but see subsection (3)).

(3) If the return is required because the second condition is met and the adjusted chargeable amount is affected by an event that has occurred after the end of the chargeable period mentioned in subsection (1), the return must be delivered by the end of the period of 30 days beginning with the day on which that event occurred.

(4) The first condition is that—

(a) the person has not made a claim under section 100 (interim relief) with respect to the interest for the chargeable period, and

(b) the adjusted chargeable amount is greater than the amount charged under section 99 with respect to the single-dwelling interest for the period.

(5) The second condition is that—

(a) the person has made one or more claims under section 100 with respect to the interest for the chargeable period, and

(b) the sum of amounts A and B, as calculated under that section, in connection with the last of those claims is less than the adjusted chargeable amount.

(6) A return under this section must be delivered to an officer of Revenue and Customs, and is called a "return of the adjusted chargeable amount".

161 Return to include self assessment

(1) A return must include a self assessment.

[[F58](2) In subsection (1) "return" means—

(a) an annual tax on enveloped dwellings return, or

(b) a return of the adjusted chargeable amount.

(2A) The reference in subsection (2)(a) to an annual tax on enveloped dwellings return does not include a relief declaration return.**]**

(3) In the case of an annual tax on enveloped dwellings return, "self assessment" means an assessment of—

(a) the amount of tax to which the person is chargeable under section 99 for the period in respect of the interest, and

(b) if the return includes a claim under section 100 (interim relief), the tax payable after the relief.

(4) In the case of a return of the adjusted chargeable amount, "self assessment" means an assessment of—

(a) the adjusted chargeable amount, and

(b) the additional tax payable in accordance with section 163(2).

(5) A self assessment must include a statement of the amount taken to be the market value of the interest on each valuation date (earlier than the date on which the return is delivered) that is relevant for the purposes of the assessment.

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Textual Amendments

F58 S. 161(2)(2A) substituted for s. 161(2) (with effect in accordance with s. 73(6) of the amending Act) by Finance Act 2015 (c. 11), **s. 73(4)**

162 Returns, enquiries, assessments and other administrative matters

(1) Schedule 33 contains provision about returns, enquiries and related matters.

(2) The Treasury may by regulations—

(a) make any amendments of Schedule 33 that they may at any time think appropriate;

(b) make any amendment of any other provision of this Part that may be necessary in consequence of provision under paragraph (a).

163 Payment of tax

(1) Tax charged on a person under section 99 for a chargeable period with respect to a single-dwelling interest must be paid not later than the filing date for the annual tax on enveloped dwellings return required to be made for the period with respect to the interest.

(2) So far as a chargeable person's adjusted chargeable amount for a chargeable period with respect to a single-dwelling interest exceeds the amount payable under subsection (1) (as modified, where applicable, by section 100(3)), the amount of the difference must be paid not later than the filing date for the return of the adjusted chargeable amount under section 160.

(3) Tax payable as a result of the amendment of a return must be paid—

(a) immediately, or

(b) if the amendment is made on or before the filing date for the return, not later than that date.

(4) In subsection (3) "return" means—

(a) an annual tax on enveloped dwellings return, or

(b) a return of the adjusted chargeable amount.

(5) Tax payable in accordance with a determination or assessment by an officer of Revenue and Customs must be paid within the period of 30 days beginning with the day on which the determination or assessment is issued.

Modifications etc. (not altering text)

C8 S. 163 modified (17.7.2014) by Finance Act 2014 (c. 26), **s. 109(5)**(7)

164 Information and enforcement

In Schedule 34—

(a) Part 1 contains provision about information and inspection powers, and

(b) Part 2 contains provision about penalties.

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165 Collection and recovery of tax etc

(1) Schedule 12 to FA 2003 (stamp duty land tax: collection and recovery of tax) has effect in relation to the collection and recovery of tax under this Part as it has effect in relation to stamp duty land tax.

(2) The reference in subsection (1) to tax under this Part includes any unpaid penalty or interest under this Part.

Application of provisions

166 Companies

(1) In this Part "company" means a body corporate but does not include—
- (a) a corporation sole, or
- (b) any partnership (see section 167(1)).

(2) Everything to be done by a company under this Part must be done by the company acting through—
- (a) the proper officer of the company, or
- (b) another person who has the express, implied or apparent authority of the company to act on its behalf for the purpose.

(3) Service of a document on a company under this Part may be effected by serving the document on the proper officer.

(4) Tax due from any company that is incorporated under the law of a country or territory outside the United Kingdom may be recovered from the proper officer of the company (as well as by any means available in the absence of this subsection).

(5) The proper officer—
- (a) may retain, out of any money that may come into the officer's hands on the company's behalf, enough money to pay that tax, and
- (b) is entitled to be fully reimbursed by the company (whether by that method or another) for amounts recovered from the officer under subsection (4).

(6) For the purposes of this section the proper officer of a company is—
- (a) the secretary, or a person acting as secretary, of the company, or
- (b) if the company does not have a proper officer within paragraph (a), the treasurer, or a person acting as treasurer, of the company.

(7) If a liquidator has been appointed for the company—
- (a) subsections (2)(b) and (6) do not apply, and
- (b) the liquidator is the proper officer of the company.

(8) If an administrator has been appointed for the company—
- (a) subsection (6) does not apply, and
- (b) the administrator is the proper officer of the company.

(9) If two or more persons are appointed to act jointly or concurrently as the administrator of the company, the proper officer of the company is—
- (a) whichever of those persons is specified in a notice given by the administrators to an officer of Revenue and Customs for the purposes of this section, or

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(b) if no notice is given under paragraph (a), whichever of those persons is designated by an officer of Revenue and Customs as the proper officer for those purposes.

(10) See also section 153 (public bodies) and section 154 (bodies established for national purposes).

167 Partnerships

(1) In this Part "partnership" means—

(a) a partnership within the Partnerships Act 1890,

(b) a limited partnership registered under the Limited Partnerships Act 1907,

(c) a limited liability partnership formed under the Limited Liability Partnerships Act 2000 or the Limited Liability Partnerships Act (Northern Ireland) 2002, or

(d) a firm or entity of a similar character to any of those mentioned in paragraphs (a) to (c) formed under the law of a country or territory outside the United Kingdom.

(2) This Part has effect as follows in relation to a partnership (for instance, a limited liability partnership formed as mentioned in subsection (1)(c)) that is itself capable of being entitled to, or of acquiring or disposing of, a chargeable interest—

(a) transactions entered into on behalf of the partnership are treated as entered into by or on behalf of the partners;

(b) where the partnership is entitled to a single-dwelling interest, this Part has effect as if the partners were jointly entitled to the interest (and the partnership had no entitlement to it).

(3) For the purposes of this Part a partnership is treated as the same partnership despite a change in membership if any person who was a member before the change remains a member after the change.

(4) For the purposes of this Part—

(a) a collective investment scheme is not regarded as a partnership, and

(b) accordingly, a member of a partnership by or on whose behalf a single-dwelling interest is held for the purposes of a collective investment scheme is not regarded as entitled to the interest as a member of the partnership.

(5) Anything required or authorised by this Part to be done by or in relation to the responsible partners for a partnership may instead be done by or in relation to any representative partner or partners.

(6) A representative partner means a partner nominated by a majority of the partners to act as the representative of the partnership for the purposes of this Part of this Act.

(7) Any such nomination, or the revocation of such a nomination, has effect only after notice of the nomination, or revocation, has been given to an officer of Revenue and Customs.

Supplementary provisions

168 Miscellaneous amendments and transitory provision

Schedule 35 contains—

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(a) miscellaneous amendments, and
(b) provision about the chargeable period beginning on 1 April 2013.

169 Orders and regulations

(1) Orders and regulations under this Part are to be made by statutory instrument.

(2) A statutory instrument containing an order or regulations made under this Part is subject to annulment in pursuance of a resolution of the House of Commons.

(3) Subsection (2) does not apply to—
(a) an instrument containing only an order under section 101(5), or
(b) an instrument to which subsection (4) applies.

(4) A statutory instrument containing (whether alone or with other provision) provision made under section 156(1) or 162(2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

(5) An order or regulations under this Part—
(a) may make different provision for different purposes,
(b) may include consequential or transitional provisions or savings.

Interpretation

170 Meaning of "chargeable day" and "within the charge"

(1) Any day on which the conditions in section 94(2) are met with respect to a single-dwelling interest is a "chargeable day" for that interest.

(2) Where a day is a chargeable day as a result of subsection (1), the chargeable person is "within the charge" with respect to a single-dwelling interest on that day.

171 References to the state of affairs "on" a day

In determining for the purposes of any provision of this Part whether or not a state of affairs obtains on a particular day, it is to be assumed that the state of affairs obtaining at the end of the day persisted throughout the day.

172 Connected persons

(1) Section 1122 of the Corporation Tax Act 2010 (connected persons) has effect for the purposes of this Part (except where otherwise stated).

(2) For the purposes of this Part a person is taken to be connected with a collective investment scheme if the person is a participant in the scheme who—
(a) is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or income arising from the scheme that may be distributed to participants, or
(b) would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.

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(3) The reference in subsection (2) to a collective investment scheme does not include a unit trust scheme; but see section 1123(2) of CTA 2010 (provision about the application of rules about connected persons to unit trust schemes).

(4) The reference in subsection (2)(a) to profits or income arising from the scheme is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the scheme.

(5) For the purposes of subsection (2) a person is taken to have any rights and powers that the person—

(a) is entitled to acquire at a future date, or

(b) will at a future date be entitled to acquire.

(6) For the purposes of subsection (2) the rights and powers of any associate of a person (or of any two or more associates of a person) are to be attributed to the person.

(7) In this section "associate" has the same meaning as in Part 10 of CTA 2010 (see section 448 of that Act); but for this purpose section 448 is to be read as if the words "or partner" were omitted in subsection (1)(a).

Modifications etc. (not altering text)

C9 S. 172(2)-(7) applied by 2003 c. 14, Sch. 4A para. 5A(10)(b) (as inserted (with effect in accordance with Sch. 40 para. 8 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 40 para. 2(4)**)

173 Connected persons: cell companies

(1) For the purposes of this Part a person is to be treated as connected to a cell company where, if any cell of the company were a separate company, the person would be connected to that separate company.

(2) For the purposes of this section a company is a "cell company" if it meets the first or second condition.

(3) The first condition is that under the law under which the company is incorporated or formed, under the company's articles of association or other document regulating the company or under arrangements entered into by or in relation to the company—

(a) some or all of the assets of the company are available primarily, or only, to meet particular liabilities of the company, and

(b) some or all of the members of the company, and some or all of its creditors, have rights primarily, or only, in relation to particular assets of the company.

(4) The second condition is that the company's articles of association, or other document regulating it, establish an entity (by whatever name known) which—

(a) under the law under which the company is incorporated or formed, has legal personality distinct from that of the company, and

(b) which is not itself a company.

(5) For the purposes of this section a "cell", in relation to a cell company, is—

(a) an identifiable part of the company (by whatever name known) that carries on distinct business activities and to which particular assets and liabilities of the company are primarily or wholly attributable, or

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(b) an entity of the kind specified in subsection (4).

174 General interpretation of Part 3

(1) In this Part—

"chargeable day" (in relation to a single-dwelling interest) is to be read in accordance with section 170;

"chargeable interest" has the meaning given by section 107;

"the chargeable person" has the meaning given by section 96(2) or (3);

"closure notice" has the meaning given by paragraph 16 of Schedule 33;

"collective investment scheme" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 235 of that Act);

"company" has the meaning given by section 166(1);

"completion", in Scotland, means—

(a) in relation to a lease, when it is executed by the parties (that is to say, by signing) or constituted by any means,

(b) in relation to any other transaction, the settlement of the transaction;

"discovery assessment" has the meaning given by paragraph 21 of Schedule 33;

"EEAUCITS" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 237 of that Act);

"excluded rents" has the meaning given by section 133(6);

"farming" has the meaning given by section 148(4);

"filing date", in relation to an annual tax on enveloped dwellings return or a return of the adjusted chargeable amount, has the meaning given by paragraph 58 of Schedule 33;

"financial institution" has the meaning given by section 143 (except where otherwise stated);

"HMRC" means Her Majesty's Revenue and Customs;

"HMRC determination" has the meaning given by paragraph 18 of Schedule 33;

"jointly entitled" means—

(a) in England and Wales, beneficially entitled as joint tenants or tenants in common,

(b) in Scotland, entitled as joint owners or owners in common,

(c) in Northern Ireland, beneficially entitled as joint tenants, tenants in common or coparceners;

"land" includes—

(a) buildings and structures, and

(b) land covered by water;

"market value" has the meaning given by section 98(8);

"notice of enquiry" has the meaning given by paragraph 8 of Schedule 33;

"open-ended investment company" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236(1) of that Act);

"participant", in relation to a collective investment scheme, has the meaning given by section 98(7);

"partnership" has the meaning given by section 167;

"property development trade" has the meaning given by section 138(4);

"property rental business" has the meaning given by section 133(4);

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"property trading business" has the meaning given by section 141(3);

"qualifying property rental business" has the meaning given by section 133(3);

"self assessment" has the meaning given by section 161(3);

"tax" means tax under this Part;

"trade" has the same meaning as in section 35 of CTA 2009 (and cognate expressions are to be read accordingly);

"unit trust scheme" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 237(1) of that Act).

(2) In this Part—

references to the "adjusted chargeable amount", in relation to a person on whom tax is charged for a chargeable period with respect to a single-dwelling interest, are to be read in accordance with section 105;

references to an "annual tax on enveloped dwellings return" are to be read in accordance with section 159(4);

references to the "daily amount" for a day are to be read in accordance with section 105(2);

references to "delivery", in relation to an annual tax on enveloped dwellings return, are to be read in accordance with paragraph 2 of Schedule 33;

references to the "effective date" of an acquisition are to be read in accordance with section 121(4);

references to the "effective date" of a disposal are to be read in accordance with section 121(5);

references to a "major interest" in land are to be read in accordance with section 117 of FA 2003;

[[F59]references to the "management company", in relation to an EEA UCITS, are to be read in accordance with Article 2.1(b) of the Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities;**]**

references to a "return of the adjusted chargeable amount" are to be read in accordance with section 160(6);

references to meeting the "ownership condition" are to be read in accordance with section 94(4) to (6);

references to being "within the charge" with respect to a single-dwelling interest are to be read in accordance with section 170.

Textual Amendments

F59 Words in s. 174(2) inserted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **22(2)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

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PART 4

EXCISE DUTIES AND OTHER TAXES

Inheritance tax

175 Open- ended investment companies and authorised unit trusts

(1) In section 65 of IHTA 1984 (settlements without interests in possession etc: charge when property ceases to be relevant property etc), after subsection (7) insert—

"(7A) Tax shall not be charged under this section by reason only that property comprised in a settlement becomes excluded property by virtue of section 48(3A)(a) (holding in an authorised unit trust or a share in an open-ended investment company is excluded property unless settlor domiciled in UK when settlement made)."

(2) The amendment made by this section is treated as having come into force on 16 October 2002.

176 Treatment of liabilities for inheritance tax purposes

Schedule 36 makes provision in relation to the treatment of liabilities for the purposes of inheritance tax.

177 Election to be treated as domiciled in United Kingdom

(1) IHTA 1984 is amended as follows.

(2) In section 267 (persons treated as domiciled in United Kingdom), at the end insert—

"(5) In determining for the purposes of this section whether a person is, or at any time was, domiciled in the United Kingdom, sections 267ZA and 267ZB are to be ignored."

(3) After that section insert—

"**267ZA Election to be treated as domiciled in United Kingdom**

(1) A person may, if condition A or B is met, elect to be treated for the purposes of this Act as domiciled in the United Kingdom (and not elsewhere).

(2) A person's personal representatives may, if condition B is met, elect for the person to be treated for the purposes of this Act as domiciled in the United Kingdom (and not elsewhere).

(3) Condition A is that, at any time on or after 6 April 2013 and during the period of 7 years ending with the date on which the election is made, the person had a spouse or civil partner who was domiciled in the United Kingdom.

(4) Condition B is that a person ("the deceased") dies and, at any time on or after 6 April 2013 and within the period of 7 years ending with the date of death, the deceased was—

(a) domiciled in the United Kingdom, and

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(b) the spouse or civil partner of the person who would, by virtue of the election, be treated as domiciled in the United Kingdom.

(5) An election under this section does not affect a person's domicile for the purposes of section 6(2) or (3) or 48(4).

(6) An election under this section is to be ignored—

(a) in interpreting any such provision as is mentioned in section 158(6), and

(b) in determining the effect of any qualifying double taxation relief arrangements in relation to a transfer of value by the person making the election.

(7) For the purposes of subsection (6)(b) a qualifying double taxation relief arrangement is an arrangement which is specified in an Order in Council made under section 158 before the coming into force of this section (other than by way of amendment by an Order made on or after the coming into force of this section).

(8) In determining for the purposes of this section whether a person making an election under this section is or was domiciled in the United Kingdom, section 267 is to be ignored.

267ZB Section 267ZA: further provision about election

(1) For the purposes of this section—

(a) references to a lifetime election are to an election made by virtue of section 267ZA(3), and

(b) references to a death election are to an election made by virtue of section 267ZA(4).

(2) A lifetime or death election is to be made by notice in writing to HMRC.

(3) A lifetime or death election is treated as having taken effect on a date specified, in accordance with subsection (4), in the notice.

(4) The date specified in a notice under subsection (3) must—

(a) be 6 April 2013 or a later date,

(b) be within the period of 7 years ending with—

(i) in the case of a lifetime election, the date on which the election is made, or

(ii) in the case of a death election, the date of the deceased's death, and

(c) meet the condition in subsection (5).

(5) The condition in this subsection is met by a date if, on the date—

(a) in the case of a lifetime election—

(i) the person making the election was married to, or in a civil partnership with, the spouse or civil partner, and

(ii) the spouse or civil partner was domiciled in the United Kingdom, or

(b) in the case of a death election—

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(i) the person who is, by virtue of the election, to be treated as domiciled in the United Kingdom was married to, or in a civil partnership with, the deceased, and

(ii) the deceased was domiciled in the United Kingdom.

(6) A death election may only be made within 2 years of the death of the deceased or such longer period as an officer of Revenue and Customs may in the particular case allow.

(7) Subsection (8) applies if—

(a) a lifetime or death election is made,

(b) a disposition is made, or another event occurs, during the period beginning with the time when the election is treated by virtue of subsection (3) as having taken effect and ending at the time when the election is made, and

(c) the effect of the election being treated as having taken effect at that time is that the disposition or event gives rise to a transfer of value.

(8) This Act applies with the following modifications in relation to the transfer of value—

(a) subsections (1) and (6)(c) of section 216 have effect as if the period specified in subsection (6)(c) of that section were the period of 12 months from the end of the month in which the election is made, and

(b) sections 226 and 233 have effect as if the transfer were made at the time when the election is made.

(9) A lifetime or death election cannot be revoked.

(10) If a person who made an election under section 267ZA(1) is not resident in the United Kingdom for the purposes of income tax for a period of four successive tax years beginning at any time after the election is made, the election ceases to have effect at the end of that period."

178 Transfer to spouse or civil partner not domiciled in United Kingdom

(1) Section 18 of IHTA 1984 (transfers between spouses or civil partners) is amended as follows.

(2) In subsection (2) (transfer to spouse or civil partner not domiciled in United Kingdom), for "£55,000" substitute " the exemption limit at the time of the transfer, ".

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (2), the exemption limit is the amount shown in the second column of the first row of the Table in Schedule 1 (upper limit of portion of value charged at rate of nil per cent)."

(4) The amendments made by this section have effect in relation to transfers of value made on or after 6 April 2013.

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Fuel

179 Fuel duties: rates of duty and rebates from 1 April 2013

(1) HODA 1979 is amended as follows.

(2) In section 6(1A) (main rates)—

(a) in paragraph (a) (unleaded petrol), for "£0.6097" substitute " £0.5795 ",

(b) in paragraph (aa) (aviation gasoline), for "£0.3966" substitute " £0.3770 ",

(c) in paragraph (b) (light oil other than unleaded petrol or aviation gasoline), for "£0.7069" substitute " £0.6767 ", and

(d) in paragraph (c) (heavy oil), for "£0.6097" substitute " £0.5795 ".

(3) In section 8(3) (road fuel gas)—

(a) in paragraph (a) (natural road fuel gas), for "£0.2907" substitute " £0.2470 ", and

(b) in paragraph (b) (other road fuel gas), for "£0.3734" substitute " £0.3161 ".

(4) In section 11(1) (rebate on heavy oil)—

(a) in paragraph (a) (fuel oil), for "£0.1126" substitute " £0.1070 ", and

(b) in paragraph (b) (gas oil), for "£0.1172" substitute " £0.1114 ".

(5) In section 14(1) (rebate on light oil for use as furnace fuel), for "£0.1126" substitute " £0.1070 ".

(6) In section 14A(2) (rebate on certain biodiesel), for "£0.1172" substitute " £0.1114 ".

(7) The following instruments are revoked—

(a) Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc) Order 2012 (S.I. 2012/3055), and

(b) Excise Duties (Road Fuel Gas) (Reliefs) Regulations 2012 (S.I. 2012/3056).

(8) The amendments and revocations made by this section are treated as having come into force on 1 April 2013.

Alcohol

180 Rates of alcoholic liquor duties

(1) ALDA 1979 is amended as follows.

(2) In section 5 (rate of duty on spirits), for "£26.81" substitute " £28.22 ".

(3) In section 36(1AA) (rates of general beer duty)—

(a) in paragraph (za) (rate of duty on lower strength beer), for "£9.76" substitute " £9.17 ", and

(b) in paragraph (a) (standard rate of duty on beer), for "£19.51" substitute " £19.12 ".

(4) In section 37(4) (rate of high strength beer duty), for "£4.88" substitute " £5.09 ".

(5) In section 62(1A) (rates of duty on cider)—

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(a) in paragraph (a) (rate of duty per hectolitre on sparkling cider of a strength exceeding 5.5 per cent), for "£245.32" substitute " £258.23 ",

(b) in paragraph (b) (rate of duty per hectolitre on cider of a strength exceeding 7.5 per cent which is not sparkling cider), for "£56.55" substitute " £59.52 ", and

(c) in paragraph (c) (rate of duty per hectolitre in any other case), for "£37.68" substitute " £39.66 ".

(6) For the table in Schedule 1 substitute—

"Table of rates of duty on wine and made-wine

PART 1

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT

Description of wine or made-wine	***Rates of duty per hectolitre £***
Wine or made-wine of a strength not exceeding 4 per cent	82.18
Wine or made-wine of a strength exceeding 4 per cent but not exceeding 5.5 per cent	113.01
Wine or made-wine of a strength exceeding 5.5 per cent but not exceeding 15 per cent and not being sparkling	266.72
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent but less than 8.5 per cent	258.23
Sparkling wine or sparkling made-wine of a strength of 8.5 per cent or of a strength exceeding 8.5 per cent but not exceeding 15 per cent	341.63
Wine or made-wine of a strength exceeding 15 per cent but not exceeding 22 per cent	355.59

PART 2

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT

Description of wine or made-wine	***Rates of duty per litre of alcohol in wine or made-wine £***
Wine or made-wine of a strength exceeding 22 per cent	28.22".

(7) The amendments made by this section are treated as having come into force on 25 March 2013.

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Tobacco

181 Rates of tobacco products duty

(1) For the table in Schedule 1 to TPDA 1979 substitute—

"TABLE

1. Cigarettes	An amount equal to 16.5 per cent of the retail price plus £176.22 per thousand cigarettes
2. Cigars	£219.82 per kilogram
3. Hand-rolling tobacco	£172.74 per kilogram
4. Other smoking tobacco and chewing tobacco	£96.64 per kilogram".

(2) The amendment made by this section is treated as having come into force at 6 pm on 20 March 2013.

182 Meaning of "tobacco products"

(1) Section 1 of TPDA 1979 (tobacco products) is amended as follows.

(2) In subsection (1), omit ", but does not include herbal smoking products".

(3) After that subsection insert—

"(1A) But a product is not a tobacco product for the purposes of this Act if—

(a) the product does not contain any tobacco, and

(b) the Commissioners are satisfied that—

(i) the product is of a description that is used for medical purposes, and

(ii) the product is intended to be used exclusively for such purposes."

(4) In subsection (3), omit "but not including herbal smoking products".

(5) Omit subsection (6).

(6) The amendments made by this section come into force on 1 January 2014.

Gambling

183 Rates of gaming duty

(1) In section 11(2) of FA 1997 (rates of gaming duty), for the table substitute—

"TABLE

Part of gross gaming yield	***Rate***
The first £2,242,500	15 per cent
The next £1,546,000	20 per cent

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The next £2,707,500	30 per cent
The next £5,714,500	40 per cent
The remainder	50 per cent".

(2) The amendment made by this section has effect in relation to accounting periods beginning on or after 1 April 2013.

184 Combined bingo

(1) Section 20A of BGDA 1981 (combined bingo) is amended as follows.

(2) In subsection (3) for the words from the beginning to "second promoter")—" substitute "Where money representing such payments (so far as they constituted stakes hazarded in the combined bingo) is paid in an accounting period by one promoter of the bingo ("the first promoter") to another ("the second promoter"), to the extent that the money is used (directly or indirectly) to provide bingo winnings for combined bingo promoted by the second promoter—".

(3) Omit subsection (4).

(4) The amendments made by this section have effect in relation to accounting periods beginning on or after the day on which this Act is passed.

Air passenger duty

185 Air passenger duty: rates of duty from 1 April 2013

(1) Section 30 of FA 1994 (air passenger duty: rates of duty) is amended as follows.

(2) In subsection (3)—
(a) in paragraph (a) for "£65" substitute " £67 ", and
(b) in paragraph (b) for "£130" substitute " £134 ".

(3) In subsection (4)—
(a) in paragraph (a) for "£81" substitute " £83 ", and
(b) in paragraph (b) for "£162" substitute " £166 ".

(4) In subsection (4A)—
(a) in paragraph (a) for "£92" substitute " £94 ", and
(b) in paragraph (b) for "£184" substitute " £188 ".

(5) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2013.

186 Air passenger duty: miscellaneous provision

(1) In section 38 of FA 1994 (accounting for and payment of duty) after subsection (2) insert—

"(2A) Regulations may require a prescribed person to make, at prescribed times during a prescribed period, payments based on an estimate of what the person's liability will be for duty charged in the period.

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(2B) The estimate and the amounts of the payments are to be determined in accordance with provision made by the regulations.

(2C) The payments are to be treated as being payments on account of the person's liability for duty charged in the period.

(2D) The regulations must make provision for dealing with cases where this results in an overpayment of duty by providing for amounts—

(a) to be repaid by the Commissioners, or

(b) to be treated as having been paid on account of the person's liability for duty charged in other periods,

or both."

(2) In Part 2 of Schedule 5A to FA 1994 (territories etc) at the appropriate place insert " South Sudan ".

(3) The amendment made by subsection (2) has effect in relation to the carriage of passengers beginning on or after 9 July 2011.

Vehicle excise duty

187 VED rates for light passenger vehicles, light goods vehicles, motorcycles etc

(1) Schedule 1 to VERA 1994 (annual rates of duty) is amended as follows.

(2) In paragraph 1 (general)—

(a) in sub-paragraph (2) (vehicle not covered elsewhere in Schedule otherwise than with engine cylinder capacity not exceeding 1,549cc), for "£220" substitute " £225 ", and

(b) in sub-paragraph (2A) (vehicle not covered elsewhere in Schedule with engine cylinder capacity not exceeding 1,549cc), for "£135" substitute " £140 ".

(3) In paragraph 1B (graduated rates of duty for light passenger vehicles)—

(a) for the tables substitute—

"TABLE 1

RATES PAYABLE ON FIRST VEHICLE LICENCE FOR VEHICLE

CO_2 emissions figure		***Rate***	
(1)	***(2)***	***(3)***	***(4)***
Exceeding	***Not exceeding***	***Reduced rate***	***Standard rate***
g/km	***g/km***	***£***	***£***
130	140	115	125
140	150	130	140
150	165	165	175
165	175	275	285
175	185	325	335

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185	200	465	475
200	225	610	620
225	255	830	840
255		1055	1065

TABLE 2

RATES PAYABLE ON ANY OTHER VEHICLE LICENCE FOR VEHICLE

CO_2 emissions figure		***Rate***	
(1)	***(2)***	***(3)***	***(4)***
Exceeding	***Not exceeding***	***Reduced rate***	***Standard rate***
g/km	***g/km***	***£***	***£***
100	110	10	20
110	120	20	30
120	130	95	105
130	140	115	125
140	150	130	140
150	165	165	175
165	175	190	200
175	185	210	220
185	200	250	260
200	225	270	280
225	255	465	475
255		480	490”;

(b) in the sentence immediately following the tables, for paragraphs (a) and (b) substitute—

“(a) in column (3), in the last two rows, “270” were substituted for “465” and “ 480 ”, and

(b) in column (4), in the last two rows, “280” were substituted for “475” and “ 490 ”.”

(4) In paragraph 1J (VED rates for light goods vehicles)—

(a) in paragraph (a), for “£215” substitute “ £220 ”, and

(b) in paragraph (b), for “£135” substitute “ £140 ”.

(5) In paragraph 2(1) (VED rates for motorcycles)—

(a) in paragraph (a), for “£16” substitute “ £17 ”,

(b) in paragraph (b), for “£36” substitute “ £37 ”,

(c) in paragraph (c), for “£55” substitute “ £57 ”, and

(d) in paragraph (d), for “£76” substitute “ £78 ”.

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(6) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2013.

188 Not exhibiting licence: period of grace

(1) In section 33 of VERA 1994 (not exhibiting licence), omit subsections (1B) to (1D).

(2) After that section insert—

"**33A Not exhibiting licence: period of grace**

(1) A person is not guilty of an offence under subsection (1) or (1A) of section 33 by using or keeping a vehicle on a public road during any of the following periods.

First registration The period of 14 days beginning with the day on which the vehicle is first registered under this Act.

Change of keeper The period of 14 days beginning with the day on which a new licence or nil licence is issued for the vehicle because of a change in the person by whom the vehicle is being kept.

Renewal etc. The period of 14 days following the time when a licence or nil licence for or in respect of the vehicle, or a relevant declaration applying to the vehicle, ceases to be in force, but only if an application for a licence or nil licence for or in respect of the vehicle to run from that time has been received before that time.

Replacement The period beginning with the time when a licence or nil licence that is in force for or in respect of the vehicle is delivered to the Secretary of State with an application for a replacement licence, and ending with the time when the replacement licence is obtained.

(2) For the purposes of this section—

(a) there is a relevant declaration applying to a vehicle if the particulars and declaration required to be furnished and made by regulations under section 22(1D) have been furnished and made in relation to the vehicle in accordance with the regulations, and

(b) the relevant declaration ceases to be in force if, after the particulars and declaration have been furnished and made the vehicle is used or kept on a public road (otherwise than under a trade licence)."

(3) In consequence of the provision made by subsections (1) and (2) omit—

(a) section 147 of FA 2008, and

(b) in regulation 6 of the Road Vehicles (Registration and Licensing) Regulations 2002 (S.I. 2002/2742), paragraph (1) and, in paragraph (2), the words "Except where paragraph (1) applies,".

189 Vehicles not kept or used on public road

(1) VERA 1994 is amended as follows.

(2) In section 7A (supplement payable on vehicle ceasing to be appropriately covered), in subsection (1A)(d) omit "within the immediately preceding period of 12 months".

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(3) In Schedule 2A (immobilisation, removal and disposal of vehicles), in paragraph 1(10)(b) omit "within the immediately preceding period of 12 months".

190 Vehicle licences for disabled people

Schedule 37 makes provision about vehicle licences for disabled people.

Value added tax

191 Repayments of value added tax to health service bodies

(1) In section 41 of VATA 1994 (application to the Crown), in subsection (7), after "Board" insert " and a clinical commissioning group, the Health and Social Care Information Centre, the National Health Service Commissioning Board and the National Institute for Health and Care Excellence ".

(2) The amendment made by this section is treated as having come into force on 1 April 2013.

192 Valuation of certain supplies of fuel

Schedule 38 contains provision about the valuation of certain supplies of fuel for the purposes of value added tax.

193 Reduced rate for energy-saving materials

(1) Group 2 (installation of energy-saving materials) of Part 2 of Schedule 7A to VATA 1994 (reduced rate supplies of goods and services) is amended as follows.

(2) For items 1 and 2 substitute—

"1	Supplies of services of installing energy-saving materials in residential accommodation.
2	Supplies of energy-saving materials by a person who installs those materials in residential accommodation."

(3) Omit Note 3 (meaning of "use for a relevant charitable purpose").

(4) The amendments made by this section have effect in relation to supplies made on or after 1 August 2013.

Stamp duty land tax

194 Pre-completion transactions: existing cases

(1) Section 45 of FA 2003 (contract and conveyance: effect of transfer of rights)—

(a) has effect subject to the amendment in subsection (2) below in relation to agreements for the grant or assignment of an option that are entered into during

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the period beginning with 21 March 2012 and ending immediately before the day on which this Act is passed, and

(b) has effect subject to the amendments in subsections (3) to (7) below in relation to transfers of rights (see subsection (1) of that section) entered into during that period.

(2) At the end of subsection (1A) insert " or an agreement for the future grant or assignment of an option ".

(3) In subsection (3), in the second sentence, after "except" insert " in a case excluded by subsection (3A) or ".

(4) After subsection (3) insert—

"(3A) A case is excluded by this subsection from the second sentence of subsection (3) if—

(a) the secondary contract is substantially performed at the same time as, and in connection with, the substantial performance or completion of the original contract but is not completed at that time ("the relevant time"),

(b) the original purchaser or a person connected with the original purchaser is in possession of the whole, or substantially the whole, of the subject-matter of the transfer of rights at any time after the relevant time, and

(c) having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage for the original purchaser was the main purpose, or one of the main purposes, of the original purchaser in entering into the transfer of rights.

(3B) In subsection (3A)—

"possession" has the same meaning as in section 44(5)(a);

"tax advantage" means—

(a) a relief from tax or increased relief from tax,

(b) a repayment of tax or increased repayment of tax, or

(c) the avoidance or reduction of a charge to tax.

(3C) Nothing in subsection (3A) or (3B) affects the breadth of the application of sections 75A to 75C."

(5) In subsection (4), at the end insert " except in a case excluded by subsection (4A) ".

(6) After subsection (4) insert—

"(4A) Subsection (3A) applies for the purposes of subsection (4) as if—

(a) the reference to subsection (3) were a reference to subsection (4),

(b) a reference to the original contract were a reference to the secondary contract arising from the earlier transfer of rights,

(c) a reference to the original purchaser were a reference to the transferee under the earlier transfer of rights, and

(d) a reference to the transfer of rights were a reference to the subsequent transfer of rights."

(7) In subsection (5)(b)—

(a) after "subsection (3) above" insert " or in subsection (3A) above ", and

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(b) after "subsection (4)" insert " or (4A) ".

(8) Subsections (10) to (12) apply where—

(a) as a result of subsection (2) of this section, section 45 of FA 2003 does not apply in relation to a contract of the kind mentioned in subsection (1)(a) of that section ("the original contract"),

(b) the original contract was substantially performed or completed (or, in a case that would have fallen within subsection (5) of that section, substantially performed or completed so far as relating to the relevant part of the subject-matter of the original contract) at the same time as, and in connection with, the substantial performance or completion of an agreement for the grant or assignment of an option, and

(c) that time fell before the day on which this Act is passed.

(9) Subsections (10) to (12) also apply where—

(a) section 45 of FA 2003 applies in relation to the contract for a land transaction ("the original contract"),

(b) as a result of subsections (1) to (7) above, the substantial performance or completion of the original contract (or, in a case within subsection (5) of that section, its substantial performance or completion so far as relating to part of the subject-matter of the original contract) is not disregarded, and

(c) the relevant time referred to in subsection (3A)(a) of that section fell before the day on which this Act is passed.

(10) Section 76 of FA 2003 (duty to deliver land transaction return) is to be regarded as requiring the purchaser under the original contract to deliver a land transaction return relating to the land transaction not later than 30 September 2013.

(11) Accordingly, 30 September 2013 is for the purposes of Part 4 of FA 2003 the filing date for the land transaction return relating to the transaction.

(12) If the purchaser under the original contract ("P") has delivered a land transaction return relating to the land transaction before the day on which this Act is passed, P must not later than 30 September 2013 give notice under paragraph 6 of Schedule 10 to FA 2003 amending the return, but this does not prevent P from making subsequent amendments within the time allowed by sub-paragraph (3) of that paragraph.

195 Pre-completion transactions

Schedule 39 contains provisions about certain transactions relating to a contract that is to be completed by a conveyance.

196 Relief from higher rate

Schedule 40 contains provisions about relief from the higher rate of stamp duty land tax.

197 Leases

Schedule 41 contains provision about stamp duty land tax in relation to leases.

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Landfill tax

198 Standard rate of landfill tax

(1) Section 42 of FA 1996 (amount of landfill tax) is amended as follows.

(2) In subsection (1)(a) (standard rate), for "£72" substitute " £80 ".

(3) In subsection (2) (reduced rate) for "£72" substitute " £80 ".

(4) The amendments made by this section have effect in relation to disposals made (or treated as made) on or after 1 April 2014.

Climate change levy

199 Climate change levy: main rates

(1) In paragraph 42(1) of Schedule 6 to FA 2000 (climate change levy: amount payable by way of levy) for the table substitute—

"TABLE

Taxable commodity supplied	***Rate at which levy payable if supply is not a reduced-rate supply or a supply for use in scrap metal recycling***
Electricity	£0.00541 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00188 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.01210 per kilogram
Any other taxable commodity	£0.01476 per kilogram".

(2) The amendment made by subsection (1) has effect in relation to supplies treated as taking place on or after 1 April 2014.

200 Climate change levy: supplies subject to carbon price support rates etc

Schedule 42 amends Schedule 6 to FA 2000 (climate change levy).

Insurance premium tax

201 Contracts that are not taxable

(1) In Schedule 7A to FA 1994 (IPT: contracts that are not taxable), paragraph 3 (contracts relating to motor vehicles for use by handicapped persons) is amended as follows.

(2) In sub-paragraph (2)(a)—

(a) after "disability living allowance" insert " , or personal independence payment, " and

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(b) after "component" insert " , or of an armed forces independence payment ".

(3) In sub-paragraph (3), after "disability living allowance" insert " , personal independence payment, armed forces independence payment ".

(4) After sub-paragraph (4)(b) insert—

"(ba) personal independence payment" means a personal independence payment under Part 4 of the Welfare Reform Act 2012 or the corresponding provision having effect in Northern Ireland;

(bb) "armed forces independence payment" means an armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Contributions) Act 2004;".

(5) The amendments made by this section are treated as having come into force on 8 April 2013.

Bank levy

202 Bank levy: rates from 1 January 2013

(1) Schedule 19 to FA 2011 (bank levy) is amended as follows.

(2) In paragraph 6 (steps for determining the amount of the bank levy), in sub-paragraph (2)—

(a) for "0.044%" substitute " 0.065% ", and

(b) for "0.088%" substitute " 0.130% ".

(3) In paragraph 7 (special provision for chargeable periods falling wholly or partly before 1 January 2013), in sub-paragraph (2) (as substituted by paragraph 6 of Schedule 34 to FA 2012), in the table in the substituted Step 7—

(a) in the second column for "0.0525%" substitute " 0.065% ", and

(b) in the third column for "0.105%" substitute " 0.130% ".

(4) In Schedule 34 to FA 2012 (bank levy)—

(a) omit paragraph 5 (which substituted new rates from 1 January 2013), and

(b) in paragraph 7 for "paragraphs 5 and" substitute " paragraph ".

(5) The amendments made by subsections (2) to (4) are treated as having come into force on 1 January 2013 (and accordingly the paragraph repealed by subsection (4) is treated as never having come into force).

(6) Subsections (7) to (13) apply where—

(a) an amount of the bank levy is treated as if it were an amount of corporation tax chargeable on an entity ("E") for an accounting period of E,

(b) the chargeable period in respect of which the amount of the bank levy is charged falls (or partly falls) on or after 1 January 2013, and

(c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of E for the accounting period, were treated as becoming due and payable before the commencement date ("pre-commencement instalment payments").

(7) Subsections (1) to (5) are to be ignored for the purpose of determining the amount of any pre-commencement instalment payment.

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(8) If there is at least one instalment payment, in respect of the total liability of E for the accounting period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after the commencement date ("post-commencement instalment payments"), the amount of that instalment payment, or the first of them, is to be increased by the adjustment amount.

(9) If there are no post-commencement instalment payments, a further instalment payment, in respect of the total liability of E for the accounting period, of an amount equal to the adjustment amount is to be treated as becoming due and payable at the end of the period of 30 days beginning with the commencement date.

(10) "The adjustment amount" is the difference between—

(a) the aggregate amount of the pre-commencement instalments determined in accordance with subsection (7), and

(b) the aggregate amount of those instalment payments determined ignoring subsection (7) (and so taking account of subsections (1) to (5)).

(11) In the Instalment Payment Regulations—

(a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of those Regulations are to be read as including a reference to subsections (6) to (10) (and in regulation 7(2) "the regulation in question", and in regulation 8(2) "that regulation", are to be read accordingly), and

(b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to subsections (6) to (10).

(12) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E is to be read as including a reference to subsections (6) to (11).

(13) In this section—

"the chargeable period" is to be construed in accordance with paragraph 4 or (as the case may be) 5 of Schedule 19 to FA 2011;

"the commencement date" means the day on which this Act is passed;

"the Instalment Payment Regulations" means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175);

and references to the total liability of E for an accounting period are to be construed in accordance with regulation 2(3) of the Instalment Payment Regulations.

[F60]203 Bank levy: rates from 1 January 2014

. . . . . .

Textual Amendments

F60 S. 203 repealed (1.1.2014 retrospective) by Finance Act 2014 (c. 26), **s. 119(4)**(5)

204 No deductions for UK or foreign bank levies

(1) Schedule 19 to FA 2011 (the bank levy) is amended as follows.

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(2) In paragraph 46 (bank levy to be ignored for purposes of corporation tax and income tax), in paragraph (b), after "paid" insert " (directly or indirectly) ".

(3) In Part 7 (double taxation relief), after paragraph 69 insert—

69A "**Foreign levies to be ignored for purposes of income tax or corporation tax**

(1) In calculating profits or losses for the purposes of income tax or corporation tax—

(a) no deduction is allowed in respect of any tax which is imposed by the law of a territory outside the United Kingdom and corresponds to the bank levy, and

(b) no account is to be taken of any amount which is paid (directly or indirectly) by a member of a group to another member for the purposes of meeting or reimbursing the cost of such a tax charged in relation to the group.

(2) Paragraph 66(3) applies for the purposes of sub-paragraph (1) as it applies for the purposes of paragraph 66(2)."

(4) Accordingly—

(a) in paragraph 3, after "double taxation relief" insert " and with the deduction of foreign levies for the purposes of corporation tax and income tax ", and

(b) in the heading for Part 7, after "RELIEF" insert " ETC "

(5) The amendments made by this section have effect in relation to any period of account beginning on or after 1 January 2013.

(6) The amendments made by subsections (3) and (4) also have effect in relation to any period of account beginning before that date, but only if, and to the extent that, the tax is the subject of a claim for relief under paragraph 66 or 67 of Schedule 19 to FA 2011 (bank levy: double taxation relief) made on or after 5 December 2012.

(7) For the purposes of subsections (5) and (6), a period of account beginning before, and ending on or after 1 January 2013 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate periods of account.

205 High quality liquid assets

(1) In paragraph 70 of Schedule 19 to FA 2011 (bank levy: definitions), in sub-paragraph (1), in the definition of "high quality liquid asset" for "section 12.7.2(1) to (4)" substitute "section 12.7 (assets that are eligible for inclusion in a firm's regulatory liquid assets buffer)'.

(2) The amendment made by this section has effect in relation to chargeable periods ending on or after 1 January 2011, and in relation to those chargeable periods the amendment is to be treated as always having had effect.

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PART 5

GENERAL ANTI-ABUSE RULE

Modifications etc. (not altering text)

C10 Pt. 5 extended (with effect in accordance with s. 10(7) of the amending Act) by National Insurance Contributions Act 2014 (c. 7), **s. 10(1)** (with s. 10(7))

206 General anti-abuse rule

(1) This Part has effect for the purpose of counteracting tax advantages arising from tax arrangements that are abusive.

(2) The rules of this Part are collectively to be known as "the general anti-abuse rule".

(3) The general anti-abuse rule applies to the following taxes—

(a) income tax,

(b) corporation tax, including any amount chargeable as if it were corporation tax or treated as if it were corporation tax,

(c) capital gains tax,

(d) petroleum revenue tax,

[F61(da) diverted profits tax,**]**

[F62(db) apprenticeship levy,**]**

(e) inheritance tax,

(f) stamp duty land tax, and

(g) annual tax on enveloped dwellings.

[F63(h) multinational top-up tax.**]**

[F64(i) domestic top-up tax.**]**

Textual Amendments

F61 S. 206(3)(da) inserted (with effect in accordance with s. 116(1) of the amending Act) by Finance Act 2015 (c. 11), **s. 115(1)**

F62 S. 206(3)(db) inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 104(2)** (with s. 117)

F63 S. 206(3)(h) inserted (31.12.2023 in relation to accounting periods commencing on or after that date) by Finance (No. 2) Act 2023 (c. 30), s. 264, **Sch. 14 para. 68(4)**

F64 S. 206(3)(i) inserted (31.12.2023 in relation to accounting periods commencing on or after that date) by Finance (No. 2) Act 2023 (c. 30), s. 278, **Sch. 18 para. 7(4)**

Modifications etc. (not altering text)

C11 S. 206(3) modified (with effect in accordance with s. 10(7) of the amending Act) by National Insurance Contributions Act 2014 (c. 7), **s. 10(2)** (with s. 10(7))

207 Meaning of "tax arrangements" and "abusive"

(1) Arrangements are "tax arrangements" if, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage was the main purpose, or one of the main purposes, of the arrangements.

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(2) Tax arrangements are "abusive" if they are arrangements the entering into or carrying out of which cannot reasonably be regarded as a reasonable course of action in relation to the relevant tax provisions, having regard to all the circumstances including—

(a) whether the substantive results of the arrangements are consistent with any principles on which those provisions are based (whether express or implied) and the policy objectives of those provisions,

(b) whether the means of achieving those results involves one or more contrived or abnormal steps, and

(c) whether the arrangements are intended to exploit any shortcomings in those provisions.

(3) Where the tax arrangements form part of any other arrangements regard must also be had to those other arrangements.

(4) Each of the following is an example of something which might indicate that tax arrangements are abusive—

(a) the arrangements result in an amount of income, profits or gains for tax purposes that is significantly less than the amount for economic purposes,

(b) the arrangements result in deductions or losses of an amount for tax purposes that is significantly greater than the amount for economic purposes, and

(c) the arrangements result in a claim for the repayment or crediting of tax (including foreign tax) that has not been, and is unlikely to be, paid,

but in each case only if it is reasonable to assume that such a result was not the anticipated result when the relevant tax provisions were enacted.

(5) The fact that tax arrangements accord with established practice, and HMRC had, at the time the arrangements were entered into, indicated its acceptance of that practice, is an example of something which might indicate that the arrangements are not abusive.

(6) The examples given in subsections (4) and (5) are not exhaustive.

Modifications etc. (not altering text)

C12 S. 207 modified (with effect in accordance with s. 10(7) of the amending Act) by National Insurance Contributions Act 2014 (c. 7), **s. 10(3)** (with s. 10(8)-(10))

208 Meaning of "tax advantage"

A "tax advantage" includes—

(a) relief or increased relief from tax,

(b) repayment or increased repayment of tax,

(c) avoidance or reduction of a charge to tax or an assessment to tax,

(d) avoidance of a possible assessment to tax,

(e) deferral of a payment of tax or advancement of a repayment of tax, and

(f) avoidance of an obligation to deduct or account for tax.

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209 Counteracting the tax advantages

(1) If there are tax arrangements that are abusive, the tax advantages that would (ignoring this Part) arise from the arrangements are to be counteracted by the making of adjustments.

(2) The adjustments required to be made to counteract the tax advantages are such as are just and reasonable.

(3) The adjustments may be made in respect of the tax in question or any other tax to which the general anti-abuse rule applies.

(4) The adjustments that may be made include those that impose or increase a liability to tax in any case where (ignoring this Part) there would be no liability or a smaller liability, and tax is to be charged in accordance with any such adjustment.

(5) Any adjustments required to be made under this section (whether by an officer of Revenue and Customs or **[**F65anyone else**]**) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

[F66(6) But—

(a) the effect of adjustments made by an officer of Revenue and Customs by virtue of this section is suspended until the procedural requirements of Schedule 43, 43A or 43B have been complied with, and

(b) the power to make adjustments by virtue of this section is subject to any time limit imposed by or under any enactment other than this Part.

The provision made by this subsection needs to be read with sections 209AA to 209AC and has no effect on adjustments so far as made otherwise than by virtue of this section.**]**

[F67(6A) The procedural requirements mentioned in subsection (6)(a) include any procedural requirements which apply under or by virtue of Schedule 43D (which makes provision in relation to partnerships).**]**

(7) Any adjustments made under this section have effect for all purposes.

[F68**[**F69(8) Where a matter is referred to the GAAR Advisory Panel under paragraph 5 or 6 of Schedule 43 in relation to any tax arrangements, no GAAR-related adjustments may be made in the period ("the closed period") that—

(a) begins with the 31st day after the end of the 45 day period mentioned in paragraph 4(1) of Schedule 43, and

(b) ends immediately before the day on which the notice under paragraph 12 of Schedule 43 is given in relation to the tax arrangements.

(9) Where a pooling notice or notice of binding has been given in relation to any tax arrangements, no GAAR-related adjustments may be made in the period ("the closed period") that—

(a) begins with the 31st day after the day on which the notice is given, and

(b) ends immediately before the day on which a notice under paragraph 8(2) or 9(2) of Schedule 43A, or a notice under paragraph 8(2) of Schedule 43B, is given in relation to the tax arrangements (as the case may be).**]**

(10) In this section "GAAR-related adjustments" means—

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(a) for the purposes of subsection (8), adjustments which give effect (wholly or in part) to the proposed counteraction set out in the notice under paragraph 3 of Schedule 43 **[**[F70]or paragraph 5 of Schedule 43D.**]**;

(b) for the purposes of subsection (9), adjustments which give effect (wholly or partly) to the proposed counteraction set out in the notice of pooling or binding (as the case may be).**]**

Textual Amendments

F65 Words in s. 209(5) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 3(2)**

F66 S. 209(6) substituted (with effect in accordance with Sch. 14 paras. 10, 15 of the amending Act) by Finance Act 2020 (c. 14), **Sch. 14 para. 2**

F67 S. 209(6A) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 3(3)**

F68 S. 209(8)-(10) inserted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by Finance Act 2016 (c. 24), **s. 158(4)**

F69 S. 209(8)(9) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 3(4)**

F70 Words in s. 209(10)(a) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 3(5)**

Modifications etc. (not altering text)

C13 S. 209 modified (with effect in accordance with s. 10(7) of the amending Act) by National Insurance Contributions Act 2014 (c. 7), **s. 10(4)** (with s. 10(7))

[[F71]209AA Protective GAAR notices

(1) An officer of Revenue and Customs may give a written notice (a "protective GAAR notice") to a person stating that the officer considers—

(a) that a tax advantage might have arisen to the person from tax arrangements that are abusive, and

(b) that, on the assumption that the advantage does arise from tax arrangements that are abusive, it ought to be counteracted under section 209.

(2) The protective GAAR notice must be given within the ordinary assessing time limit applicable to the proposed adjustments.

(3) But if—

(a) a tax enquiry is in progress into a return made by the person, and

(b) the return relates to the tax in respect of which the specified adjustments under the protective GAAR notice are made,

the protective GAAR notice must instead be given no later than the time when the enquiry is completed.

(4) The protective GAAR notice must—

(a) specify the arrangements and the tax advantage, and

(b) specify the adjustments that, on the assumption that the advantage does arise from tax arrangements that are abusive, the officer proposes ought to be made.

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(5) The adjustments specified in the protective GAAR notice have effect as if they are made by virtue of section 209.

(6) Notice of appeal may be given against the adjustments specified in the protective GAAR notice (whether or not the adjustments are also made otherwise than by virtue of section 209).

(7) Any appeal against the specified adjustments (whether made by virtue of section 209 or otherwise) is, as a result of this subsection, stayed—

(a) for a period of 12 months beginning with the day on which the protective GAAR notice is given, or

(b) if a final GAAR counteraction notice is given before the end of that period, for a period ending with the day on which the final GAAR counteraction notice is given.

(8) If, in the case of the specified adjustments (whether made by virtue of section 209 or otherwise)—

(a) notice of appeal is not given or notice of appeal is given but the appeal is subsequently withdrawn or determined by agreement, and

(b) no final GAAR counteraction notice is given,

the protective GAAR notice has effect for all purposes (other than the purposes of section 212A) as if it had been given as a final GAAR counteraction notice (and, accordingly, as if the GAAR procedural requirements had been complied with).

(9) In any case not falling within subsection (8)—

(a) the specified adjustments have no effect (so far as they are made by virtue of section 209) unless they (or lesser adjustments) are subsequently specified in a final GAAR counteraction notice, but

(b) the giving of the protective GAAR notice is treated as meeting the requirements of section 209(6)(b) in the case of that final GAAR counteraction notice.**]**

Textual Amendments

F71 S. 209AA inserted (with effect in accordance with Sch. 14 paras. 11, 15 of the amending Act) by Finance Act 2020 (c. 14), **Sch. 14 para. 3**

[F72 209AB Adjustments under section 209: notices under Schedule 43 or 43A

(1) This section applies in the case of any particular adjustments in respect of a particular period or matter ("the adjustments concerned") if—

(a) a person is given a notice under paragraph 3 of Schedule 43 or a pooling notice or notice of binding under Schedule 43A ("the Schedule 43 or 43A notice") that specifies the adjustments concerned (whether or not other adjustments are specified),

(b) the Schedule 43 or 43A notice is given within the relevant time limit applicable to the adjustments concerned, and

(c) the adjustments concerned have not been specified in a provisional counteraction notice under section 209A, or a protective GAAR notice under section 209AA, given before the time at which the Schedule 43 or 43A notice is given.

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(2) The Schedule 43 or 43A notice is given within the relevant time limit if—

(a) it is given within the ordinary assessing time limit applicable to the adjustments concerned, or

(b) if a tax enquiry is in progress into a return made by the person and the particular adjustments concerned relate to the matters contained in the return, it is given no later than the time when the enquiry is completed.

(3) The adjustments concerned have effect as if they are made by virtue of section 209.

(4) If, in the case of the specified adjustments (whether made by virtue of section 209 or otherwise)—

(a) notice of appeal is not given or notice of appeal is given but the appeal is subsequently withdrawn or determined by agreement, and

(b) no final GAAR counteraction notice is given,

the Schedule 43 or 43A notice has effect for all purposes (other than the purposes of section 212A) as if it had been given as a final GAAR counteraction notice (and, accordingly, as if the GAAR procedural requirements had been complied with).

(5) In any case not falling within subsection (4)—

(a) the adjustments concerned have no effect (so far as they are made by virtue of section 209) unless they (or lesser adjustments) are subsequently specified in a final GAAR counteraction notice, but

(b) the giving of the Schedule 43 or 43A notice is treated as meeting the requirements of section 209(6)(b) in the case of that final GAAR counteraction notice.**]**

Textual Amendments

F72 S. 209AB inserted (with effect in accordance with Sch. 14 paras. 12, 15 of the amending Act) by Finance Act 2020 (c. 14), **Sch. 14 para. 4**

[F73 209ABA Adjustments under section 209: notices under Schedule 43D

(1) This section applies in the case of any particular adjustments in respect of a particular period or matter ("the adjustments concerned") if, in relation to a partnership—

(a) the responsible partner is given a notice under paragraph 5 or 10 of Schedule 43D ("the Schedule 43D notice") that specifies the adjustments concerned (whether or not other adjustments are specified),

(b) the Schedule 43D notice is given within the relevant time limit applicable to the adjustments concerned, and

(c) the adjustments concerned have not been specified in a protective GAAR notice given before the time at which the Schedule 43D notice is given.

(2) The Schedule 43D notice is given within the relevant time limit if—

(a) it is given within the ordinary assessing time limit applicable to the adjustments concerned, or

(b) in a case where a tax enquiry is in progress into a partnership return made by the responsible partner and the particular adjustments concerned relate to the matters contained in the return, it is given no later than the time when the enquiry is completed.

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(3) The adjustments concerned have effect as if they are made by virtue of section 209.

(4) If, in the case of the specified adjustments (whether made by virtue of section 209 or otherwise)—

(a) notice of appeal is not given or notice of appeal is given but the appeal is subsequently withdrawn or determined by agreement, and

(b) no final GAAR counteraction notice is given,

the Schedule 43D notice has effect for all purposes (other than the purposes of section 212B) as if it had been given as a final GAAR counteraction notice (and, accordingly, as if the GAAR procedural requirements had been complied with).

(5) In any case not falling within subsection (4)—

(a) the adjustments concerned have no effect (so far as they are made by virtue of section 209) unless they (or lesser adjustments) are subsequently specified in a final GAAR counteraction notice, but

(b) the giving of the Schedule 43D notice is treated as meeting the requirements of section 209(6)(b) in the case of that final GAAR counteraction notice.

(6) In subsection (1) "protective GAAR notice" means a protective GAAR notice given under section 209AA or paragraph 4 of Schedule 43D.

(7) In this section "the responsible partner" and "partnership return" have the same meaning as in Schedule 43D.**]**

Textual Amendments

F73 S. 209ABA inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 4**

[F74209AC Sections 209AA [F75to 209ABA]: definitions

(1) In sections 209AA **[**F76to 209ABA**]**—

"final GAAR counteraction notice" means a notice given under—

(a) paragraph 12 of Schedule 43,

(b) paragraph 8 or 9 of Schedule 43A, or

(c) paragraph 8 of Schedule 43B,

"GAAR procedural requirements" means the procedural requirements of Schedule 43, 43A **[**F77, 43B, or (as the case may be) 43D**]**,

"lesser adjustments" means adjustments specified in the final GAAR counteraction notice which assume a smaller tax advantage than was assumed in the protective GAAR notice or (as the case may be) the Schedule 43 or 43A notice **[**F78(within the meaning of section 209AB) or the Schedule 43D notice (within the meaning of section 209ABA)**]**, and

"ordinary assessing time limit", in relation to any adjustments, means the time limit imposed by or under any enactment other than this Part for the making of the adjustments.

(2) Expressions which are used in section 202 of FA 2014 ("tax enquiry", and its being "in progress", and "return") have the same meaning in sections 209AA **[**F79to 209ABA**]** as they have in that section (and references to completing a tax enquiry are to be read accordingly).**]**

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Textual Amendments

F74 S. 209AC inserted (22.7.2020) by Finance Act 2020 (c. 14), **Sch. 14 para. 5**

F75 Words in s. 209AC heading substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 5(2)**

F76 Words in s. 209AC(1) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 5(3)(a)**

F77 Words in s. 209AC(1) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 5(3)(b)**

F78 Words in s. 209AC(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 5(3)(c)**

F79 Words in s. 209AC(2) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 5(4)**

[F80]209A Effect of adjustments specified in a provisional counteraction notice

. . . . . .

Textual Amendments

F80 Ss. 209A-209F omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 6** (with Sch. 14 para. 13)

[F80]209B Notified adjustments: 12 month period for taking action if appeal made

. . . . . .

Textual Amendments

F80 Ss. 209A-209F omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 6** (with Sch. 14 para. 13)

[F80]209C Notified adjustments: case within section 209B(4)(c)

. . . . . .

Textual Amendments

F80 Ss. 209A-209F omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 6** (with Sch. 14 para. 13)

[F80]209D Notified adjustments: case within section 209B(4)(d)

. . . . . .

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Textual Amendments

F80 Ss. 209A-209F omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 6** (with Sch. 14 para. 13)

F80 209E Notified adjustments: case within section 209B(4)(e)

. . . . . .

Textual Amendments

F80 Ss. 209A-209F omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 6** (with Sch. 14 para. 13)

F80 209F Appeals against provisional counteractions: further provision

. . . . . .

Textual Amendments

F80 Ss. 209A-209F omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 6** (with Sch. 14 para. 13)

210 Consequential relieving adjustments

(1) This section applies where—

(a) the counteraction of a tax advantage under section 209 is final, and

(b) if the case is not one in which notice of the counteraction was given under paragraph 12 of Schedule 43, **[**F81paragraph 8 or 9 of Schedule 43A or paragraph 8 of Schedule 43B,**]** HMRC have been notified of the counteraction F82....

(2) A person has 12 months, beginning with the day on which the counteraction becomes final, to make a claim for one or more consequential adjustments to be made in respect of any tax to which the general anti-abuse rule applies.

(3) On a claim under this section, an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(4) Consequential adjustments—

(a) may be made in respect of any period, and

(b) may affect any person (whether or not a party to the tax arrangements).

(5) But nothing in this section requires or permits an officer to make a consequential adjustment the effect of which is to increase a person's liability to any tax.

(6) For the purposes of this section—

(a) if the claim relates to income tax or capital gains tax, Schedule 1A to TMA 1970 applies to it;

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(b) if the claim relates to corporation tax, Schedule 1A to TMA 1970 (and not Schedule 18 to FA 1998) applies to it;

(c) if the claim relates to petroleum revenue tax, Schedule 1A to TMA 1970 applies to it, but as if the reference in paragraph 2A(4) of that Schedule to a year of assessment included a reference to a chargeable period within the meaning of OTA 1975 (see section 1(3) and (4) of that Act);

(d) if the claim relates to inheritance tax it must be made in writing to HMRC and section 221 of IHTA 1984 applies as if the claim were a claim under that Act;

(e) if the claim relates to stamp duty land tax or annual tax on enveloped dwellings, Schedule 11A to FA 2003 applies to it as if it were a claim to which paragraph 1 of that Schedule applies.

(7) Where an officer of Revenue and Customs makes a consequential adjustment under this section, the officer must give the person who made the claim written notice describing the adjustment which has been made.

(8) For the purposes of this section the counteraction of a tax advantage is final when the adjustments made to effect the counteraction, and any amounts arising as a result of those adjustments, can no longer be varied, on appeal or otherwise.

(9) Any adjustments required to be made under this section may be made—

(a) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and

(b) despite any time limit imposed by or under any enactment other than this Part.

[[F83](10) For the purposes of subsection (1)(b), HMRC must be notified—

(a) in a case where Schedule 43D applies, by the responsible partner (within the meaning of that Schedule), and

(b) in any other case, by the person to whom the tax advantage would have arisen.**]**

Textual Amendments

F81 Words in s. 210(1)(b) inserted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(5)**

F82 Words in s. 210(1)(b) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 6(a)**

F83 S. 210(10) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 6(b)**

Modifications etc. (not altering text)

C14 S. 210 modified (with effect in accordance with s. 10(7) of the amending Act) by National Insurance Contributions Act 2014 (c. 7), **s. 10(5)** (with s. 10(6)(7))

211 Proceedings before a court or tribunal

(1) In proceedings before a court or tribunal in connection with the general anti-abuse rule, HMRC must show—

(a) that there are tax arrangements that are abusive, and

(b) that the adjustments made to counteract the tax advantages arising from the arrangements are just and reasonable.

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(2) In determining any issue in connection with the general anti-abuse rule, a court or tribunal must take into account—

(a) HMRC's guidance about the general anti-abuse rule that was approved by the GAAR Advisory Panel at the time the tax arrangements were entered into, and

(b) any opinion of the GAAR Advisory **[**[F84]Panel given—

(i) under paragraph 11 of Schedule 43 about the arrangements or any tax arrangements which are, as a result of a notice under paragraph 1 or 2 of Schedule 43A, the referred or (as the case may be) counteracted arrangements in relation to the arrangements, or

(ii) under paragraph 6 of Schedule 43B in respect of a generic referral of the arrangements.**]**

(3) In determining any issue in connection with the general anti-abuse rule, a court or tribunal may take into account—

(a) guidance, statements or other material (whether of HMRC, a Minister of the Crown or anyone else) that was in the public domain at the time the arrangements were entered into, and

(b) evidence of established practice at that time.

Textual Amendments

F84 Words in s. 211(2)(b) substituted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(6)**

212 Relationship between the GAAR and priority rules

(1) Any priority rule has effect subject to the general anti-abuse rule (despite the terms of the priority rule).

(2) A "priority rule" means a rule (however expressed) to the effect that particular provisions have effect to the exclusion of, or otherwise in priority to, anything else.

(3) Examples of priority rules are—

(a) the rule in section 464, 699 or 906 of CTA 2009 (priority of loan relationships rules, derivative contracts rules and intangible fixed assets rules for corporation tax purposes), and

(b) the rule in section 6(1) of TIOPA 2010 (effect to be given to double taxation arrangements despite anything in any enactment).

[[F85]212APenalty

(1) A person (P) is liable to pay a penalty if—

(a) P has been given a notice under—

(i) paragraph 12 of Schedule 43,

(ii) paragraph 8 or 9 of Schedule 43A, or

(iii) paragraph 8 of Schedule 43B,

stating that a tax advantage arising from particular tax arrangements is to be counteracted,

(b) a tax document has been given to HMRC on the basis that the tax advantage arises to P from those arrangements,

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(c) that document was given to HMRC—

(i) by P, or

(ii) by another person in circumstances where P knew, or ought to have known, that the other person gave the document on the basis mentioned in **[**[F86]paragraph (b)**]**, and

(d) the tax advantage has been counteracted by the making of adjustments under section 209.

(2) The penalty is 60% of the value of the counteracted advantage.

(3) Schedule 43C—

(a) gives the meaning of "the value of the counteracted advantage", and

(b) makes other provision in relation to penalties under this section.

(4) In this section "tax document" means any return, claim or other document submitted in compliance (or purported compliance) with any provision of, or made under, an Act.

(5) In this section the reference to giving a tax document to HMRC is to be interpreted in accordance with paragraph 11(g) and (h) of Schedule 43C.**]**

Textual Amendments

F85 S. 212A inserted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by Finance Act 2016 (c. 24), **s. 158(2)**

F86 Words in s. 212A(1)(c)(ii) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 7**

[[F87]**212B Penalty: partnerships**

(1) This section applies if, in respect of a partnership—

(a) the responsible partner has been given a notice under—

(i) paragraph 12 of Schedule 43,

(ii) paragraph 8 or 9 of Schedule 43A, or

(iii) paragraph 8 of Schedule 43B,

stating that a tax advantage is to be counteracted, and

(b) the tax advantage, so far as arising to a partner (P) in the partnership, has been counteracted by the making of adjustments under section 209.

(2) P is liable to pay a penalty of an amount equal to 60% of the value of the counteracted tax advantage.

(3) Schedule 43C—

(a) gives the meaning of "the value of the counteracted tax advantage", and

(b) makes other provision in relation to penalties under this section.

(4) For the meaning of "the responsible partner" see paragraph 2 of Schedule 43D.**]**

Textual Amendments

F87 S. 212B inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 8**

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213 Consequential amendment

(1) Section 42 of TMA 1970 (procedure for making claims etc) is amended as follows.

(2) In subsection (2), for "(3ZB)" substitute " (3ZC) ".

(3) After subsection (3ZB) insert—

"(3ZC) Subsection (2) also does not apply in relation to any claim under section 210 of the Finance Act 2013 (claims for consequential relieving adjustments after counteraction of tax advantage under the general anti-abuse rule)."

214 Interpretation of Part 5

[F88(1) In this Part—

"abusive", in relation to tax arrangements, has the meaning given by section 207(2) to (6);

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

[F89"designated HMRC officer" has the meaning given by paragraph 2 of Schedule 43;".**]**

"the GAAR Advisory Panel" has the meaning given by paragraph 1 of Schedule 43;

"the general anti-abuse rule" has the meaning given by section 206;

"HMRC" means Her Majesty's Revenue and Customs;

[F89"notice of binding" has the meaning given by paragraph 2(2) of Schedule 43A **[**F90or paragraph 10 of Schedule 43D (as the case may be)**]**;

F91 ...

[F89"pooling notice" has the meaning given by **[**F92paragraph 1(3) of Schedule 43A or paragraph 10 of Schedule 43D (as the case may be)**]**;**]**

F93 ...

"tax advantage" has the meaning given by section 208;

F94 ...

"tax arrangements" has the meaning given by section 207(1).**]**

[F89"tax enquiry" has the meaning given by section 202(2) of FA 2014.**]**

F95(2) **[** In this Part references to any "opinion of the GAAR Advisory Panel" about any tax arrangements are to be interpreted in accordance with paragraph 11(5) of Schedule 43.

(3) In this Part references to tax arrangements which are "equivalent" to one another are to be interpreted in accordance with paragraph 11 of Schedule 43A.**]]**

Textual Amendments

F88 S. 214(1): s. 214 renumbered (15.9.2016) as s. 214(1) (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(8)**

F89 Words in s. 214(1) inserted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(9)**

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F90 Words in s. 214(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 9(a)**

F91 Words in s. 214(1) omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 7(a)**

F92 Words in s. 214(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 9(b)**

F93 Words in s. 214(1) omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 7(b)**

F94 Words in s. 214(1) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 9(c)**

F95 S. 214(2)(3) inserted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(10)**

215 Commencement and transitional provision

(1) The general anti-abuse rule has effect in relation to any tax arrangements entered into on or after the day on which this Act is passed.

(2) Where the tax arrangements form part of any other arrangements entered into before that day those other arrangements are to be ignored for the purposes of section 207(3), subject to subsection (3).

(3) Account is to be taken of those other arrangements for the purposes of section 207(3) if, as a result, the tax arrangements would not be abusive.

PART 6

OTHER PROVISIONS

Trusts

216 Trusts with vulnerable beneficiary

Schedule 44 contains provision about trusts which have a vulnerable beneficiary.

Unit trusts

217 Unauthorised unit trusts

(1) The Treasury may by regulations make provision about the treatment of the trustees or unit holders of unauthorised unit trusts for the purposes of income tax, corporation tax, capital gains tax or stamp duty land tax.

(2) Regulations under this section may—

(a) confer or impose powers or duties on officers of Revenue and Customs or other persons;

(b) modify any enactment or instrument (whenever passed or made);

(c) specify descriptions of unauthorised unit trust in relation to which the regulations are to apply or are not to apply;

(d) make different provision for different cases or different purposes;

(e) make incidental, consequential, supplementary and transitional provision and savings.

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In paragraph (b) "modify" includes amend, repeal or revoke.

(3) The statutory instrument containing the first regulations under this section may not be made unless a draft has been laid before and approved by a resolution of the House of Commons.

(4) A subsequent statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(5) In this section—

(a) "unauthorised unit trust" means a unit trust scheme which is neither an authorised unit trust nor an umbrella scheme,

(b) "unit trust scheme" has the meaning given by section 237 of the Financial Services and Markets Act 2000, and

(c) "authorised unit trust", "umbrella scheme" and "unit holder" have the same meaning as in Chapter 2 of Part 13 of CTA 2010 (authorised investment funds).

Residence

218 Statutory residence test

(1) Schedule 45 contains—

(a) provision for determining whether individuals are resident in the United Kingdom for the purposes of income tax, capital gains tax and (where relevant) inheritance tax and corporation tax,

(b) provision about split years, and

(c) provision about periods when individuals are temporarily non-resident.

(2) The Treasury may by order make any incidental, supplemental, consequential, transitional or saving provision in consequence of Schedule 45.

(3) An order under subsection (2) may—

(a) make different provision for different purposes, and

(b) make provision amending, repealing or revoking any provision made by or under an Act (whenever passed or made).

(4) An order under subsection (2) is to be made by statutory instrument.

(5) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.

219 Ordinary residence

(1) Schedule 46 contains provision removing or replacing rules relating to ordinary residence.

(2) The Treasury may by order make further provision removing or replacing rules relating to ordinary residence with respect to—

(a) income tax,

(b) capital gains tax, and

(c) (so far as the ordinary residence status of individuals is relevant to them) inheritance tax and corporation tax.

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(3) An order under subsection (2) may take effect from the start of the tax year in which the order is made.

(4) The Treasury may by order make any incidental, supplemental, consequential, transitional or saving provision in consequence of Schedule 46 or in consequence of any further provision made under subsection (2).

(5) An order under this section may—

(a) make different provision for different purposes, and

(b) make provision amending, repealing or revoking any provision made by or under an Act (whenever passed or made).

(6) An order under this section is to be made by statutory instrument.

(7) A statutory instrument containing an order under subsection (2) (whether alone or with other provisions) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(8) Subject to subsection (7), a statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the House of Commons.

International matters

220 Controlled foreign companies etc

Schedule 47 makes provision in relation to CFCs etc.

221 Agreement between UK and Switzerland

(1) In Schedule 36 to FA 2012 (agreement between UK and Switzerland), after paragraph 26 insert—

"**Transfers to HMRC under Agreement**

26A (1) Income or chargeable gains of a person are to be treated as not remitted to the United Kingdom if conditions A to D are met.

(2) Condition A is that (but for sub-paragraph (1)) the income or gains would be regarded as remitted to the United Kingdom by virtue of the bringing of money to the United Kingdom.

(3) Condition B is that the money is brought to the United Kingdom pursuant to a transfer made to HMRC in accordance with the Agreement.

(4) Condition C (which applies only if the money brought to the United Kingdom is a sum levied under Article 19(2)(b)) is that the sum was levied within the period of 45 days beginning with the day on which the amount derived from the income or gain in question was remitted as mentioned in Article 19(2)(b).

(5) Condition D is that the transfer is made in relation to a tax year in which section 809B, 809D or 809E of ITA 2007 (application of remittance basis) applies to the person.

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(6) Sub-paragraph (1) does not apply in relation to money brought to the United Kingdom if or to the extent that—

(a) paragraph 18(2), or section 138(4)(a) or 140(5)(a) of TIOPA 2010, is applied in relation to it (set-off against other tax liabilities), or

(b) it is repaid or refunded by HMRC.

26B (1) This paragraph applies if—

(a) but for paragraph 26A(1), income or chargeable gains would have been regarded as remitted to the United Kingdom by virtue of the bringing of money to the United Kingdom, and

(b) section 809Q of ITA 2007 (transfers from mixed funds) would have applied in determining the amount that would have been so remitted.

(2) The bringing of the money to the United Kingdom counts as an offshore transfer for the purposes of section 809R(4) of ITA 2007 (composition of mixed fund)."

(2) The amendment made by this section is to be treated as having come into force on 1 January 2013.

F96 222 International agreements to improve tax compliance

. . . . . .

Textual Amendments

F96 S. 222 repealed (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **s. 349(11)(a)**

Disclosure

223 Disclosure of tax avoidance schemes

(1) Part 7 of FA 2004 (disclosure of tax avoidance schemes) is amended in accordance with subsections (2) and (3).

(2) After section 312A insert—

"**312B Duty of client to provide information to promoter**

(1) This section applies where a person who is a promoter in relation to notifiable arrangements has provided a person ("the client") with the information prescribed under section 312(2) (duty of promoter to notify client of reference number).

(2) The client must, within the prescribed period, provide the promoter with prescribed information relating to the client.

(3) The duty under subsection (2) is subject to any exceptions that may be prescribed."

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(3) After section 313ZA insert—

"**313ZB Enquiry following disclosure of client details**

(1) This section applies where—

(a) a person who is a promoter in relation to notifiable arrangements has provided HMRC with information in relation to a person ("the client") under section 313ZA(3) (duty to provide client details), and

(b) HMRC suspect that a person other than the client is or is likely to be a party to the arrangements.

(2) HMRC may by written notice require the promoter to provide prescribed information in relation to any person other than the client who the promoter might reasonably be expected to know is or is likely to be a party to the arrangements.

(3) The promoter must comply with a requirement under or by virtue of subsection (2) within—

(a) the prescribed period, or

(b) such longer period as HMRC may direct."

(4) In section 98C(2) of TMA 1970 (notification under Part 7 of FA 2004)—

(a) after paragraph (da) insert—

"(daa) section 312B (duty of client to provide information to promoter),", and

(b) after paragraph (db) insert—

"(dc) section 313ZB (enquiry following disclosure of client details),".

Powers

224 Powers under Proceeds of Crime Act 2002

Schedule 48 makes provision for, and in connection with, conferring powers under Chapter 3 of Part 5 and Chapters 2 and 3 of Part 8 of the Proceeds of Crime Act 2002 on officers of Revenue and Customs.

225 Definition of "goods" for certain customs purposes

In section 1(1) of CEMA 1979 (interpretation), in the definition of "goods", for "baggage" substitute " containers ".

226 Power to detain goods

(1) Section 139 of CEMA 1979 (provisions as to detention, seizure and condemnation of goods etc) is amended as follows.

(2) After subsection (1) insert—

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"(1A) A person mentioned in subsection (1) who reasonably suspects that any thing may be liable to forfeiture under the customs and excise Acts may detain that thing.

(1B) References in this section and Schedule 2A to a thing detained as liable to forfeiture under the customs and excise Acts include a thing detained under subsection (1A)."

(3) In subsection (2), for the words from "either" to the end substitute " deliver that thing to an officer ".

(4) In subsection (4), for "the Commissioners at the nearest office of customs and excise" substitute " an officer ".

(5) In subsection (5), for "Schedule 3" substitute " Schedules 2A and 3 ".

(6) After that subsection insert—

"(5A) Schedule 2A contains supplementary provisions relating to the detention of things as liable to forfeiture under the customs and excise Acts."

(7) After Schedule 2 to that Act (composite goods: supplementary provisions as to excise duties and drawbacks) insert—

"SCHEDULE 2A Section 139(5A)

SUPPLEMENTARY PROVISIONS RELATING TO THE DETENTION OF THINGS AS LIABLE TO FORFEITURE

Interpretation

1 In this Schedule, references (however expressed) to a thing being detained are references to a thing being detained as liable to forfeiture under the customs and excise Acts.

Period of detention

2 (1) This paragraph applies where a thing is detained.

(2) The thing may be detained for 30 days beginning with the day on which the thing is first detained.

(3) The thing is deemed to be seized as liable to forfeiture under the customs and excise Acts if its detention ceases to be authorised under this paragraph.

Notice of detention

3 (1) The Commissioners must take reasonable steps to give written notice of the detention of any thing, and of the grounds for the detention, to any person who to their knowledge was, at the time of the detention, the owner or one of the owners of the thing.

(2) But notice need not be given under sub-paragraph (1) if the detention occurred in the presence of—

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(a) the person whose offence or suspected offence occasioned the detention,

(b) the owner or any of the owners of the thing detained or any servant or agent of such an owner, or

(c) in the case of any thing detained on a ship or aircraft, the master or commander.

Unauthorised removal or disposal: penalties etc

4 (1) This paragraph applies where a thing is detained and, with the agreement of a person within sub-paragraph (2) ("the responsible person"), the thing remains at the place where it is first detained (rather than being removed and detained elsewhere).

(2) A person is within this sub-paragraph if the person is—

(a) the owner or any of the owners of the thing at the time it was detained or any servant or agent of such an owner, or

(b) a person whom the person who detains the thing reasonably believes to be a person within paragraph (a).

(3) If the responsible person fails to prevent the unauthorised removal or disposal of the thing from the place where it is detained, that failure attracts a penalty under section 9 of the Finance Act 1994 (civil penalties).

(4) The removal or disposal of the thing is unauthorised unless it is done with the permission of a proper officer of Revenue and Customs.

(5) Where any duty of excise is payable in respect of the thing—

(a) the penalty is to be calculated by reference to the amount of that duty (whether it has been paid or not), and

(b) section 9 of the Finance Act 1994 has effect as if in subsection (2)(a) the words "5 per cent of" were omitted.

(6) If no duty of excise is payable in respect of the thing, that section has effect as if the penalty provided for by subsection (2)(b) of that section were whichever is the greater of—

(a) the value of the thing at the time it was first detained, or

(b) £250.

5 (1) This paragraph applies where—

(a) a thing is detained at a revenue trader's premises,

(b) the thing is liable to forfeiture under the customs and excise Acts, and

(c) without the permission of a proper officer of Revenue and Customs, the thing is removed from the trader's premises, or otherwise disposed of, by any person.

(2) The Commissioners may seize, as liable to forfeiture under the customs and excise Acts, goods of equivalent value to the thing, from the revenue trader's stock.

(3) For the purposes of this paragraph, a revenue trader's premises include any premises used to hold or store anything for the purposes of the revenue trader's trade, regardless of who owns or occupies the premises."

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(8) The amendments made by this section have effect in relation to things detained on or after the day on which this Act is passed.

227 Penalty instead of forfeiture of larger ships

(1) Section 143 of CEMA 1979 (penalty in lieu of forfeiture of larger ship where responsible officer is implicated in offence) is amended as follows.

(2) For subsection (1) (Commissioners' power to impose fine up to £50) substitute—

"(1) This section applies where—

(a) any ship of 250 or more tons register would, but for section 142, be liable to forfeiture for, or in connection with, any offence under the customs and excise Acts, and

(b) in the opinion of the Commissioners, a responsible officer of the ship is implicated either by the officer's own act, or by neglect, in that offence."

(3) In subsection (3) (Commissioners' power to bring condemnation proceedings)—

(a) for the words from the beginning to the first "they" substitute " The Commissioners ", and

(b) for "£500" substitute " £10,000 ".

(4) In subsection (4) (power to detain ship pending payment of deposit against fine or condemnation proceedings)—

(a) for the words from the beginning to "section, the" substitute " The ",

(b) for "£50 or, as the case may be, £500" substitute " £10,000 ", and

(c) omit "their final decision or, as the case may be,".

(5) In paragraph (a) of subsection (6) (definition of "responsible officer)—

(a) after "means" insert " a person who is, or is acting as, ",

(b) for "or an engineer" substitute " , an engineer or the bosun ", and

(c) omit the words from "and, in the case of a ship manned" to the end.

(6) After that subsection insert—

"(7) If the Treasury consider that there has been a change in the value of money since the Finance Act 2013 was passed or, as the case may be, since the last occasion when the power conferred by this subsection was exercised, they may by order substitute for the sum for the time being specified in subsections (3) and (4) such other sum as appears to them to be justified by the change.

(8) An order under subsection (7) may not vary the penalty for any conduct occurring before the coming into force of the order.

(9) An order under subsection (7) must be made by statutory instrument.

(10) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament."

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228 Data-gathering from merchant acquirers etc

(1) In Part 2 of Schedule 23 to FA 2011 (data-gathering powers: relevant data-holders), after paragraph 13 insert—

"**Merchant acquirers etc**

13A (1) A person who has a contractual obligation to make payments to retailers in settlement of payment card transactions is a relevant data-holder.

(2) In this paragraph—

"payment card" includes a credit card, a charge card and a debit card;

"payment card transaction" means any transaction in which a payment card is accepted as payment;

"retailer" means a person who accepts a payment card as payment for any transaction.

(3) In this paragraph any reference to a payment card being accepted as payment includes a reference to any account number or other indicators associated with a payment card being accepted as payment."

(2) This section applies in relation to relevant data with a bearing on any period (whether before, on or after the day on which this Act is passed).

Payment

229 Corporation tax: deferral of payment of exit charge

Schedule 49 contains provision for, and in connection with, deferring the payment by a company of certain corporation tax in circumstances where income, profits or gains arise by virtue of section 25, 185 or 187(4) of TCGA 1992 or section 162, 333, 334, 609, 610, 859 or 862 of CTA 2009.

230 Penalties: late filing, late payment and errors

Schedule 50 contains provision for, and in connection with, penalties for late filing, late payment and errors.

231 Overpayment relief: generally prevailing practice exclusion and EU law

(1) In Schedule 1AB to TMA 1970 (recovery of overpaid tax etc), in paragraph 2 (cases in which Commissioners not liable to give effect to claim), after sub-paragraph (9) insert—

"(9A) Cases G and H do not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(9B) For the purposes of sub-paragraph (9A), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

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(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).”

(2) In Schedule 2 to OTA 1975 (management and collection of petroleum revenue tax), in paragraph 13B (claim for relief for overpaid tax etc: cases in which HMRC not liable to give effect to a claim), after sub-paragraph (8) insert—

“(9) Case G does not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).”

(3) In Part 6 of Schedule 18 to FA 1998 (overpaid tax, excessive assessments or repayments etc), in paragraph 51A (cases in which Commissioners not liable to give effect to a claim), after sub-paragraph (8) insert—

“(9) Case G does not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).”

(4) In Part 6 of Schedule 10 to FA 2003 (relief in case of overpaid tax or excessive assessment), in paragraph 34A (cases in which Commissioners not liable to give effect to a claim), after sub-paragraph (8) insert—

“(9) Case G does not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).”

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(5) The amendments made by this section have effect in relation to any claim (in respect of overpaid tax, excessive assessment etc) made after the end of the six month period beginning with the day on which this Act is passed.

232 Overpayment relief: time limit for claims

(1) In Schedule 1AB to TMA 1970 (recovery of overpaid tax etc), in paragraph 3 (making a claim), in sub-paragraph (3) after "the relevant tax year is" insert "—

(a) where the amount liable to be paid is excessive by reason of a mistake in a return or returns under section 8, 8A or 12AA, the tax year to which the return (or, if more than one, the first return) relates, and

(b) otherwise,".

(2) In Schedule 2 to OTA 1975, in paragraph 13C (claim for relief for overpaid tax etc: making a claim), in sub-paragraph (3) after "the relevant chargeable period is" insert "—

(a) where the amount liable to be paid is excessive by reason of a mistake in a return or returns under paragraph 2 or 5, the chargeable period to which the return (or, if more than one, the first return) relates, and

(b) otherwise,".

(3) In Part 6 of Schedule 18 to FA 1998 (overpaid tax, excessive assessments or repayments, etc), in paragraph 51B (making a claim), in sub-paragraph (3), after "the relevant accounting period is" insert "—

(a) where the amount liable to be paid is excessive by reason of a mistake in a company tax return or returns, the accounting period to which the return (or, if more than one, the first return) relates, and

(b) otherwise,".

(4) The amendments made by this section have effect in relation to any claim (in respect of overpaid tax, excessive assessment etc) made after the end of the six month period beginning with the day on which this Act is passed.

Administration

233 Self assessment: withdrawal of notice to file etc

Schedule 51 contains provision for, and in connection with, withdrawing a notice under section 8, 8A or 12AA of TMA 1970 and cancelling liability to a penalty under Schedule 55 to FA 2009.

Interim remedies

234 Restrictions on interim payments in proceedings relating to taxation matters

(1) This section applies to an application for an interim remedy (however described), made in any court proceedings relating to a taxation matter, if the application is founded (wholly or in part) on a point of law which has yet to be finally determined in the proceedings.

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(2) Any power of a court to grant an interim remedy (however described) requiring the Commissioners for Her Majesty's Revenue and Customs, or an officer of Revenue and Customs, to pay any sum to any claimant (however described) in the proceedings is restricted as follows.

(3) The court may grant the interim remedy only if it is shown to the satisfaction of the court—

(a) that, taking account of all sources of funding (including borrowing) reasonably likely to be available to fund the proceedings, the payment of the sum is necessary to enable the proceedings to continue, or

(b) that the circumstances of the claimant are exceptional and such that the granting of the remedy is necessary in the interests of justice.

(4) The powers restricted by this section include (for example)—

(a) powers under rule 25 of the Civil Procedure Rules 1998 (S.I. 1998/3132);

(b) powers under Part II of Rule 29 of the Rules of the Court of Judicature (Northern Ireland) (Revision) 1980 (S.R. 1980 No.346).

(5) This section applies in relation to proceedings whenever commenced, but only in relation to applications made in those proceedings on or after 26 June 2013.

(6) This section applies on and after 26 June 2013.

(7) Subsection (8) applies where, on or after 26 June 2013 but before the passing of this Act, an interim remedy was granted by a court using a power which, because of subsection (6), is to be taken to have been restricted by this section.

(8) Unless it is shown to the satisfaction of the court that paragraph (a) or (b) of subsection (3) applied at the time the interim remedy was granted, the court must, on an application made to it under this subsection—

(a) revoke or modify the interim remedy so as to secure compliance with this section, and

(b) if the Commissioners have, or an officer of Revenue and Customs has, paid any sum as originally required by the interim remedy, order the repayment of the sum or any part of the sum as appropriate (with interest from the date of payment).

(9) For the purposes of this section, proceedings on appeal are to be treated as part of the original proceedings from which the appeal lies.

(10) In this section "taxation matter" means anything, other than national insurance contributions, the collection and management of which is the responsibility of the Commissioners for Her Majesty's Revenue and Customs (or was the responsibility of the Commissioners of Inland Revenue or Commissioners of Customs and Excise).

PART 7

FINAL PROVISIONS

235 Interpretation

(1) In this Act—

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"ALDA 1979" means the Alcoholic Liquor Duties Act 1979,

"BGDA 1981" means the Betting and Gaming Duties Act 1981,

"CAA 2001" means the Capital Allowances Act 2001,

"CEMA 1979" means the Customs and Excise Management Act 1979,

"CRCA 2005" means the Commissioners for Revenue and Customs Act 2005,

"CTA 2009" means the Corporation Tax Act 2009,

"CTA 2010" means the Corporation Tax Act 2010,

"F(No.3)A 2010" means the Finance (No. 3) Act 2010,

"HODA 1979" means the Hydrocarbon Oil Duties Act 1979,

"ICTA" means the Income and Corporation Taxes Act 1988,

"IHTA 1984" means the Inheritance Tax Act 1984,

"ITA 2007" means the Income Tax Act 2007,

"ITEPA 2003" means the Income Tax (Earnings and Pensions) Act 2003,

"ITTOIA 2005" means the Income Tax (Trading and Other Income) Act 2005,

"OTA 1975" means the Oil Taxation Act 1975,

"TCGA 1992" means the Taxation of Chargeable Gains Act 1992,

"TIOPA 2010" means the Taxation (International and Other Provisions) Act 2010,

"TMA 1970" means the Taxes Management Act 1970,

"TPDA 1979" means the Tobacco Products Duty Act 1979,

"VATA 1994" means the Value Added Tax Act 1994, and

"VERA 1994" means the Vehicle Excise and Registration Act 1994.

(2) In this Act—

"FA", followed by a year, means the Finance Act of that year;

"F(No.2)A", followed by a year, means the Finance (No. 2) Act of that year.

236 Short title

This Act may be cited as the Finance Act 2013.

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SCHEDULES

SCHEDULE 1

Section 7

ANNUAL INVESTMENT ALLOWANCE: PERIODS STRADDLING 1 JANUARY 2013 OR 1 JANUARY 2015

Chargeable periods which straddle 1 January 2013

1 (1) This paragraph applies in relation to a chargeable period which begins before 1 January 2013 and ends on or after that date **[**[F97]but not later than the specified date**]** ("the first straddling period").

[[F98](1A) The specified date" means—

(a) for the purposes of corporation tax, 31 March 2014, and

(b) for the purposes of income tax, 5 April 2014.**]**

(2) The maximum allowance under section 51A of CAA 2001 for the first straddling period is the sum of each maximum allowance that would be found if—

(a) so much (if any) of the first straddling period as falls before the relevant date,

(b) so much of the first straddling period as falls on or after the relevant date but before 1 January 2013, and

(c) so much of the first straddling period as falls on or after 1 January 2013,

were each treated as separate chargeable periods.

(3) But this is subject to paragraphs 2 and 3.

(4) In this Schedule "the relevant date" means—

(a) for the purposes of corporation tax, 1 April 2012;

(b) for the purposes of income tax, 6 April 2012.

Textual Amendments

F97 Words in Sch. 1 para. 1(1) inserted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 2 para. 7(2)(a)**

F98 Sch. 1 para. 1(1A) inserted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 2 para. 7(2)(b)**

Straddling period beginning before the relevant date

2 (1) This paragraph applies where the first straddling period begins before the relevant date.

(2) So far as concerns expenditure incurred before the relevant date, the maximum allowance under section 51A of CAA 2001 for the first straddling period is what would have been the maximum allowance for that period if the amendment made by section 7(1) had not been made.

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(3) So far as concerns expenditure incurred on or after the relevant date but before 1 January 2013, the maximum allowance under section 51A of CAA 2001 for the first straddling period is—

$$A - B$$

(4) In sub-paragraph (3)—

(a) "A" means the amount that would have been the maximum allowance for the period beginning on the relevant date and ending at the end of the first straddling period if—

(i) that period had been a separate chargeable period, and

(ii) the amendment made by section 7(1) had not been made;

(b) "B" means the amount (if any) by which—

(i) the AIA expenditure incurred in the period mentioned in paragraph 1(2)(a) in respect of which a claim for an annual investment allowance is made, exceeds

(ii) the maximum allowance under section 51A of CAA 2001 for that period if it were treated as a separate chargeable period.

(5) So far as concerns expenditure incurred on or after 1 January 2013, the maximum allowance under section 51A of CAA 2001 for the first straddling period is the sum of each maximum allowance that would be found if the period mentioned in paragraph 1(2)(b) and the period mentioned in paragraph 1(2)(c) were each treated as separate chargeable periods.

First straddling period beginning on or after the relevant date

3 (1) This paragraph applies where no part of the first straddling period falls within paragraph 1(2)(a).

(2) So far as concerns expenditure incurred before 1 January 2013, the maximum allowance under section 51A of CAA 2001 for the first straddling period is to be calculated as as if the amendment made by section 7(1) had not been made.

Chargeable periods which straddle 1 January 2015

F99 4 . . . . . .

Textual Amendments

F99 Sch. 1 para. 4 omitted (17.7.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 2 para. 7(3)**

Operation of annual investment allowance where restrictions apply

5 (1) Paragraphs 1 **[**F100 to 3 **]** also apply for the purpose of determining the maximum allowance under section 51K of CAA 2001 (operation of annual investment allowance where restrictions apply) in a case where one or more chargeable periods in which the relevant AIA qualifying expenditure is incurred are chargeable periods within paragraph 1(1) F101....

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(2) There is to be taken into account for those purposes only chargeable periods of one year or less (whether or not they are chargeable periods within paragraph 1(1) [F102]...), and, if there is more than one such period, only that period which gives rise to the greatest maximum allowance.

(3) For the purposes of sub-paragraph (2) any chargeable period which—

(a) is longer than a year, and

(b) ends in the tax year 2012-13, 2013-14, **[**[F103] or 2014-15 **]** ,

is to be treated as being a chargeable period of one year ending at the same time as it actually ends.

(4) Section 11(11) of FA 2011 is repealed.

(5) That repeal has effect in relation to cases where one or more chargeable periods in which the relevant AIA qualifying expenditure is incurred are chargeable periods within paragraph 1(1).

(6) Nothing in this paragraph affects the operation of sections 51M and 51N of CAA 2001.

Textual Amendments

F100 Words in Sch. 1 para. 5(1) substituted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 2 para. 7(4)(a)(i)**

F101 Words in Sch. 1 para. 5(1) omitted (17.7.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 2 para. 7(4)(a)(ii)**

F102 Words in Sch. 1 para. 5(2) omitted (17.7.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 2 para. 7(4)(b)**

F103 Words in Sch. 1 para. 5(3)(b) substituted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 2 para. 7(4)(c)**

SCHEDULE 2

Section 14

TAX ADVANTAGED EMPLOYEE SHARE SCHEMES

PART 1

RETIREMENT OF PARTICIPANTS

Introduction

1 Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities) is amended as follows.

Share incentive plans

2 In section 498 (no charge on shares ceasing to be subject to plan in certain circumstances) in subsection (2)(e) omit the words from "on" to "2)".

3 In Part 4 of Schedule 2 (types of shares that may be awarded) in paragraph 32 (provision for forfeiture) in sub-paragraph (2)(e) omit the words from "on" to "98)".

4 Part 11 of Schedule 2 (supplementary provisions) is amended as follows.

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5 Omit paragraph 98 (meaning of "specified retirement age").

6 In paragraph 100 (index of defined expressions) omit the entry for "the specified retirement age".

SAYE option schemes

7 Part 6 of Schedule 3 (requirements etc relating to share options) is amended as follows.

8 In paragraph 27 (introduction) in sub-paragraph (1)—

(a) omit the entry for paragraph 31,

(b) after the entry for paragraph 32 insert " and ", and

(c) omit the entry for paragraph 33 and the "and" after it.

9 In paragraph 30 (time for exercising options) in sub-paragraph (2)(a)—

(a) for "32 to" substitute " 32, ", and

(b) omit "reaching the specified age without retiring,".

10 Omit paragraph 31 (requirement to have a "specified age").

11 Omit paragraph 33 (exercise of options: reaching specified age without retiring).

12 In paragraph 34 (exercise of options: scheme-related employment ends) in sub-paragraph (2)(b) omit the words from "on" to "employment".

13 In Part 9 of Schedule 3 (supplementary provisions) in paragraph 49 (index of defined expressions) omit the entry for "specified age".

CSOP schemes

14 In section 524 (no charge in respect of exercise of option) in subsection (2C) omit the definition of "retirement" and the "and" before it.

15 In Part 8 of Schedule 4 (supplementary provisions) omit paragraph 35A (retirement age).

Transitional provision

16 The amendment made by paragraph 11 above has no effect in relation to options granted before the day on which this Act is passed; and the effect of the amendments made by paragraphs 8 to 10 and 13 above is limited accordingly.

17 (1) A SIP, SAYE option scheme or CSOP scheme approved before the day on which this Act is passed has effect with any modifications needed to reflect the amendments made by this Part of this Schedule.

(2) In relation to any shares awarded under a SIP before that day which are subject to provision for forfeiture, that provision has effect with any modifications needed to reflect the amendment made by paragraph 3 above.

(3) Because of paragraphs 48 and 58 below, that amendment is not relevant to shares awarded under a SIP on or after that day.

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PART 2

"GOOD LEAVERS" (OTHER THAN RETIREES)

Introduction

18 Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities) is amended as follows.

Share incentive plans

19 In section 498 (no charge on shares ceasing to be subject to plan in certain circumstances) after subsection (2) insert—

"(3) A participant is not liable to income tax on shares ("the relevant shares") in a company ("the relevant company") being withdrawn from the plan if—

(a) the withdrawal of the relevant shares from the plan relates to—

(i) a transaction resulting from a compromise, arrangement or scheme falling within subsection (9),

(ii) an offer forming part of a general offer falling within subsection (10), or

(iii) the application of sections 979 to 982 or 983 to 985 of the Companies Act 2006 in the case of a takeover offer (as defined in section 974 of that Act) falling within subsection (13), and

(b) as a result of, as the case may be—

(i) the transaction,

(ii) the offer, or

(iii) the application of sections 979 to 982 or 983 to 985 of the Companies Act 2006,

the participant receives cash (and no other assets) in exchange for the relevant shares.

(4) For the purposes of subsection (3)(b) it does not matter if the participant receives other assets in exchange for shares other than the relevant shares.

(5) Subsection (3) does not apply to the relevant shares (or to a proportion of them) if in connection with, as the case may be—

(a) the compromise, arrangement or scheme,

(b) the general offer, or

(c) the takeover offer,

a course of action was open to the participant which, had it been followed, would have resulted in other assets being received in exchange for the relevant shares (or the proportion of them) instead of cash.

(6) Subsection (3) does not apply to the relevant shares (or to a proportion of them) if it is reasonable to suppose that the relevant shares (or the proportion of them) would not have been awarded to the participant—

(a) had, as the case may be—

(i) the compromise, arrangement or scheme,

(ii) the general offer, or

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(iii) the takeover offer,

not been made, or

(b) had any arrangements for the making of—

(i) a compromise, arrangement or scheme which would fall within subsection (9),

(ii) a general offer which would fall within subsection (10), or

(iii) a takeover offer (as defined in section 974 of the Companies Act 2006) which would fall within subsection (13),

which were in place or under consideration at any time not been in place or under consideration.

(7) In subsection (6) the reference to shares being awarded to the participant is to be read, in the case of dividend shares, as a reference to the shares being acquired by the trustees on the participant's behalf.

(8) In subsection (6)(b) "arrangements" includes any plan, scheme, agreement or understanding, whether or not legally enforceable.

(9) A compromise, arrangement or scheme falls within this subsection if it is applicable to or affects—

(a) all the ordinary share capital of the relevant company or all the shares of the same class as the relevant shares, or

(b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employment or their participation in an approved SIP.

(10) A general offer falls within this subsection if—

(a) it is made to holders of shares of the same class as the relevant shares or to holders of shares in the relevant company, and

(b) it is made in the first instance on a condition such that if it is satisfied the person making the offer will have control of the relevant company.

(11) For the purposes of subsection (10) it does not matter if the general offer is made to different shareholders by different means.

(12) In subsection (10)(b) "control" has the meaning given by sections 450 and 451 of CTA 2010.

(13) A takeover offer falls within this subsection if—

(a) it relates to the relevant company, and

(b) where there is more than one class of share in the relevant company, the class or classes to which it relates is or include the class of the relevant shares."

20 (1) In Part 5 of Schedule 2 (free shares) in paragraph 37 (holding period: power of participant to direct trustees to accept general offers etc) after sub-paragraph (6) insert—

"(7) For the purposes of sub-paragraph (5) it does not matter if the general offer is made to different shareholders by different means.

(8) If in the case of a takeover offer (as defined in section 974 of the Companies Act 2006) there arises a right under section 983 of that Act

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to require the offeror to acquire the participant's free shares, or such of them as are of a particular class, the participant may direct the trustees to exercise that right."

(2) A SIP approved before the day on which this Act is passed has effect with any modifications needed to reflect the amendment made by this paragraph.

SAYE option schemes

21 In section 519 (no charge in respect of exercise of option) after subsection (3) insert—

"(3A) In relation to any shares acquired by the exercise of the share option, no liability to income tax arises in respect of its exercise if—

(a) the individual exercises the option before the third anniversary of the date on which the option was granted at a time when the SAYE option scheme is approved,

(b) the option is exercised by virtue of a provision included in the scheme—

(i) under paragraph 37(1) of Schedule 3 where the relevant date is the relevant date for the purposes of paragraph 37(2) or (4), or

(ii) under paragraph 37(6) of Schedule 3,

(c) as a result of, as the case may be—

(i) the general offer,

(ii) the compromise or arrangement, or

(iii) the takeover offer,

the individual receives cash (and no other assets) in exchange for the shares,

(d) when the decision to grant the option was taken—

(i) the general offer,

(ii) the compromise or arrangement, or

(iii) the takeover offer,

as the case may be, had not been made,

(e) when that decision was taken, no arrangements were in place or under consideration for—

(i) the making of a general offer which would fall within subsection (3D),

(ii) the making of any compromise or arrangement which would fall within subsection (3H), or

(iii) the making of a takeover offer (as defined in section 974 of the Companies Act 2006) which would fall within subsection (3I),

(f) if the scheme includes a provision under paragraph 38 of Schedule 3 ("the paragraph 38 provision"), in connection with—

(i) the general offer,

(ii) the compromise or arrangement, or

(iii) the takeover offer,

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as the case may be, no course of action was open to the individual which, had it been followed, would have resulted in the individual making an agreement under the paragraph 38 provision which would have prevented the individual from acquiring the shares by the exercise of the option, and

(g) the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of any arrangements under which the option was granted or is exercised.

(3B) In subsection (3A)(c)(iii), (d)(iii) and (f)(iii) "the takeover offer" means the takeover offer (as defined in section 974 of the Companies Act 2006) giving rise to the application of sections 979 to 982 or 983 to 985 of that Act.

(3C) In subsection (3A)(e) "arrangements" includes any plan, scheme, agreement or understanding, whether or not legally enforceable.

(3D) A general offer falls within this subsection if it is—

(a) a general offer to acquire the whole of the issued ordinary share capital of the relevant company which is made on a condition such that, if it is met, the person making the offer will have control of the relevant company, or

(b) a general offer to acquire all the shares in the relevant company which are of the same class as those acquired by the exercise of the option.

(3E) In subsection (3D)(a) the reference to the issued ordinary share capital of the relevant company does not include any capital already held by the person making the offer or a person connected with that person and in subsection (3D)(b) the reference to the shares in the relevant company does not include any shares already held by the person making the offer or a person connected with that person.

(3F) For the purposes of subsection (3D)(a) and (b) it does not matter if the general offer is made to different shareholders by different means.

(3G) For the purposes of subsection (3D)(a) a person is to be treated as obtaining control of a company if that person and others acting in concert together obtain control of it.

(3H) A compromise or arrangement falls within this subsection if it is applicable to or affects—

(a) all the ordinary share capital of the relevant company or all the shares of the same class as those acquired by the exercise of the option, or

(b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employment or directorships or their participation in an approved SAYE option scheme.

(3I) A takeover offer falls within this subsection if—

(a) it relates to the relevant company, and

(b) where there is more than one class of share in the relevant company, the class or classes to which it relates is or include the class of the shares acquired by the exercise of the option.

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(3J) In subsections (3D), (3H) and (3I) "the relevant company" means the company whose shares are acquired by the exercise of the option."

22 Part 6 of Schedule 3 (requirements etc relating to share options) is amended as follows.

23 (1) Paragraph 34 (exercise of options: scheme-related employment ends) is amended as follows.

(2) In sub-paragraph (2)—

(a) omit the "or" after paragraph (a), and

(b) after paragraph (b) insert—

"(c) a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 2006, or

(d) if P holds office or is employed in a company which is an associated company (as defined in paragraph 35(4)) of the scheme organiser, that company ceasing to be an associated company of the scheme organiser by reason of a change of control (as determined in accordance with sections 450 and 451 of CTA 2010),".

(3) In sub-paragraphs (4) and (5A)(b) for "or (b)" substitute " to (d) ".

(4) A SAYE option scheme approved before the day on which this Act is passed has effect with any modifications needed to reflect the amendments made by this paragraph.

24 (1) Paragraph 37 (exercise of options: company events) is amended as follows.

(2) After sub-paragraph (3) insert—

"(3A) In sub-paragraph (3)(a) the reference to the issued ordinary share capital of the company does not include any capital already held by the person making the offer or a person connected with that person and in sub-paragraph (3)(b) the reference to the shares in the company does not include any shares already held by the person making the offer or a person connected with that person.

(3B) For the purposes of sub-paragraph (3)(a) and (b) it does not matter if the general offer is made to different shareholders by different means."

(3) A SAYE option scheme approved before the day on which this Act is passed which contains provision under paragraph 37(1) of Schedule 3 to ITEPA 2003 by reference to paragraph 37(2) has effect with any modifications needed to reflect the amendment made by sub-paragraph (2).

(4) In sub-paragraph (4) for the words from "proposed" to the end substitute "applicable to or affecting—

(a) all the ordinary share capital of the company or all the shares of the same class as the shares to which the option relates, or

(b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employment or directorships or their participation in an approved SAYE option scheme."

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(5) A SAYE option scheme approved before the day on which this Act is passed which contains provision under paragraph 37(1) of Schedule 3 to ITEPA 2003 by reference to paragraph 37(4) has effect with any modifications needed to reflect the amendment made by sub-paragraph (4).

(6) In sub-paragraph (6)—

(a) after "982" insert " or 983 to 985 ", and

(b) after "shareholder" insert " etc ".

(7) A SAYE option scheme approved before the day on which this Act is passed which contains provision under paragraph 37(6) of Schedule 3 to ITEPA 2003 has effect with any modifications needed to reflect the amendments made by sub-paragraph (6).

25 (1) In Part 7 of Schedule 3 (exercise of share options) paragraph 38 (exchange of options on company reorganisation) is amended as follows.

(2) In sub-paragraph (2)(c)—

(a) after "982" insert " or 983 to 985 ", and

(b) after "shareholder" insert " etc ".

(3) After sub-paragraph (2) insert—

"(2A) In sub-paragraph (2)(a)(i) the reference to the issued ordinary share capital of the scheme company does not include any capital already held by the person making the offer or a person connected with that person and in sub-paragraph (2)(a)(ii) the reference to the shares in the scheme company does not include any shares already held by the person making the offer or a person connected with that person.

(2B) For the purposes of sub-paragraph (2)(a)(i) and (ii) it does not matter if the general offer is made to different shareholders by different means."

(4) A SAYE option scheme approved before the day on which this Act is passed which contains provision under paragraph 38 of Schedule 3 to ITEPA 2003 has effect with any modifications needed to reflect the amendments made by this paragraph.

CSOP schemes

26 (1) Section 524 (no charge in respect of exercise of option) is amended as follows.

(2) In subsection (2B) for paragraph (a) substitute—

"(a) has ceased to be in qualifying employment because of—

(i) injury, disability, redundancy or retirement,

(ii) a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 2006, or

(iii) in the case of a group scheme where the qualifying employment is as a director or employee of a constituent company, that company ceasing to be controlled by the scheme organiser, and".

(3) After subsection (2B) insert—

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"(2BA) For the purposes of subsection (2B) an individual is in "qualifying employment" if the individual is a full-time director or qualifying employee (as defined in paragraph 8(2) of Schedule 4) of—

(a) the scheme organiser, or

(b) in the case of a group scheme, a constituent company."

(4) In subsection (2C) for "(2B)" substitute " (2B)(a)(i) ".

(5) After subsection (2C) insert—

"(2D) Subsection (2B)(a)(iii) does not cover a case where the constituent company was controlled by the scheme organiser by virtue of paragraph 34 of Schedule 4 (jointly owned companies).

(2E) In relation to any shares acquired by the exercise of the share option, no liability to income tax arises in respect of its exercise if—

(a) the individual exercises the option before the third anniversary of the date on which the option was granted at a time when the CSOP scheme is approved,

(b) the option is exercised by virtue of a provision included in the scheme under paragraph 25A of Schedule 4,

(c) as a result of, as the case may be—

(i) the general offer,

(ii) the compromise or arrangement, or

(iii) the takeover offer,

the individual receives cash (and no other assets) in exchange for the shares,

(d) when the decision to grant the option was taken—

(i) the general offer,

(ii) the compromise or arrangement, or

(iii) the takeover offer,

as the case may be, had not been made,

(e) when that decision was taken, no arrangements were in place or under consideration for—

(i) the making of a general offer which would fall within subsection (2H),

(ii) the making of any compromise or arrangement which would fall within subsection (2L), or

(iii) the making of a takeover offer (as defined in section 974 of the Companies Act 2006) which would fall within subsection (2M),

(f) if the scheme includes a provision under paragraph 26 of Schedule 4 ("the paragraph 26 provision"), in connection with—

(i) the general offer,

(ii) the compromise or arrangement, or

(iii) the takeover offer,

as the case may be, no course of action was open to the individual which, had it been followed, would have resulted in the individual making an agreement under the paragraph 26 provision which would

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have prevented the individual from acquiring the shares by the exercise of the option, and

(g) the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of any arrangements under which the option was granted or is exercised.

(2F) In subsection (2E)(c)(iii), (d)(iii) and (f)(iii) "the takeover offer" means the takeover offer (as defined in section 974 of the Companies Act 2006) giving rise to the application of sections 979 to 982 or 983 to 985 of that Act.

(2G) In subsection (2E)(e) "arrangements" includes any plan, scheme, agreement or understanding, whether or not legally enforceable.

(2H) A general offer falls within this subsection if it is—

(a) a general offer to acquire the whole of the issued ordinary share capital of the relevant company which is made on a condition such that, if it is met, the person making the offer will have control of the relevant company, or

(b) a general offer to acquire all the shares in the relevant company which are of the same class as those acquired by the exercise of the option.

(2I) In subsection (2H)(a) the reference to the issued ordinary share capital of the relevant company does not include any capital already held by the person making the offer or a person connected with that person and in subsection (2H)(b) the reference to the shares in the relevant company does not include any shares already held by the person making the offer or a person connected with that person.

(2J) For the purposes of subsection (2H)(a) and (b) it does not matter if the general offer is made to different shareholders by different means.

(2K) For the purposes of subsection (2H)(a) a person is to be treated as obtaining control of a company if that person and others acting in concert together obtain control of it.

(2L) A compromise or arrangement falls within this subsection if it is applicable to or affects—

(a) all the ordinary share capital of the relevant company or all the shares of the same class as those acquired by the exercise of the option, or

(b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employment or directorships or their participation in an approved CSOP scheme.

(2M) A takeover offer falls within this subsection if—

(a) it relates to the relevant company, and

(b) where there is more than one class of share in the relevant company, the class or classes to which it relates is or include the class of the shares acquired by the exercise of the option.

(2N) In subsections (2H), (2L) and (2M) "the relevant company" means the company whose shares are acquired by the exercise of the option."

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27 Part 5 of Schedule 4 (requirements etc relating to share options) is amended as follows.

28 In paragraph 21 (introduction) in sub-paragraph (2)—

(a) after the entry for paragraph 24 omit "or", and

(b) after the entry for paragraph 25 insert ", or

paragraph 25A (exercise of options: company events)".

29 After paragraph 25 insert—

"Exercise of options: company events

25A (1) The scheme may provide that share options relating to shares in a company may be exercised within 6 months after the relevant date for the purposes of sub-paragraph (2) or (6).

(2) The relevant date for the purposes of this sub-paragraph is the date when—

(a) a person has obtained control of the company as a result of making an offer falling within sub-paragraph (3), and

(b) any condition subject to which the offer is made has been satisfied.

(3) An offer falls within this sub-paragraph if it is—

(a) a general offer to acquire the whole of the issued ordinary share capital of the company which is made on a condition such that, if it is met, the person making the offer will have control of the company, or

(b) a general offer to acquire all the shares in the company which are of the same class as the shares to which the option relates.

(4) In sub-paragraph (3)(a) the reference to the issued ordinary share capital of the company does not include any capital already held by the person making the offer or a person connected with that person and in sub-paragraph (3)(b) the reference to the shares in the company does not include any shares already held by the person making the offer or a person connected with that person.

(5) For the purposes of sub-paragraph (3)(a) and (b) it does not matter if the general offer is made to different shareholders by different means.

(6) The relevant date for the purposes of this sub-paragraph is the date when the court sanctions under section 899 of the Companies Act 2006 (court sanction for compromise or arrangement) a compromise or arrangement applicable to or affecting—

(a) all the ordinary share capital of the company or all the shares of the same class as the shares to which the option relates, or

(b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employment or directorships or their participation in an approved CSOP scheme.

(7) The scheme may provide that share options relating to shares in a company may be exercised at any time when any person is bound or entitled to acquire shares in the company under sections 979 to 982 or 983 to 985 of the Companies Act 2006 (takeover offers: right of offeror to buy out minority shareholder etc).

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(8) For the purposes of this paragraph a person is to be treated as obtaining control of a company if that person and others acting in concert together obtain control of it."

30 (1) In Part 6 of Schedule 4 (exercise of share options) paragraph 26 (exchange of options on company reorganisation) is amended as follows.

(2) In sub-paragraph (2)(c)—

(a) after "982" insert " or 983 to 985 ", and

(b) after "shareholder" insert " etc ".

(3) After sub-paragraph (2) insert—

"(2A) In sub-paragraph (2)(a)(i) the reference to the issued ordinary share capital of the scheme company does not include any capital already held by the person making the offer or a person connected with that person and in sub-paragraph (2)(a)(ii) the reference to the shares in the scheme company does not include any shares already held by the person making the offer or a person connected with that person.

(2B) For the purposes of sub-paragraph (2)(a)(i) and (ii) it does not matter if the general offer is made to different shareholders by different means."

(4) A CSOP scheme approved before the day on which this Act is passed which contains provision under paragraph 26 of Schedule 4 to ITEPA 2003 has effect with any modifications needed to reflect the amendments made by this paragraph.

Enterprise management incentives

31 (1) In Part 6 of Schedule 5 (company reorganisations) in paragraph 39 (introduction) after sub-paragraph (3) insert—

"(4) In sub-paragraph (2)(a)(i) the reference to the issued share capital of the company does not include any capital already held by the person making the offer or a person connected with that person and in sub-paragraph (2)(a)(ii) the reference to the shares in the company does not include any shares already held by the person making the offer or a person connected with that person.

(5) For the purposes of sub-paragraph (2)(a)(i) and (ii) it does not matter if the general offer is made to different shareholders by different means."

(2) The amendment made by this paragraph comes into force on such day as the Treasury may by order appoint.

Commencement Information

I2 Sch. 2 para. 31(1) in force at 31.10.2013 in so far as not already in force by S.I. 2013/2796, **art. 2**

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PART 3

MATERIAL INTEREST RULES

Introduction

32 Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities) is amended as follows.

Share incentive plans

33 Part 3 of Schedule 2 (eligibility of individuals) is amended as follows.

34 In paragraph 13 (introduction)—

(a) after the entry for paragraph 18 insert " and ", and

(b) omit the entry for paragraph 19 and the "and" before it.

35 In paragraph 14 (time of eligibility to participate) in sub-paragraph (7)—

(a) after paragraph (b) insert " and ", and

(b) omit paragraph (c) and the "and" before it.

36 Omit paragraphs 19 to 24 (the "no material interest" requirement).

37 In Part 11 of Schedule 2 (supplementary provisions) in paragraph 100 (index of defined expressions), in the entry for "close company", omit "(and see paragraph 20(4))".

38 (1) The amendments made by paragraphs 33 to 37 above have effect for the purpose of determining whether an individual is eligible to participate in an award of shares on the day on which this Act is passed or any later day.

(2) A SIP approved before the day on which this Act is passed has effect accordingly with the omission of any provision falling within a provision of Schedule 2 to ITEPA 2003 omitted by those paragraphs.

SAYE option schemes

39 Part 3 of Schedule 3 (eligibility of individuals) is amended as follows.

40 In paragraph 9 (introduction) omit the entry for paragraph 11 and the "and" before it.

41 Omit paragraphs 11 to 16 (the "no material interest" requirement).

42 In Part 9 of Schedule 3 (supplementary provisions) in paragraph 49 (index of defined expressions), in the entry for "close company", omit "(and see paragraph 11(4))".

43 (1) The amendments made by paragraphs 39 to 42 above have effect for the purpose of determining whether an individual is eligible to participate in a scheme on the day on which this Act is passed or any later day.

(2) A SAYE option scheme approved before the day on which this Act is passed has effect accordingly with the omission of any provision falling within a provision of Schedule 3 to ITEPA 2003 omitted by those paragraphs.

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CSOP schemes

44 (1) In Part 3 of Schedule 4 (eligibility of individuals) in paragraphs 10(2) and (3), 11(3) and (4) and 13(2) (which relate to the "no material interest" requirement) for "25%" substitute " 30% ".

(2) The amendments made by this paragraph have effect for the purpose of determining whether a person is eligible to participate in a scheme on the day on which this Act is passed or any later day (by altering what constitutes a material interest on that day and within the 12 months preceding that day).

(3) A CSOP scheme approved before the day on which this Act is passed has effect with any modifications needed to reflect the amendments made by this paragraph.

PART 4

RESTRICTED SHARES

Introduction

45 Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities) is amended as follows.

Share incentive plans

46 Part 4 of Schedule 2 (types of shares that may be awarded) is amended as follows.

47 In paragraph 25 (introduction) in sub-paragraph (1)—

(a) after the entry for paragraph 28 insert " and ", and

(b) omit the entry for paragraph 30 and the "and" before it.

48 Omit paragraphs 30 to 33 (only certain kinds of restrictions allowed).

49 In Part 5 of Schedule 2 (free shares) in paragraph 35 (maximum annual award) omit sub-paragraphs (3) and (4).

50 In Part 6 of Schedule 2 (partnership shares) in paragraph 43 (introduction) after sub-paragraph (2) insert—

"(2A) The plan must provide that partnership shares are not to be subject to any provision for forfeiture."

51 In Part 7 of Schedule 2 (matching shares) in paragraph 59 (general requirement for matching shares) omit sub-paragraph (2).

52 In Part 9 of Schedule 2 (trustees) in paragraph 75 (duty to give notice of award of shares etc) in sub-paragraphs (2) and (3) after paragraph (a) insert—

"(aa) if the shares are subject to any restriction, giving details of the restriction,".

53 (1) In Part 10 of Schedule 2 (approval of plans) paragraph 84 (disqualifying events) is amended as follows.

(2) In sub-paragraph (3)—

(a) after paragraph (b) insert " or ", and

(b) omit paragraph (c) and the "or" after it.

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(3) In sub-paragraph (4)(b) for "provision for forfeiture" substitute " restriction ".

54 Part 11 of Schedule 2 (supplementary provision) is amended as follows.

55 In paragraph 92 (determination of market value) for sub-paragraph (2) substitute—

"(2) For the purposes of this Schedule the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction."

56 In paragraph 99 (minor definitions) after sub-paragraph (3) insert—

"(4) For the purposes of the SIP code—

(a) shares are subject to a "restriction" if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares, and

(b) the "restriction" is that provision."

57 In paragraph 100 (index of defined expressions) at the appropriate place insert—

"restriction (in relation to shares)	paragraph 99(4)".

58 (1) The amendments made by paragraphs 46 to 48 and 50 to 52 above have effect in relation to awards of shares made on or after the day on which this Act is passed.

(2) A SIP approved, or a trust instrument made, before that day has effect with any modifications needed to reflect the amendments made by paragraphs 46 to 57 above.

(3) In particular, in relation to awards of shares on or after that day, such a SIP has effect with the omission of any provision falling within a provision of Schedule 2 to ITEPA 2003 omitted by paragraph 48 above.

SAYE option schemes

59 Part 4 of Schedule 3 (shares to which schemes can apply) is amended as follows.

60 In paragraph 17 (introduction) in sub-paragraph (1)—

(a) after the entry for paragraph 20 insert " and ", and

(b) omit the entry for paragraph 21 and the "and" after it.

61 Omit paragraph 21 (only certain kinds of restrictions allowed).

62 In Part 6 of Schedule 3 (requirements etc relating to share options) in paragraph 28 (requirements as to price of acquisition of shares) after sub-paragraph (4) insert—

"(5) At the time a share option is granted—

(a) it must be stated whether or not the shares which may be acquired by the exercise of the option may be subject to any restriction, and

(b) if so, the details of the restriction must also be stated.

(6) For the purposes of this paragraph the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction."

63 In Part 7 of Schedule 3 (exchange of share options) in paragraph 39 (requirements about share options granted in exchange) after sub-paragraph (6) insert—

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"(7) For the purposes of this paragraph the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction."

64 Part 9 of Schedule 3 (supplementary provisions) is amended as follows.

65 In paragraph 48 (minor definitions) after sub-paragraph (2) insert—

"(3) For the purposes of the SAYE code—

(a) shares are subject to a "restriction" if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares, and

(b) the "restriction" is that provision."

66 In paragraph 49 (index of defined expressions) at the appropriate place insert—

"restriction (in relation to shares)	paragraph 48(3)".

67 (1) The amendments made by paragraphs 59 to 62 above have effect in relation to options granted on or after the day on which this Act is passed.

(2) The amendment made by paragraph 63 above has effect for cases where the old options are granted on or after that day.

(3) A SAYE option scheme approved before that day has effect with any modifications needed to reflect the amendments made by paragraphs 59 to 66 above.

(4) In particular, in relation to options granted on or after that day, such a SAYE option scheme has effect with the omission of any provision falling within a provision of Schedule 3 to ITEPA 2003 omitted by paragraph 61 above.

CSOP schemes

68 In Part 2 of Schedule 4 (general requirements for approval) in paragraph 6 (limit on value of shares subject to options) after sub-paragraph (3) insert—

"(4) For the purposes of this paragraph the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction."

69 Part 4 of Schedule 4 (shares to which schemes can apply) is amended as follows.

70 In paragraph 15 (introduction)—

(a) after the entry for paragraph 18 insert " and ", and

(b) omit the entry relating to paragraph 19 and the "and" after it.

71 Omit paragraph 19 (only certain kinds of restrictions allowed).

72 In Part 5 of Schedule 4 (requirements etc relating to share options) in paragraph 22 after sub-paragraph (4) insert—

"(5) At the time a share option is granted—

(a) it must be stated whether or not the shares which may be acquired by the exercise of the option may be subject to any restriction, and

(b) if so, the details of the restriction must also be stated.

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(6) For the purposes of this paragraph the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction."

73 In Part 6 of Schedule 4 (exchange of share options) in paragraph 27 (requirements about share options granted in exchange) after sub-paragraph (6) insert—

"(7) For the purposes of this paragraph the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction."

74 Part 8 of Schedule 4 (supplementary provisions) is amended as follows.

75 In paragraph 36 (minor definitions) after sub-paragraph (2) insert—

"(3) For the purposes of the CSOP code—

(a) shares are subject to a "restriction" if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares, and

(b) the "restriction" is that provision."

76 In paragraph 37 (index of defined expressions) at the appropriate place insert—

"restriction (in relation to shares)	paragraph 36(3)".

77 (1) The amendment made by paragraph 68 above has effect for the purpose of determining whether options may be granted to an individual on or after the day on which this Act is passed; but the amendment is to be ignored in determining the market value of any shares to which an option granted before that day relates.

(2) The amendments made by paragraphs 69 to 72 above have effect in relation to options granted on or after that day.

(3) The amendment made by paragraph 73 above has effect for cases where the old options are granted on or after that day.

(4) A CSOP scheme approved before that day has effect with any modifications needed to reflect the amendments made by paragraphs 68 to 76 above.

(5) In particular, in relation to options granted on or after that day, such a CSOP scheme has effect with the omission of any provision falling within a provision of Schedule 4 to ITEPA 2003 omitted by paragraph 71 above.

PART 5

SHARE INCENTIVE PLANS: PARTNERSHIP SHARES

78 Schedule 2 to ITEPA 2003 is amended as follows.

79 (1) In Part 6 (partnership shares) paragraph 52 (application of money deducted in accumulation period) is amended as follows.

(2) After sub-paragraph (2) insert—

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"(2A) The number of shares awarded to the employee must be determined in accordance with one of sub-paragraphs (3), (3A) and (3B) and the partnership share agreement must specify which one of those sub-paragraphs is to apply for the purposes of the agreement."

(3) In sub-paragraph (3) for "The number of shares awarded to each" substitute " If the agreement specifies that this sub-paragraph is to apply, the number of shares awarded to the ".

(4) After sub-paragraph (3) insert—

"(3A) If the agreement specifies that this sub-paragraph is to apply, the number of shares awarded to the employee must be determined in accordance with the market value of the shares at the beginning of the accumulation period.

(3B) If the agreement specifies that this sub-paragraph is to apply, the number of shares awarded to the employee must be determined in accordance with the market value of the shares on the acquisition date."

(5) In sub-paragraphs (4) and (5) for "and (3)" substitute " to (3B) ".

80 In Part 9 (trustees) in paragraph 75 (duty to give notice of award of shares etc) in sub-paragraph (3) for paragraph (c) substitute—

"(c) stating the market value in accordance with which the number of shares awarded to the employee was determined."

81 (1) The amendments made by paragraphs 79 and 80 above have effect in relation to partnership share agreements made on or after the day on which this Act is passed.

(2) A trust instrument made before that day has effect with any modifications needed to reflect the amendment made by paragraph 80 above.

PART 6

SHARE INCENTIVE PLANS: DIVIDEND SHARES

Introduction

82 Part 8 of Schedule 2 to ITEPA 2003 (cash dividends and dividend shares) is amended as follows.

Company's power to direct reinvestment of cash dividends

83 (1) Paragraph 62 (reinvestment of dividends) is amended as follows.

(2) In sub-paragraph (1) for the first "all" substitute " some or all of the ".

(3) After sub-paragraph (1) insert—

"(1A) The company's direction must set out—

(a) the amount of the cash dividends to be applied as mentioned in sub-paragraph (1), or

(b) how that amount is to be determined."

(4) In sub-paragraph (4) after "may" insert " modify or ".

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84 In paragraph 68 (reinvestment: amounts to be carried forward) for sub-paragraph (1) substitute—

"(1) This paragraph applies where an amount is not reinvested because it is not sufficient to acquire a share."

85 In paragraph 69 (cash dividends with no requirement to reinvest) in sub-paragraph (2) for "which" substitute " so far as they ".

86 (1) A SIP approved before the day on which this Act is passed which contains provision under paragraph 62(1) of Schedule 2 to ITEPA 2003 has effect with any modifications needed to reflect the amendments made by paragraphs 83 to 85 above.

(2) Sub-paragraph (3) applies to a direction requiring the reinvestment of cash dividends which is given before that day.

(3) For the purposes of paragraph 62(1A) of Schedule 2 to ITEPA 2003 the direction is to be treated as requiring the reinvestment of all the cash dividends, subject to any modification of the direction which is made on or after that day under paragraph 62(4) of that Schedule.

Removal of limit on amount reinvested

87 In paragraph 63 (requirements to be met as regards cash dividends) in sub-paragraph (1) omit the entry for paragraph 64.

88 Omit paragraph 64 (limit on amount reinvested).

89 (1) The amendments made by paragraphs 87 and 88 above have effect in relation to the tax year 2013-14 and subsequent tax years.

(2) A SIP approved before 6 April 2013 has effect accordingly with the omission of any provision falling within a provision of Schedule 2 to ITEPA 2003 omitted by paragraph 88 above.

Amounts to be carried forward

90 (1) Paragraph 68 (reinvestment: amounts to be carried forward) is amended as follows.

(2) In sub-paragraph (4)—

(a) omit paragraph (a) and the "or" after it, and

(b) in paragraphs (b) and (c) omit "during that period".

(3) Omit sub-paragraph (6).

(4) The amendments made by this paragraph have effect in relation to amounts held by trustees on or after 6 April 2013 (including amounts originally retained before that date in relation to which an event falling within paragraph 68(4)(a) to (c) of Schedule 2 to ITEPA 2003 did not occur before that date).

(5) A SIP approved before 6 April 2013 has effect accordingly with the omission of any provision falling within a provision of Schedule 2 to ITEPA 2003 omitted by this paragraph.

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PART 7

SHARE INCENTIVE PLANS: EMPLOYEE SHARE OWNERSHIP TRUSTS

91 Part 9 of Schedule 2 to ITEPA 2003 (trustees) is amended as follows.

92 In paragraph 70 (introduction) in sub-paragraph (2)—

(a) after the entry for paragraph 77 insert " and ", and

(b) omit the entry for paragraph 78.

93 (1) Omit paragraph 78 (acquisition of shares from employee share ownership trusts).

(2) A trust instrument made before the day on which this Act is passed has effect with the omission of any provision falling within a provision of Schedule 2 to ITEPA 2003 omitted by this paragraph.

PART 8

ENTERPRISE MANAGEMENT INCENTIVES: CONSEQUENCES OF DISQUALIFYING EVENTS

94 (1) In section 532 of ITEPA 2003 (modified tax consequences following disqualifying events) in subsection (1)(b) for "40" substitute " 90 ".

(2) The amendment made by this paragraph has effect in relation to disqualifying events occurring on or after the day on which this Act is passed.

SCHEDULE 3

Section 16

LIMIT ON INCOME TAX RELIEFS

The limit

1 In Chapter 3 of Part 2 of ITA 2007 (calculation of income tax liability) after section 24 insert—

"**24A Limit on Step 2 deductions**

(1) If the taxpayer is an individual, there is a limit on certain deductions which may be made for the tax year at Step 2.

(2) The limit is determined as follows.

(3) Amount A must not exceed amount B.

(4) Amount A is—

(a) the deductions for the tax year at Step 2 for the reliefs listed in subsection (6) taken together, less

(b) so much of those deductions as fall within subsection (7).

(5) Amount B is—

(a) £50,000, or

(b) if more, 25% of the taxpayer's adjusted total income for the tax year (see subsection (8)).

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(6) The reliefs are—

(a) relief under section 64 (trade loss relief against general income);

(b) relief under section 72 (early trade losses relief);

(c) relief under section 96 (post-cessation trade relief);

(d) relief under section 120 (property loss relief against general income);

(e) relief under section 125 (post-cessation property relief);

(f) relief under section 128 (employment loss relief against general income);

(g) relief under Chapter 6 of Part 4 (share loss relief);

(h) relief under Chapter 1 of Part 8 (interest payments);

(i) relief under section 555 of ITEPA 2003 (deduction for liabilities relating to former employment);

(j) relief under section 446 of ITTOIA 2005 (strips of government securities: relief for losses);

(k) relief under section 454(4) of ITTOIA 2005 (listed securities held since 26 March 2003: relief for losses: persons other than trustees).

(7) The deductions falling within this subsection are—

(a) deductions for amounts of relief so far as attributable to allowances under Part 3A of CAA 2001 (business premises renovation allowances);

(b) deductions for amounts of relief under a provision mentioned in subsection (6)(a) to (e) so far as made from profits of the trade or business to which the relief in question relates;

(c) deductions for amounts of relief under the provision mentioned in subsection (6)(a) or (b) so far as attributable to a deduction allowed under section 205 or 220 of ITTOIA 2005 (deduction for overlap profit in final tax year or on change of accounting date);

(d) deductions for amounts of relief under the provision mentioned in subsection (6)(g)—

(i) where the shares in question fall within section 131(2)(a) (qualifying shares to which EIS relief is attributable), or

(ii) where SEIS relief is attributable to the shares in question as determined in accordance with Part 5A (seed enterprise investment scheme).

(8) The taxpayer's "adjusted total income" for the tax year is calculated as follows.

Step 1 Take the amount of the taxpayer's total income for the tax year.

Step 2 Add back the amounts of any deductions allowed under Part 12 of ITEPA 2003 (payroll giving) in calculating the taxpayer's income which is charged to tax for the tax year.

Step 3 If the taxpayer is given relief in accordance with section 192 of FA 2004 (pension schemes: relief at source) in respect of any contribution paid in the tax year under a pension scheme, deduct the gross amount of the contribution. The "gross" amount of a contribution is the amount of the contribution before deduction of tax under section 192(1) of FA 2004.

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Step 4 If the taxpayer is entitled to a deduction for relief under section 193(4) or 194(1) of FA 2004 (pension schemes: excess relief under net payment arrangements or relief on making a claim) for the tax year, deduct the amount of the excess or contribution (as the case may be). The result is the taxpayer's adjusted total income for the tax year."

Consequential amendments

2 (1) ITA 2007 is amended as follows.

(2) In section 23 (calculation of income tax liability) at step 2 for "section 25" substitute " sections 24A and 25 ".

(3) In the following provisions (which explain how certain reliefs work) for "section 25(4) and (5)" substitute " sections 24A and 25(4) and (5) "

(a) section 65(1),

(b) section 73,

(c) section 121(1),

(d) section 129(1), and

(e) section 133(1).

(4) In section 148 (share loss relief: disposal of shares forming part of mixed holding) in subsection (3)(b) before sub-paragraph (i) insert—

"(ai) shares to which SEIS relief is attributable (as determined in accordance with Part 5A),".

Commencement and transitional provision

3 The amendments made by paragraphs 1 and 2 above have effect for the tax year 2013-14 and subsequent tax years.

4 (1) Sub-paragraph (2) applies to a claim which relates to the tax year 2013-14 or a subsequent tax year by virtue of paragraph 2 of Schedule 1B to TMA 1970 where the earlier year is a tax year before the tax year 2013-14.

(2) The amount of the claim is to be determined as if the amendments made by paragraphs 1 and 2 above also have effect for tax years before the tax year 2013-14.

(3) For this purpose, section 24A(6) of ITA 2007 (as inserted by paragraph 1 above) is treated as having effect for tax years before the tax year 2013-14 as if—

(a) in paragraphs (a), (b), (f) and (g) the references to relief were limited to relief in respect of a loss made in the tax year 2013-14 or a subsequent tax year, and

(b) all the other paragraphs were omitted.

5 In section 24A(6)(d) of ITA 2007 (as inserted by paragraph 1 above) the reference to relief does not include relief in respect of a loss made in the tax year 2012-13.

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SCHEDULE 4

Section 17

CASH BASIS FOR SMALL BUSINESSES

PART 1

MAIN PROVISIONS

Introductory

1 Part 2 of ITTOIA 2005 (trading income) is amended as follows.

Eligibility to calculate profits on cash basis

2 Chapter 3 (trade profits: basic rules) is amended as follows.

3 In section 25(3) (exception to requirement to use generally accepted accounting practice), for "section 160 (barristers and advocates in early years of practice)" substitute " section 25A (cash basis for small businesses) ".

4 After section 25 insert—

"**25A Cash basis for small businesses**

(1) A person who is or has been carrying on a trade may elect for the profits of the trade to be calculated on the cash basis (instead of in accordance with generally accepted accounting practice).

(2) References in this Part to calculating the profits of a trade on the cash basis are references to doing so in accordance with this section.

(3) Chapter 3A contains provision about—

(a) when a person may make an election under this section, and

(b) the effect of such an election.

(4) Where an election under this section has effect in relation to a trade, sections 27, 28 and 30 do not apply in relation to the calculation of the profits of the trade."

5 After Chapter 3 insert—

"**CHAPTER 3A**

TRADE PROFITS: CASH BASIS

Eligibility

Conditions to be met for profits to be calculated on cash basis

31A (1) A person may make an election under section 25A for a tax year if conditions A to C are met.

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(2) Condition A is that the aggregate of the cash basis receipts of each trade, profession or vocation carried on by the person during that tax year does not exceed any relevant maximum applicable for that tax year (see section 31B).

(3) Condition B is that, in a case where the person is either an individual who controls a firm or a firm controlled by an individual—

(a) the aggregate of the cash basis receipts of each trade, profession or vocation carried on by the individual or the firm during that tax year does not exceed any relevant maximum applicable for that tax year, and

(b) the firm or the individual (as the case may be) has also made an election under section 25A for that tax year.

(4) Condition C is that the person is not an excluded person in relation to the tax year (see section 31C).

(5) For the purposes of this section, the "cash basis receipts" of a trade, profession or vocation, in relation to a tax year, are any receipts that—

(a) are received during the basis period for the tax year, and

(b) would be brought into account in calculating the profits of the trade, profession or vocation for that tax year on the cash basis.

Relevant maximum

31B (1) For the purposes of section 31A there is a "relevant maximum" applicable for a tax year in relation to a trade, profession or vocation carried on by a person if any of conditions A to C is met.

(2) Condition A is that an election under section 25A did not have effect in relation to the trade, profession or vocation for the previous tax year.

(3) Condition B is that the aggregate of the cash basis receipts of each trade, profession or vocation carried on by the person during the previous tax year is greater than an amount equal to twice the VAT threshold for that previous tax year.

(4) Condition C is that, in a case where the person is either an individual who controls a firm or a firm controlled by an individual, the aggregate of the cash basis receipts of each trade, profession or vocation carried on by the individual or the firm during the previous tax year is greater than an amount equal to twice the VAT threshold for that previous tax year.

(5) If there is a relevant maximum applicable for a tax year, the amount of the relevant maximum is—

(a) the VAT threshold, or

(b) in the case where the person is an individual who is a universal credit claimant in the tax year, an amount equal to twice the VAT threshold.

(6) For the purposes of this section, where the basis period for a tax year is less than 12 months, the VAT threshold is proportionately reduced.

(7) In this section—

"universal credit claimant", in relation to a tax year, means a person who is entitled to universal credit under the relevant

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legislation for an assessment period (within the meaning of the relevant legislation) that falls within the basis period for the tax year,

"the relevant legislation" means—

(a) Part 1 of the Welfare Reform Act 2012, or

(b) any provision made for Northern Ireland which corresponds to that Part of that Act, and

"the VAT threshold", in relation to a tax year, means the amount specified at the end of that tax year in paragraph 1(1)(a) of Schedule 1 to VATA 1994.

(8) The Treasury may by order amend this section.

(9) A statutory instrument containing an order under subsection (8) that restricts the circumstances in which an election may be made under section 25A may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, the House of Commons.

Excluded persons

31C (1) A person is an excluded person in relation to a tax year if the person meets any of conditions A to H.

(2) Condition A is that—

(a) the person is a firm, and

(b) one or more of the persons who have been partners in the firm at any time during the basis period for the tax year was not an individual at that time.

(3) Condition B is that the person was a limited liability partnership at any time during the basis period for the tax year.

(4) Condition C is that the person is an individual who has been a Lloyd's underwriter at any time during the basis period for the tax year.

(5) Condition D is that the person has made an election under Chapter 8 (trade profits: herd basis rules) that has effect in relation to the tax year.

(6) Condition E is that the person has made a claim under section 221 (claim for averaging of fluctuating profits) in relation to the tax year.

(7) Condition F is that, at any time within the period of 7 years ending immediately before the basis period for the tax year, the person obtained an allowance under Part 3A of CAA 2001 (business premises renovation allowances).

(8) Condition G is that the person has carried on a mineral extraction trade at any time during the basis period for the tax year.

In this subsection "mineral extraction trade" has the same meaning as in Part 5 of CAA 2001 (see section 394(2) of that Act).

(9) Condition H is that—

(a) at any time before the beginning of the basis period for the tax year the person obtained an allowance under Part 6 of CAA 2001

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(research and development allowances) in respect of qualifying expenditure incurred by the person, and

(b) the person owns an asset representing the expenditure.

In this subsection "qualifying expenditure" has the same meaning as in Part 6 of CAA 2001.

(10) The Treasury may by order amend this section.

(11) A statutory instrument containing an order under subsection (10) that restricts the circumstances in which an election may be made under section 25A may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, the House of Commons.

Elections under section 25A

Effect of election under section 25A

31D (1) An election made by a person under section 25A has effect—

(a) for the tax year for which it is made, and

(b) for every subsequent tax year.

This is subject to subsections (2) and (3).

(2) An election made by a person under section 25A ceases to have effect if any of conditions A to C in section 31A is not met for a subsequent tax year.

(3) An election made by a person under section 25A ceases to have effect if—

(a) there is a change of circumstances relating to any trade, profession or vocation carried on by the person which makes it more appropriate for its profits for a subsequent tax year to be calculated in accordance with generally accepted accounting practice, and

(b) the person elects to calculate those profits in that way.

(4) Neither subsection (2) nor subsection (3) prevents the person making an election under section 25A for any subsequent tax year.

(5) An election that—

(a) is made by a person under section 25A, and

(b) has effect for a tax year,

has effect in relation to every trade, profession or vocation carried on by the person during the tax year.

(6) For provision prohibiting a person who has made an election under section 25A from claiming any capital allowances (other than in respect of expenditure incurred on the provision of a car), see section 1(4) of CAA 2001.

Calculation of profits on cash basis

Calculation of profits on cash basis

31E (1) This section applies to professions and vocations as it applies to trades.

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(2) To determine the profits of a trade for a tax year on the cash basis—

Step 1 Calculate the total amount of receipts of the trade received during the basis period for the tax year.

Step 2 Deduct from that amount the total amount of expenses of the trade paid during the basis period for the tax year.

(3) Subsection (2) is subject to any adjustment required or authorised by law in calculating profits for income tax purposes.

Overview of rest of Part 2

Overview of rest of Part 2 as it applies to cash basis

31F (1) For provision about the application of Chapters 4 to 6 (rules about deductions and receipts) in relation to the cash basis, see sections 32A, 56A and 95A.

(2) For provision about the application of Chapter 11 (trade profits: other specific trades) in relation to the cash basis, see section 148K.

(3) The following Chapters apply only where profits are calculated on the cash basis—

Chapter 6A (trade profits: amounts not reflecting commercial transactions),

Chapter 17A (cash basis: adjustments for capital allowances).

(4) The following Chapters do not apply in relation to the cash basis—

Chapter 8 (trade profits: herd basis rules),

Chapter 9 (trade profits: sound recordings),

Chapter 10 (trade profits: certain telecommunication rights),

Chapter 10A (leases of plant or machinery: special rules for long funding leases),

Chapter 11A (trade profits: changes in trading stock),

Chapter 13 (deductions from profits: unremittable amounts),

Chapter 14 (disposal and acquisition of know-how),

Chapter 16 (averaging profits of farmers and creative artists),

Chapter 16ZA (compensation for compulsory slaughter of animal),

Chapter 16A (oil activities)."

Rules restricting deductions

6 Chapter 4 (trade profits: rules restricting deductions) is amended as follows.

7 After section 32 insert—

"Cash basis accounting

32A Application of Chapter to the cash basis

(1) The following sections do not apply in calculating the profits of a trade on the cash basis—

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section 33 (capital expenditure),
section 35 (bad and doubtful debts),
sections 36 and 37 (unpaid remuneration),
section 43 (employee benefit contributions: profits calculated before end of 9 month period),
sections 48 to 50B (car hire).

(2) For rules restricting deductions that apply only where profits are calculated on the cash basis, see the following—
section 33A (cash basis: capital expenditure),
section 51A (cash basis: interest payments on loans)."

8 After section 33 insert—

"**33A Cash basis: capital expenditure**

(1) In calculating the profits of a trade on the cash basis, no deduction is allowed for items of a capital nature, other than expenditure that—
(a) if it were not allowable as a deduction in calculating the profits of the trade, would be qualifying expenditure within the meaning of Part 2 of CAA 2001 (plant and machinery allowances), and
(b) is not expenditure incurred on the provision of a car.

(2) In this section "car" has the same meaning as in Part 2 of CAA 2001 (see section 268A of that Act)."

9 In section 38 (restriction of deductions in respect of employee benefit contributions), after subsection (2) insert—

"(2A) In calculating for income tax purposes the profits of a trade on the cash basis, this section has effect as if—
(a) in subsection (1), the words "or to be made" were omitted, and
(b) in subsection (2), the words "or within 9 months from the end of it" were omitted (in both places)."

10 Before section 52 (and after the heading "*Interest payments*") insert—

Cash basis: interest payments on loans

"51A(1) In calculating the profits of a trade on the cash basis, no deduction is allowed for the interest paid on a loan.

(2) This is subject to section 57B."

11 (1) Section 55A (expenditure on integral features) is amended as follows.

(2) The existing provision becomes subsection (1).

(3) After that subsection insert—

"(2) But section 33A(3) of CAA 2001 does not apply in calculating the profits of a trade on the cash basis."

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Rules allowing deductions

12 Chapter 5 (trade profits: rules allowing deductions) is amended as follows.

13 After section 56 insert—

"Cash basis accounting

56A Application of Chapter to the cash basis

(1) The following sections do not apply in calculating the profits of a trade on the cash basis—

sections 60 to 67 (tenants under taxed leases),

section 68 (replacement and alteration of trade tools).

(2) For rules allowing deductions that apply only where profits are calculated on the cash basis, see the following—

section 57B (cash basis: interest payments on loans).

(3) In calculating the profits of a trade on the cash basis, any reference in this Chapter to the incurring of expenses is to be read as a reference to the paying of expenses."

14 After section 57A insert—

"Cash basis: interest payments

57B Cash basis: interest payments on loans

(1) This section applies if a person carrying on a trade in a period pays any interest on a loan during the period and—

(a) a deduction for the interest would not otherwise be allowable in calculating the profits of the trade because of section 51A, or

(b) in the absence of section 51A, a deduction for the interest would not otherwise be allowable in calculating the profits of the trade because (and only because) it was not an expense incurred wholly and exclusively for the purposes of the trade.

(2) In calculating the profits of the trade on the cash basis, a deduction is allowed for the interest.

(3) But the maximum amount that may be deducted by virtue of this section or section 58 (incidental costs of obtaining finance) in calculating the profits of a trade for any period is £500.

(4) The Treasury may by order amend the figure for the time being specified in subsection (3).

(5) A statutory instrument containing an order under this section that amends that figure so as to substitute a lower figure may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

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15 In section 58 (incidental costs of obtaining finance), in subsection (5), after "with" insert "—

(a) section 57B(3) (which imposes a limit on the total amount that may be deducted by virtue of this section or section 57B), and

(b)".

16 In section 72 (payroll deduction schemes: contributions to agents' expenses), after subsection (2) insert—

"(2A) In calculating the profits of the employer's trade on the cash basis, subsection (2) has effect as if paragraph (b) were omitted."

17 In section 94A (costs of setting up SAYE option scheme or CSOP scheme), after subsection (4) insert—

"(5) But subsection (4) does not apply in calculating the profits of a trade on the cash basis."

Receipts

18 Chapter 6 (trade profits: receipts) is amended as follows.

19 After section 95 insert—

"Cash basis accounting

95A Application of Chapter to the cash basis

For rules about receipts that apply only for the purpose of calculating profits on the cash basis, see the following—

section 96A (cash basis: capital receipts),

section 97A (cash basis: value of trading stock on cessation of trade),

section 97B (cash basis: value of work in progress on cessation of profession or vocation)."

20 After section 96 insert—

"**96A Cash basis: capital receipts**

(1) This section applies if—

(a) the whole or part of any expenditure incurred in acquiring, creating or improving an asset has been brought into account in calculating the profits of a trade of a person on the cash basis, or

(b) the whole or part of any such expenditure would have been so brought into account if an election under section 25A had had effect in relation to the trade at the time the expenditure was paid.

(2) The following amounts are to be brought into account as a receipt in calculating the profits of the trade on the cash basis—

(a) any proceeds arising from the disposal of the asset or any part of it;

(b) any proceeds arising from the grant of any right in respect of, or any interest in, the asset;

(c) any amount of damages, proceeds of insurance or other compensation received in respect of the asset.

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(3) In a case where only part of the expenditure incurred in acquiring, creating or improving an asset has been, or would have been, brought into account as mentioned in subsection (1), the amount brought into account under subsection (2) is proportionately reduced.

(4) If—

(a) at any time the person ceases to use the asset or any part of it for the purposes of the trade, but

(b) the person does not dispose of the asset (or that part) at that time,

the person is to be regarded for the purposes of this section as disposing of the asset (or that part) at that time for an amount equal to the market value amount.

(5) If at any time there is a material increase in the person's non-business use of the asset or any part of it, the person is to be regarded for the purposes of this section as disposing of the asset (or that part) at that time for an amount equal to the relevant proportion of the market value amount.

(6) For the purposes of subsection (5)—

(a) there is an increase in a person's non-business use of an asset (or part of an asset) if—

(i) the proportion of the person's use of the asset (or that part) that is for the purposes of the trade decreases, and

(ii) the proportion of the person's use of the asset (or that part) that is for other purposes (the "non-business use") increases;

(b) "the relevant proportion" is the difference between—

(i) the proportion of the person's use of the asset (or part of the asset) that is non-business use, and

(ii) the proportion of the person's use of the asset (or that part) that was non-business use before the increase mentioned in subsection (5).

(7) In this section "the market value amount" means the amount that would be regarded as normal and reasonable—

(a) in the market conditions then prevailing, and

(b) between persons dealing with each other at arm's length in the open market."

21 After section 97 insert—

"Cash basis: value of stock and work in progress on cessation

97A Cash basis: value of trading stock on cessation of trade

(1) This section applies if—

(a) a person permanently ceases to carry on a trade in a tax year, and

(b) an election under section 25A (cash basis for small businesses) has effect in relation to the trade for the tax year.

(2) The value of any trading stock belonging to the trade at the time of the cessation is brought into account as a receipt in calculating the profits of the trade for the tax year.

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(3) The value is to be determined on a basis that is just and reasonable in all the circumstances.

(4) If there is a change in the persons carrying on a trade, subsection (2) does not apply in relation to the trade so long as a person carrying on the trade immediately before the change continues to carry it on after the change.

(5) In this section "trading stock" has the same meaning as in Chapter 12 (see section 174).

(6) This section does not apply to professions or vocations.

97B Cash basis: value of work in progress on cessation of profession or vocation

(1) This section applies if—

(a) a person permanently ceases to carry on a profession or vocation in a tax year, and

(b) an election under section 25A (cash basis for small businesses) has effect in relation to the profession or vocation for the tax year.

(2) The value of any work in progress at the time of the cessation is brought into account as a receipt in calculating the profits of the profession or vocation for the tax year.

(3) The value is to be determined on a basis that is just and reasonable in all the circumstances.

(4) If there is a change in the persons carrying on a profession, subsection (2) does not apply in relation to the profession so long as a person carrying on the profession immediately before the change continues to carry it on after the change.

(5) In this section "work in progress" has the same meaning as in Chapter 12 (see section 183)."

22 (1) Section 105 (industrial development grants) is amended as follows.

(2) In subsection (2), at the end of paragraph (a) insert " (but see subsection (2A)) ".

(3) After that subsection insert—

"(2A) Subsection (2)(a) is to be disregarded in calculating the profits of a trade on the cash basis."

Amounts not reflecting commercial transactions

23 After Chapter 6 insert—

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"**CHAPTER 6A**

TRADE PROFITS: AMOUNTS NOT REFLECTING COMMERCIAL TRANSACTIONS

Professions and vocations

106A The provisions of this Chapter apply to professions and vocations as they apply to trades.

Application of Chapter

106B This Chapter applies in calculating the profits of a person's trade for a period on the cash basis.

Amounts not reflecting commercial transactions

106C (1) This section applies if—

(a) the person does anything in relation to the trade ("the relevant act"),

(b) there is a difference between—

(i) the amount (if any) that, as a result of the relevant act, would (apart from this section) be brought into account in calculating the profits of the trade for the period, and

(ii) the amount (if any) that would have been so brought into account had the relevant act consisted of a transaction between the person and another person dealing with each other at arm's length in the open market ("the arm's length amount"), and

(c) the profits of the trade for the period are less than they would have been if the arm's length amount had been so brought into account.

(2) The amount to be brought into account in calculating the profits of the trade for the period is an amount that is just and reasonable in all the circumstances.

Capital receipts

106D Section 106C does not apply in relation to the relevant act if subsection (4) or (5) of section 96A (cash basis: capital receipts) applies in relation to that act.

Gifts to charities etc

106E Section 106C does not apply in relation to the relevant act if any of the provisions of Chapter 7 (trade profits: gifts to charities etc) applies in relation to that act."

Herd basis rules

24 In Chapter 8 (trade profits: herd basis rules), after section 111 insert—

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"**111A Herd basis rules not to apply where cash basis used**

Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Sound recordings

25 In Chapter 9 (trade profits: sound recordings), after section 130 insert—

"**130A Chapter not to apply where cash basis used**

Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Telecommunication rights

26 In Chapter 10 (trade profits: certain telecommunication rights), before section 145 insert—

Chapter not to apply where cash basis used

"144A Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Long funding leases

27 In Chapter 10A (leases of plant or machinery: special rules for long funding leases), before section 148A (and the italic heading preceding it) insert—

"Application of Chapter

Chapter not to apply where cash basis used

148ZA Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Specific trades

28 In Chapter 11 (trade profits: other specific trades), before section 149 (and the italic heading preceding it) insert—

"Cash basis accounting

Application of Chapter to the cash basis

148K The following sections do not apply in calculating the profits of a trade, profession or vocation on the cash basis—

sections 149 to 154A (dealers in securities etc),

section 157 (relief in respect of mineral royalties),

section 158 (lease premiums etc: reduction of receipts),

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section 159 (ministers of religion),
section 161 (mineral exploration and access),
section 162 (payments by persons liable to pool betting duty),
sections 163 and 164 (intermediaries treated as making employment payments),
section 164A (managed service companies),
sections 165 to 168 (waste disposal),
sections 169 to 172ZE (cemeteries and crematoria)."

Changes in trading stock

29 In Chapter 11A (trade profits: changes in trading stock), after section 172A insert—

"**172AA Chapter not to apply where cash basis used**

Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Unremittable amounts

30 In Chapter 13 (deductions from profits: unremittable amounts), after section 188 insert—

"**188A Chapter not to apply where cash basis used**

Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Disposal and acquisition of know-how

31 In Chapter 14 (disposal and acquisition of know-how), before section 192 insert—

Chapter not to apply where cash basis used

"191A Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Averaging profits of farmers and creative artists

32 In Chapter 16 (averaging profits of farmers and creative artists), after section 221 insert—

"**221A Claim not available where cash basis used**

Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Compensation for compulsory slaughter of animal

33 In Chapter 16ZA (compensation for compulsory slaughter of animal), after section 225ZA insert—

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"**225ZAA Chapter not to apply where cash basis used**

Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Oil activities

34 In Chapter 16A (oil activities), before section 225A (and the italic heading preceding it) insert—

"Application of Chapter

Chapter not to apply where cash basis used

225ZH Nothing in this Chapter applies in calculating the profits of a trade on the cash basis."

Adjustment income

35 Chapter 17 (adjustment income) is amended as follows.

36 After section 227 insert—

"**227A Application of Chapter where cash basis used**

(1) This Chapter applies if—

(a) an election under section 25A (cash basis for small businesses) has effect in relation to a trade for a tax year but no such election has effect in relation to the trade for the following tax year, or

(b) no such election has effect in relation to a trade for a tax year but such an election has effect in relation to the trade for the following tax year.

(2) But this Chapter does not apply to income which is charged in accordance with section 832."

37 After section 239 insert—

"Spreading of adjustment income on leaving cash basis

239A Spreading on leaving cash basis

(1) This section applies if—

(a) an election under section 25A (cash basis for small businesses) has effect in relation to a trade for a tax year, and

(b) no such election has effect in relation to the trade for the following tax year.

(2) Any adjustment income is spread over 6 tax years as follows.

(3) In each of the 6 tax years beginning with that in which the whole amount of the adjustment income would otherwise be chargeable to tax, an amount

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equal to one-sixth of the amount of the adjustment income is treated as arising and is charged to tax.

(4) This section is subject to any election under section 239B (election to accelerate charge).

239B Election to accelerate charge under section 239A

(1) A person who under section 239A is liable to tax for a tax year on an amount of adjustment income may elect for an additional amount to be treated as arising in the tax year.

(2) The election must be made on or before the first anniversary of the normal self-assessment filing date for the tax year.

(3) The election must specify the amount to be treated as income arising in the tax year (which may be any amount of the adjustment income not previously charged to tax).

(4) If an election is made, section 239A applies in relation to any subsequent tax year as if the amount of adjustment income (as reduced by any previous application of this section) were reduced by the amount given by the following formula—

$$A \times \frac{6}{T}$$

where—

A is the additional amount treated as arising in the tax year for which the election is made, and

T is the number of tax years remaining after that tax year in the period of 6 tax years referred to in section 239A."

Adjustments for capital allowances

38 After Chapter 17 insert—

"**CHAPTER 17A**

CASH BASIS: ADJUSTMENTS FOR CAPITAL ALLOWANCES

Introduction

Professions and vocations

240A The provisions of this Chapter apply to professions and vocations as they apply to trades.

Changes to legislation: *Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Adjustments on entering cash basis

"Entering the cash basis"

240B For the purposes of this Chapter a person carrying on a trade enters the cash basis for a tax year if—

(a) an election under section 25A has effect in relation to the trade for the tax year, and

(b) immediately before the beginning of the basis period for the tax year, such an election does not have effect in relation to the trade.

Unrelieved qualifying expenditure

240C(1) This section applies if—

(a) a person carrying on a trade enters the cash basis for a tax year ("the current tax year"), and

(b) at the end of the basis period for the previous tax year, the person has unrelieved qualifying expenditure to carry forward from the chargeable period ending with that basis period.

(2) But this section does not apply if section 240D (assets not fully paid for) applies.

(3) In calculating the profits of the trade for the current tax year, a deduction is allowed for the relevant portion of the expenditure.

(4) The "relevant portion" of the expenditure means the amount of the expenditure for which a deduction would be allowed in calculating the profits of the trade on the cash basis for a period if the expenditure was paid during that period.

(5) The relevant portion of the expenditure is to be determined on such basis as is just and reasonable in all the circumstances.

(6) Section 59(1) and (2) of CAA 2001 (unrelieved qualifying expenditure) has effect for the purposes of this section.

Assets not fully paid for

240D(1) This section applies if—

(a) a person carrying on a trade enters the cash basis for a tax year,

(b) at any time before the beginning of the basis period for that tax year the person has obtained capital allowances in respect of expenditure on the provision of plant or machinery ("the relevant expenditure"), and

(c) not all of the relevant expenditure has actually been paid by the person.

(2) If the amount of the relevant expenditure that the person has actually paid exceeds the amount of capital allowances given in respect of the relevant expenditure, the difference is to be deducted in calculating the profits of the trade for the tax year.

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(3) If the amount of the relevant expenditure that the person has actually paid is less than the amount of capital allowances given in respect of the relevant expenditure, the difference is to be treated as a receipt in calculating the profits of the trade for the tax year.

(4) The amount of any capital allowance obtained in respect of expenditure on the provision of any plant or machinery is to be determined on such basis as is just and reasonable in all the circumstances.

(5) If the amount of capital allowances given in respect of the relevant expenditure has been reduced under section 205 or 207 of CAA 2001 (reduction where asset provided or used only partly for qualifying activity), the amount of the relevant expenditure that the person has actually paid is to be proportionately reduced for the purposes of this section.

(6) This section does not apply where the relevant expenditure was incurred on the provision of a car.

In this subsection "car" has the same meaning as in Part 2 of CAA 2001 (see section 268A of that Act).

Successions where predecessor and successor are connected persons

Effect of election where predecessor and successor are connected persons

240E (1) This section applies if—

(a) a person carrying on a trade enters the cash basis for a tax year,

(b) the person is the successor for the purposes of section 266 of CAA 2001, and

(c) as a result of an election under section 267 of that Act, relevant plant or machinery is treated as sold by the predecessor to the successor at any time during the basis period for the tax year.

(2) The provisions of this Chapter have effect in relation to the successor as if everything done to or by the predecessor had been done to or by the successor.

(3) Any expenditure actually incurred by the successor on acquiring the relevant plant or machinery is to be ignored for the purposes of calculating the profits of the trade for the tax year.

(4) In this section "the predecessor" and "relevant plant or machinery" have the same meaning as in section 267 of CAA 2001."

Post-cessation receipts

39 (1) Chapter 18 (post-cessation receipts) is amended as follows.

(2) In section 246 (basic meaning of "post-cessation receipt"), after subsection (2) insert—

"(2A) If, immediately before a person permanently ceases to carry on a trade, an election under section 25A (cash basis for small businesses) has effect in relation to the trade, a sum is to be treated as a post-cessation receipt only

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if it would have been brought into account in calculating the profits of the trade on the cash basis had it been received at that time."

(3) In section 254 (allowable deductions), after subsection (2) insert—

"(2A) If, immediately before the person permanently ceases to carry on the trade, an election under section 25A (cash basis for small businesses) has effect in relation to the trade, assume for the purposes of subsection (2) that such an election has effect in relation to the trade."

Rent-a-room relief

40 In Chapter 1 of Part 7 of ITTOIA 2005 (rent-a-room relief), in section 786 (meaning of "rent-a-room receipts"), after subsection (4) insert—

"(5) Subsections (6) and (7) apply if—

(a) the receipts would otherwise be brought into account in calculating the profits of a trade, and

(b) an election under section 25A (cash basis for small businesses) has effect in relation to the trade.

(6) Any amounts brought into account under section 96A (capital receipts) as a receipt in calculating the profits of the trade are to be treated as receipts within paragraph (a) of subsection (1) above.

(7) The reference in subsection (1)(b) to receipts that accrue to an individual during the income period for those receipts is to be read as a reference to receipts that are received by the individual during that period."

Qualifying care relief

41 Chapter 2 of Part 7 of ITTOIA 2005 (qualifying care relief) is amended as follows.

42 In section 805 (meaning of "qualifying care receipts"), after subsection (3) insert—

"(4) Subsections (5) and (6) apply if—

(a) the receipts would otherwise be brought into account in calculating the profits of a trade, and

(b) an election under section 25A (cash basis for small businesses) has effect in relation to the trade.

(5) Any amounts brought into account under section 96A (capital receipts) as a receipt in calculating the profits of the trade are to be treated as receipts within paragraph (a) of subsection (1) above.

(6) The reference in subsection (1)(b) to receipts that accrue to an individual during the income period for those receipts is to be read as a reference to receipts that are received by the individual during that period."

43 In section 820 (periods of account not ending on 5th April)—

(a) the existing provision becomes subsection (1), and

(b) after that subsection insert—

"(2) Where an election under section 25A (cash basis for small businesses) has effect in relation to the trade, any reference in this section or sections 821 to 823 to the period of account in which

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receipts accrue is to be read as a reference to the period of account in which receipts are received."

PART 2

CONSEQUENTIAL AMENDMENTS

TMA 1970

44 In section 42 of TMA 1970 (procedure for making claims etc), in subsection (7)(e), after "sections" insert " 25A, ".

TCGA 1992

45 After section 47 of TCGA 1992 insert—

"Cash basis accounting

47A Exemption for disposals by persons using cash basis

(1) No chargeable gain shall accrue on the disposal of, or of an interest in, an asset if conditions A to D are met in relation to the asset.

(2) Condition A is that the asset is—

(a) tangible movable property, and

(b) a wasting asset.

(3) Condition B is that, at any time during the period of ownership of the person making the disposal, the asset has been used for the purposes of a trade, profession or vocation carried on by the person.

(4) Condition C is that an election under section 25A of ITTOIA 2005 (cash basis for small businesses) has effect in relation to the trade, profession or vocation at the time of the disposal.

(5) Condition D is that—

(a) any expenditure attributable to the asset or interest under paragraph (a) or (b) of section 38(1) has been brought into account in calculating the profits of the trade, profession or vocation on the cash basis, or

(b) any of that expenditure would have been so brought into account if an election under section 25A of ITTOIA 2005 had had effect in relation to the trade, profession or vocation at the time the expenditure was paid.

(6) Subsection (7) applies in the case of the disposal of, or of an interest in, an asset which, in the period of ownership of the person making the disposal—

(a) has been used partly for the purposes of the trade, profession or vocation and partly for other purposes, or

(b) has been used for the purposes of the trade, profession or vocation for part of that period.

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(7) In such a case—

(a) the consideration for the disposal, and any expenditure attributable to the asset or interest by virtue of section 38(1)(a) and (b), shall be apportioned by reference to the extent to which that expenditure was, or (as the case may be) would have been, brought into account as mentioned in subsection (5) above,

(b) the computation of the gain shall be made separately in relation to the apportioned parts of the expenditure and consideration, and

(c) subsection (1) above shall apply to any gain accruing by reference to the computation in relation to the part of the consideration apportioned to use for the purposes of the trade, profession or vocation.

47B Disposals made by persons after leaving cash basis

(1) This section applies where—

(a) a person disposes of, or of an interest in, an asset that has been used for the purposes of a trade, profession or vocation carried on by the person, and

(b) conditions A and B are met in relation to the trade, profession or vocation.

(2) Condition A is that—

(a) any expenditure attributable to the asset or interest under paragraph (a) or (b) of section 38(1) was incurred at a time when an election under section 25A of ITTOIA 2005 (cash basis for small businesses) had effect in relation to the trade, profession or vocation, and

(b) that expenditure ("the relevant expenditure") has been brought into account in calculating the profits of the trade, profession or vocation on the cash basis.

(3) Condition B is that no such election has effect in relation to the trade, profession or vocation at the time of the disposal.

(4) Section 39 (exclusion of expenditure by reference to tax on income) does not apply in relation to the relevant expenditure.

(5) Section 41 (restriction of losses by reference to capital allowances and renewals allowances) has effect as if—

(a) the election mentioned in subsection (2)(a) above had not had effect at the time the relevant expenditure was incurred, and

(b) the reference in subsection (7) to qualifying expenditure included a reference to expenditure which, if that election had not had effect at that time, would have been qualifying expenditure.

(6) Section 45 (exemption for certain wasting assets) and section 47 (wasting assets qualifying for capital allowances) have effect as if the election mentioned in subsection (2)(a) above had not had effect at the time the relevant expenditure was incurred.

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Accordingly, any reference in those sections to expenditure qualifying for capital allowances is to be read as a reference to expenditure that would, in the absence of the election, have qualified for such allowances."

CAA 2001

46 In section 1 of CAA 2001 (capital allowances), after subsection (3) insert—

"(4) But a person is not entitled to any allowance or liable to any charge under this Act in calculating the profits of a trade, profession or vocation of the person in relation to which an election under section 25A of ITTOIA 2005 (cash basis for small businesses) has effect, other than an allowance in respect of expenditure incurred on the provision of a car (or a charge in connection with such an allowance).

(5) In subsection (4) "car" has the same meaning as in Part 2 (see section 268A)."

47 In section 59 of CAA 2001 (unrelieved qualifying expenditure), after subsection (3) insert—

"(4) If a person carrying on a trade, profession or vocation enters the cash basis for a tax year, no amount may be carried forward as unrelieved qualifying expenditure from the chargeable period ending with the basis period for the previous tax year.

(5) But subsection (4) does not apply to unrelieved qualifying expenditure incurred on the provision of a car.

(6) Where a person has unrelieved qualifying expenditure to carry forward from a chargeable period that is not expenditure allocated to a single asset pool, the amount of unrelieved qualifying expenditure incurred on the provision of a car is to be determined on such basis as is just and reasonable in all the circumstances.

(7) Section 240B of ITTOIA 2005 (meaning of "entering the cash basis") applies for the purposes of this section as it applies for the purposes of Chapter 17A of Part 2 of that Act."

48 In Chapter 5 of Part 2 of CAA 2001 (plant and machinery allowances and charges), after section 66 insert—

"Application of Chapter to person leaving cash basis

66A Persons leaving cash basis

(1) This section applies if—

(a) a person carrying on a trade, profession or vocation leaves the cash basis in a chargeable period, and

(b) the person has at any time incurred expenditure which, if an election under section 25A of ITTOIA 2005 (cash basis for small businesses) had not had effect at that time, would have been qualifying expenditure.

(2) In this section—

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(a) the "relieved portion" of the expenditure is the amount of that expenditure for which—

(i) a deduction was allowed in calculating the profits of the trade, profession or vocation, or

(ii) a deduction would have been so allowed if the expenditure had been incurred wholly and exclusively for the purposes of the trade, profession or vocation;

(b) the "unrelieved portion" of the expenditure is any remaining amount of the expenditure.

(3) For the purposes of determining any entitlement of the person to an annual investment allowance or a first-year allowance, the person is to be treated as incurring the unrelieved portion of the expenditure in the chargeable period.

(4) For the purposes of determining the person's available qualifying expenditure in a pool for the chargeable period (see section 58)—

(a) the whole of the expenditure must be allocated to the appropriate pool (or pools) in that chargeable period, and

(b) the available qualifying expenditure in a pool to which the expenditure (or some of it) is allocated is reduced by the relieved portion of that expenditure.

(5) For the purposes of determining any disposal receipts (see section 60), the expenditure incurred by the person is to be regarded as qualifying expenditure.

(6) For the purposes of this section a person carrying on a trade, profession or vocation leaves the cash basis in a chargeable period if—

(a) immediately before the beginning of the chargeable period an election under section 25A had effect in relation to the trade, profession or vocation, and

(b) such an election does not have effect in relation to the trade, profession or vocation for the chargeable period."

ITTOIA 2005

49 In section 31 of ITTOIA 2005 (relationship between rules prohibiting and allowing deductions), in subsection (2), omit the "or" at the end of paragraph (b) and after paragraph (c) insert "or

(d) Chapter 17A,".

50 In section 56 of ITTOIA 2005 (rules allowing deductions: professions and vocations), after "marks)" insert " and section 97A (cash basis: value of trading stock on cessation of trade) ".

51 Omit section 160 of ITTOIA 2005 (cash basis of calculation for barristers and advocates in early years of practice).

52 (1) Chapter 17 of Part 2 of ITTOIA 2005 (adjustment income) is amended as follows.

(2) In section 229(2)(a), for "sections 237 to 239" substitute " sections 237 to 239B ".

(3) Omit sections 238 and 239 (spreading of adjustment income: barristers and advocates).

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53 In Part 2 of Schedule 4 to ITTOIA 2005 (index of defined expressions), at the appropriate place insert—

"the cash basis (in Part 2)	section 25A";
"entering the cash basis (in Chapter 17A of Part 2)	section 240B".

ITA 2007

54 (1) In Part 4 of ITA 2007 (loss relief), Chapter 2 (trade losses) is amended as follows.

(2) In section 64 (deduction of losses from general income), in subsection (8), after paragraph (ba) insert—

"(bb) section 74E (restriction on the relief and early trade losses relief where cash basis applies),".

(3) In section 72 (relief for individuals for losses in first 4 years of trade), in subsection (5), after paragraph (ba) insert—

"(bb) section 74E (restriction on the relief and trade loss relief where cash basis applies),".

(4) After section 74D insert—

"Restriction on sideways relief and capital gains relief where cash basis applies

74E No relief where cash basis used to calculate losses

(1) This section applies if—

(a) a person makes a loss in any trade in a tax year, and

(b) an election under section 25A of ITTOIA 2005 (cash basis for small businesses) has effect in relation to the trade for that tax year.

(2) No sideways relief or capital gains relief may be given to the person for the loss.

(3) For the purposes of this section—

(a) capital gains relief is, in relation to a loss, the treatment of a loss as an allowable loss by virtue of section 261B of TCGA 1992 (use of trading loss as a CGT loss), and

(b) capital gains relief is given for a loss when it is so treated."

55 (1) Chapter 1 of Part 8 of ITA 2007 (relief for interest payments) is amended as follows.

(2) In section 383(5), after paragraph (a) insert—

"(aa) section 384B (restriction on relief where cash basis applies),".

(3) After section 384A insert—

"**384B Restriction on relief where cash basis applies**

(1) Relief is not to be given under this Chapter for a tax year for interest paid by a person on a relevant loan if the partnership to which the loan relates has

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made an election under section 25A of ITTOIA 2005 (cash basis for small businesses) for the tax year.

(2) A loan is a "relevant loan" if—

(a) it is a loan to which section 388 applies (loan to buy plant or machinery for partnership use), or

(b) it is a loan to which section 398 applies (loan to invest in partnership) and which is not used for purchasing a share in a partnership."

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISION

56 Subject to paragraph 57, the amendments made by this Schedule have effect for the tax year 2013-14 and subsequent tax years.

57 (1) In a case where—

(a) the profits of a barrister or advocate in independent practice for a period of account ending in the tax year 2012-13 have been calculated in accordance with section 160 of ITTOIA 2005 (barristers and advocates: alternative basis of calculation in early years of practice), and

(b) if that section had not been repealed by this Schedule, the profits of the barrister or advocate for any subsequent period of account could have been calculated in accordance with that section,

the profits of the barrister or advocate for that subsequent period of account may be calculated in accordance with that section.

(2) The repeal of sections 238 and 239 of ITTOIA 2005 (spreading of adjustment income: barristers and advocates) does not have effect in relation to any individual whose profits for a period of account ending in or before the tax year 2012-13 have been calculated in accordance with section 160 of ITTOIA 2005.

SCHEDULE 5

Section 18

DEDUCTIONS ALLOWABLE AT A FIXED RATE

1 Part 2 of ITTOIA 2005 (trading income) is amended as follows.

2 After Chapter 5 insert—

"CHAPTER 5A

TRADE PROFITS: DEDUCTIONS ALLOWABLE AT A FIXED RATE

Introduction

Professions and vocations

94B The provisions of this Chapter apply to professions and vocations as they apply to trades.

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Provisions not applicable to certain firms

94C The provisions of this Chapter do not apply in calculating the profits of a trade carried on by a firm for a period if one or more of the persons who have been partners in the firm at any time during the period was not an individual at that time.

Expenditure on vehicles

Expenditure on vehicles

94D (1) This section applies if, in calculating the profits of a trade of a person for a period—

(a) a deduction would otherwise be allowable for the period in respect of qualifying expenditure incurred in relation to a relevant vehicle (see subsection (2)), or

(b) a deduction would be so allowable in respect of such expenditure but for the fact it is capital expenditure.

(2) In this section "relevant vehicle" means a car, motor cycle or goods vehicle that—

(a) is used for the purposes of the trade, and

(b) is not an excluded vehicle (see section 94E).

(3) The person may make a deduction under this section for the period in respect of the qualifying expenditure.

(4) If a deduction for a period is made under this section—

(a) no other deduction is allowed (for that or any other period) in respect of the qualifying expenditure, and

(b) this section applies in relation to the relevant vehicle for every subsequent period for which the vehicle is used for the purposes of the trade.

(5) The amount of the deduction is the appropriate mileage amount in relation to the relevant vehicle for the period (see section 94F).

(6) In this section "qualifying expenditure", in relation to a vehicle, means any expenditure incurred in respect of the acquisition, ownership, hire, leasing or use of the vehicle, other than incidental expenses incurred in connection with a particular journey.

(7) For provision preventing capital allowances from being claimed in respect of qualifying expenditure incurred in relation to a relevant vehicle, see section 38ZA of CAA 2001.

Excluded vehicles

94E (1) A car, motor cycle or goods vehicle that is used for the purposes of a trade is an "excluded vehicle" for the purposes of section 94D if condition A or B is met in relation to the vehicle.

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(2) Condition A is that the person who is or has been carrying on the trade has at any time claimed any capital allowances under Part 2 of CAA 2001 in respect of any expenditure incurred on the provision of the vehicle.

(3) Condition B is that—

(a) the vehicle is a goods vehicle or a motor cycle, and

(b) any of the expenditure incurred on acquiring the vehicle has been deducted in calculating the profits of the trade for a period on the cash basis (see section 25A).

The appropriate mileage amount

94F (1) In calculating the profits of a trade for a period, the appropriate mileage amount in relation to a relevant vehicle for the period is—

$$M \times R$$

where—

M is the number of miles of business journeys made by a person (other than as a passenger) using that vehicle in the period, and

R is the rate applicable to that kind of vehicle.

(2) The rates applicable are as follows—

TABLE

Kind of vehicle	***Rate per mile***
Car or goods vehicle	45p for the first 10,000 miles
	25p after that
Motor cycle	24p

(3) In a case where the total number of miles of relevant business journeys made in the period is greater than 10,000, the rate of 45p per mile is available only in relation to 10,000 of those miles.

(4) "Relevant business journey" means any business journey made in the period by a car or goods vehicle—

(a) that is used for the purposes of the trade, and

(b) in relation to which section 94D applies for the period.

(5) In this section—

"business journey", in relation to a vehicle used for the purposes of a trade, means any journey, or any identifiable part or proportion of a journey, that is made wholly and exclusively for the purposes of the trade, and

"relevant vehicle" has the same meaning as in section 94D.

(6) The Treasury may by regulations amend subsection (2) so as to alter the rates or rate bands.

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Regulations under this subsection may also make consequential amendments to subsection (3).

Definitions of types of vehicle

94G(1) This section applies for the purposes of sections 94D to 94F (and this section).

(2) "Car" means a mechanically propelled road vehicle which is not—

(a) a goods vehicle,

(b) a motor cycle,

(c) an invalid carriage, or

(d) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used.

(3) "Goods vehicle" means a mechanically propelled road vehicle which—

(a) is of a construction primarily suited for the conveyance of goods or burden of any description, and

(b) is not a motor cycle.

(4) "Motor cycle" has the meaning given by section 185(1) of the Road Traffic Act 1988.

(5) For the purposes of this section "invalid carriage" has the meaning given by section 185(1) of the Road Traffic Act 1988.

Use of home for business purposes

Use of home for business purposes

94H(1) This section applies if, in calculating the profits of a trade of a person for a period, a deduction ("the standard deduction") would otherwise be allowable for the period in respect of the use of the person's home for the purposes of the trade.

(2) The person may, instead of making the standard deduction, make a deduction for the period under this section.

(3) The amount of the deduction allowable for the period is the sum of the applicable amounts for each month, or part of a month, falling within the period.

(4) The applicable amount for a month, or part of a month, is given by the following Table—

TABLE

Number of hours worked	***Applicable amount***
25 or more	£10.00
51 or more	£18.00
101 or more	£26.00

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where the "number of hours worked" in a month (or part of a month) is the number of hours spent wholly and exclusively on work done by the person, or any employee of the person, in the person's home wholly and exclusively for the purposes of the trade.

(5) If the person has more than one home, this section has effect as if those homes were a single home.

(6) The Treasury may by regulations amend subsection (4) so as to alter the rates or rate bands.

Premises used both as home and business premises

Premises used both as a home and as business premises

94I (1) This section applies if—

(a) a person carries on a trade at any premises,

(b) the premises are used mainly for the purposes of carrying on the trade, but are also used by the person as a home,

(c) the person incurs expenses in relation to the premises,

(d) the expenses are incurred mainly (but not wholly and exclusively) for the purposes of the trade, and

(e) in calculating the profits of the trade for a period, a deduction ("the standard deduction") would otherwise be allowable for the period in respect of a part or proportion of the expenses in accordance with section 34(2).

(2) The person may, instead of making the standard deduction, make a deduction for the period under this section.

(3) The amount of the deduction allowable for the period is the amount of the expenses less the non-business use amount.

(4) The non-business use amount is the sum of the applicable amounts for each month, or part of a month, falling within the period.

(5) The applicable amount for a month, or part of a month, is given by the following Table—

TABLE

Number of relevant occupants	*Applicable amount*
1	£350
2	£500
3 or more	£650

(6) For the purposes of subsection (5) "relevant occupant", in relation to a month (or part of a month), means an individual who, at any time during that month (or that part of a month)—

(a) occupies the premises as a home, or

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(b) stays at the premises otherwise than in the course of the trade.

(7) The Treasury may by regulations amend subsection (5) so as to alter the rates or rate bands."

3 In section 31 (relationship between rules prohibiting and allowing deductions), in subsection (2), after paragraph (a) insert—

"(aa) Chapter 5A,".

4 In Chapter 18 (post-cessation receipts), in section 254 (allowable deductions), after subsection (2A) (inserted by paragraph 39 of Schedule 4) insert—

"(2B) If—

(a) the loss or expense is incurred, or the debit arises, in relation to a vehicle, and

(b) immediately before the person permanently ceases to carry on the trade, section 94D (deduction allowable at fixed rate for expenditure on vehicles) applies in relation to the vehicle,

assume for the purposes of subsection (2) that that section applies in relation to the vehicle."

5 (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.

(2) In Chapter 3 (qualifying expenditure), after section 38 insert—

"**38ZA Vehicles for which deductions allowed at fixed rate under Part 2 of ITTOIA 2005**

Expenditure is not qualifying expenditure if—

(a) it is incurred in respect of a vehicle in a period, and

(b) a deduction is made for the period in respect of the expenditure under section 94D of ITTOIA 2005 (deduction allowable at fixed rate for expenditure on vehicles)."

(3) In Chapter 5 (allowances and charges), in section 59 (unrelieved qualifying expenditure), at the end insert—

"(8) Subsection (9) applies if—

(a) a person carrying on a trade, profession or vocation incurs expenditure in relation to a vehicle,

(b) at the end of the basis period for a tax year, the person has unrelieved qualifying expenditure incurred in relation to the vehicle to carry forward from the chargeable period ending with that basis period ("the relevant chargeable period"),

(c) in calculating the profits of a trade, profession or vocation of a person for the following tax year, a deduction is made under section 94D of ITTOIA 2005 in respect of expenditure incurred in relation to the vehicle, and

(d) the person does not enter the cash basis for that tax year.

(9) None of the unrelieved qualifying expenditure incurred in relation to the vehicle may be carried forward as unrelieved qualifying expenditure from the relevant chargeable period.

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(10) Where a person has unrelieved qualifying expenditure to carry forward from a chargeable period that is not expenditure allocated to a single asset pool, the amount of the unrelieved qualifying expenditure incurred in relation to the vehicle is to be determined on such basis as is just and reasonable in all the circumstances."

6 The amendments made by this Schedule have effect for the tax year 2013-14 and subsequent tax years.

SCHEDULE 6

Section 19

EMPLOYMENT INCOME: DUTIES PERFORMED IN THE UK AND OVERSEAS

PART 1

APPORTIONMENT OF EARNINGS

1 Part 2 of ITEPA 2003 (employment income: charge to tax) is amended as follows.

2 In section 15 (earnings for year when employee UK resident), as amended by Schedule 45 to this Act, in subsection (5)—

(a) after paragraph (a) omit "and", and

(b) after paragraph (b) insert ", and

(c) section 41ZA (which is about determining the extent to which general earnings are in respect of United Kingdom duties)."

3 In Chapter 5 (taxable earnings: remittance basis rules and rules for non-UK resident employees), after section 41 insert—

"Apportionment of earnings

41ZA Basis of apportionment

The extent to which general earnings are in respect of duties performed in the United Kingdom is to be determined under this Chapter on a just and reasonable basis."

PART 2

REMITTANCE BASIS OF TAXATION: SPECIAL MIXED FUND RULES

4 Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.

5 In section 809Q (sections 809L and 809P: transfers from mixed funds), after subsection (1) insert—

"(1A) But this section must be read subject to section 809RA."

6 After section 809R insert—

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"**809RA Special mixed fund rules for certain employment cases**

(1) This section applies if—

(a) an individual has general earnings from an employment for a tax year,

(b) those earnings include both general earnings within section 15(1) of ITEPA 2003 ("section 15(1) earnings") and general earnings within section 26(1) of that Act ("section 26(1) earnings"),

(c) at least some of the section 15(1) earnings, or sums deriving (wholly or in part, and directly or indirectly) from at least some of the section 15(1) earnings, are paid into an account in that tax year at a time (a "relevant time") when the account is a qualifying account of the individual, and

(d) at least some of the section 26(1) earnings, or sums deriving (wholly or in part, and directly or indirectly) from at least some of the section 26(1) earnings, are also paid into the account in that tax year at a relevant time.

(2) If this section applies, the composition of each transfer made from the account in that tax year at a relevant time is to be determined as follows—

Step 1 Suppose that all the condition A transfers made from the account in the tax year at a relevant time had been a single transfer made from the account at the end of the tax year.

Step 2 Suppose that all the other transfers made from the account in the tax year at a relevant time had been a single offshore transfer made at the end of the tax year immediately after the single transfer mentioned in step 1.

Step 3 Applying those suppositions—

(a) find under section 809Q(3) the extent to which the single transfer mentioned in step 1 is of the individual's income or chargeable gains, and

(b) find under section 809R(4) the content of the single offshore transfer mentioned in step 2.

Step 4 Each transfer made from the account in the tax year at a relevant time is to be treated as containing the specified proportion of each kind of income or capital contained in the relevant deemed transfer."The specified proportion" is the amount of the transfer divided by the amount of the relevant deemed transfer."The relevant deemed transfer" is—

(a) if the transfer is a condition A transfer, the single transfer mentioned in step 1, and

(b) otherwise, the single offshore transfer mentioned in step 2.

(3) Subsection (2) applies in determining the composition of a transfer for the purposes of sections 809Q and 809R but it does not otherwise affect the date on which a transfer is considered to occur for the purposes of this Chapter.

(4) If the tax year is the tax year in which the account becomes a qualifying account, for the purpose of applying section 809Q(3) in relation to the single transfer mentioned in step 1 of subsection (2), treat the part of the tax year falling before the qualifying date for the account as a separate tax year.

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(5) If the account ceases to be a qualifying account of the individual during the tax year other than as a result of a breach of the deposit rule—

(a) subsection (2) has effect as if references to the end of the tax year were to the end of the day on which the account ceases to be a qualifying account, and

(b) for the purpose of applying section 809Q(3) in relation to the single transfer mentioned in step 1 of subsection (2), treat the part of the tax year falling after the day mentioned in paragraph (a) as a separate tax year.

(6) A transfer from the account is a "condition A transfer" if and to the extent that—

(a) condition A in section 809L is met, and

(b) either—

(i) the property or consideration for the service is (wholly or in part), or derives (wholly or in part, and directly or indirectly) from, the transfer, or

(ii) the transfer, or anything deriving (wholly or in part, and directly or indirectly) from the transfer, is used as mentioned in section 809L(3)(c).

(7) A transfer from the account is an "other transfer" if and to the extent that it is not a condition A transfer.

(8) Treat a transfer as an "other transfer" if and to the extent that, at the end of the tax year—

(a) it is not a condition A transfer, and

(b) on the basis of the best estimate that can reasonably be made at that time, it will not become a condition A transfer.

(9) If the account ceases to be a qualifying account of the individual during the tax year other than as a result of a breach of the deposit rule, subsection (8) has effect as if the reference to the end of the tax year were to the end of the day on which the account ceases to be a qualifying account.

(10) "Qualifying account" and "the qualifying date" for an account are defined in section 809RB.

(11) For the purposes of this section and sections 809RB to 809RD—

(a) "employment" is to be read in accordance with section 4(1) of ITEPA 2003, and includes an office (as read in accordance with section 5(3) of that Act),

(b) whether general earnings are "for" a tax year is to be determined as for the purposes of the employment income Parts of ITEPA 2003 (see section 3(2) of that Act),

(c) a reference to anything "paid into" an account includes anything credited to the account by whatever means, and

(d) references to a breach of the deposit rule are to be read in accordance with section 809RC.

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809RB Qualifying accounts

(1) An individual may by notice to the Commissioners nominate an account to be a qualifying account of the individual for the purposes of section 809RA.

(2) The notice must specify the qualifying date for the account.

(3) "The qualifying date" for the account is the first date on which there is paid into the account sums falling within subsection (4) which (in total) are more than £10.

(4) A sum falls within this subsection if it is, or derives wholly (whether directly or indirectly) from, general earnings of the individual from an employment for a tax year which is a relevant tax year in relation to the employment.

(5) A tax year is a "relevant" tax year in relation to an employment if the general earnings which the individual has for the tax year from the employment include both general earnings within section 15(1) of ITEPA 2003 and general earnings within section 26(1) of that Act.

(6) The individual may withdraw the nomination by giving a further notice to the Commissioners, specifying the date with effect from which the nomination is withdrawn.

(7) A notice under subsection (1) or (6) must be in writing and include such information as the Commissioners may reasonably require.

(8) A notice under subsection (1) or (6) must be given no later than—

(a) 31 January in the tax year following the tax year in which falls, as the case may be—

(i) the qualifying date for the account, or

(ii) the date with effect from which the nomination is withdrawn, or

(b) such later date as the Commissioners may allow.

(9) If an individual nominates an account under this section, the account is a "qualifying account" of the individual throughout the period—

(a) beginning with the qualifying date, and

(b) ending with the date before the earliest of the following dates—

(i) the date on which the account is closed or ceases to be an ordinary bank account held by and for the benefit of the individual (alone or jointly with others);

(ii) the date with effect from which the nomination is withdrawn under this section;

(iii) the qualifying date for another qualifying account of the individual;

(iv) 6 April in a tax year in which there is a breach of the deposit rule which is not remedied or cannot be remedied;

(v) 6 April in a tax year for which the individual has no general earnings within section 26(1) of ITEPA 2003.

(10) The account is not to be a qualifying account at all if—

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(a) at any time on the qualifying date, the account is not an ordinary bank account held by and for the benefit of the individual (alone or jointly with others), or

(b) immediately before the qualifying date, the account has a credit balance of more than £10.

(11) The account is not to be a qualifying account at all if the qualifying date falls in a tax year—

(a) for which the individual has no general earnings within section 26(1) of ITEPA 2003, or

(b) in which there is a breach of the deposit rule which is not remedied or cannot be remedied.

(12) Subsection (9)(b)(iv) or (11)(b) (as relevant) is to be ignored if the breach occurs on or after a date falling within subsection (9)(b)(i) to (iii).

(13) If, apart from this subsection, an individual might have nominated two or more accounts for which the qualifying date would be the same, the individual may nominate only one of those accounts.

(14) If, apart from this subsection, an account would be a qualifying account of two or more individuals at any time, it is not to be a qualifying account of either or any of them at that time or any other time.

(15) For the purposes of this section an account is an "ordinary bank account" if it is a cash account in a bank (whether a current or savings account) where sums standing to the credit of the account from time to time represent a debt owed by the bank to the account-holder.

809RC Breaches of the deposit rule

(1) There is a breach of the deposit rule if a prohibited sum is paid into the account on or after the qualifying date.

(2) A breach of the deposit rule is remedied if, within 30 days beginning with the day on which the individual became or ought reasonably to have become aware of the payment of the prohibited sum, the required amount is transferred out of the account by way of a single one-off transfer.

(3) "The required amount" is an amount equal to—

(a) the prohibited sum, plus

(b) all the other prohibited sums (if any) that have been paid into the account since that sum was paid in.

(4) If there are 3 breaches of the deposit rule in any 12 month period, subsection (2) does not apply to the third breach and, accordingly, the third breach cannot be remedied.

(5) The payment of a prohibited sum ("the later prohibited sum") into the account does not result in a breach of the deposit rule if—

(a) a breach resulting from an earlier payment of a prohibited sum into the account is remedied, and

(b) the later prohibited sum is represented by the required amount in relation to that breach.

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(6) A "prohibited sum" is anything other than a sum that is, or derives wholly (whether directly or indirectly) from, any of the following kinds of income or capital—

(a) general earnings of the individual from an employment for a tax year which is a relevant tax year in relation to the employment,

(b) general earnings of the individual from an employment which consist of money and are paid in a tax year which is a relevant tax year in relation to the employment,

(c) an amount of specific employment income which, by virtue of Part 6, 7 or 7A of ITEPA 2003 or any other enactment, counts as employment income of the individual in respect of an employment for a tax year which is a relevant tax year in relation to the employment,

(d) interest on the account, or

(e) consideration for the disposal of employment-related securities or employment-related securities options in the circumstances described in subsection (7).

(7) The circumstances are—

(a) the securities or options were acquired pursuant to a right or opportunity available by reason of an employment of the individual,

(b) the disposal is or occurs in conjunction with, or as soon as reasonably practicable after, a relevant event involving those securities or options, and

(c) the tax year in which the relevant event occurs is a relevant tax year in relation to the employment.

(8) For the purposes of subsection (7) each of the following is a "relevant event"—

(a) the acquisition mentioned in subsection (7)(a), and

(b) any event on the occurrence of which an amount (if positive) counts as employment income by virtue of Part 7 of ITEPA 2003 or would do so but for—

(i) section 421E or 474 of that Act (exclusions: residence etc), or

(ii) an election under section 430 or 431 of that Act.

(9) For the purposes of this section a tax year is a "relevant" tax year in relation to an employment if—

(a) the individual has general earnings from the employment for the tax year,

(b) those earnings include both general earnings within section 15(1) of ITEPA 2003 ("section 15(1) earnings") and general earnings within section 26(1) of that Act ("section 26(1) earnings"),

(c) at least some of the section 15(1) earnings, or sums deriving (wholly or in part, and directly or indirectly) from at least some of the section 15(1) earnings, are paid into the account in the tax year, and

(d) at least some of the section 26(1) earnings, or sums deriving (wholly or in part, and directly or indirectly) from at least some of the section 26(1) earnings, are also paid into the account in the tax year.

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(10) For the purposes of this section—

(a) "employment-related securities" has the meaning given in section 421B(8) of ITEPA 2003, and

(b) "employment-related securities options" has the meaning given in section 471(5) of that Act.

809RD Effect where 30-day deadline is met

(1) This section applies if the required amount in relation to a breach of the deposit rule was transferred out of the account in accordance with section 809RC(2).

(2) Sections 809Q and 809R have effect as if—

(a) the intervening transactions had never taken place, and

(b) each prohibited sum represented by the required amount had instead been transferred directly (at the time that sum was paid into the qualifying account) into the account or other property into which the required amount was transferred by virtue of the single one-off transfer.

(3) Each of the following is an "intervening transaction"—

(a) each payment into the qualifying account of a prohibited sum represented by the required amount, and

(b) the single one-off transfer out of the qualifying account.

(4) If it is supposed under step 1 or 2 of section 809RA(2) that a single transfer had been made in the intervening period, re-apply section 809Q or 809R in relation to that transfer taking account of subsection (2).

(5) "The intervening period" is the period—

(a) beginning with the day on which the breach occurred, and

(b) ending with the day on which the single one-off transfer was made in accordance with section 809RC(2).

(6) If more than one transfer of a sum equal to the required amount was transferred out of the qualifying account within the 30-day grace period, the first of those transfers is assumed to be the single one-off transfer.

(7) "The 30-day grace period" is the period of 30 days mentioned in section 809RC(2)."

PART 3

COMMENCEMENT

7 The amendments made by Part 1 of this Schedule have effect in relation to earnings for the tax year 2013-14 and subsequent tax years.

8 The amendments made by Part 2 of this Schedule have effect in relation to transfers from a mixed fund that are made in the tax year 2013-14 or any subsequent tax year.

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SCHEDULE 7

Section 20

REMITTANCE BASIS: EXEMPT PROPERTY

1 Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.

2 In section 809X(3) (exempt property: public access rule), for "sections 809Z and 809Z1)" substitute " section 809Z) ".

3 (1) Section 809Y (property that ceases to be exempt property treated as remitted) is amended as follows.

(2) In subsection (2), for "either" substitute " any ".

(3) After subsection (4) insert—

"(4A) Where exempt property has been lost, stolen or destroyed, the first and second cases do not apply in relation to the property during any period—

(a) beginning with the time at which it was lost, stolen or destroyed, and

(b) (if lost or stolen) ending with the time at which it is recovered.

(4B) The third case is where a compensation payment is released in respect of exempt property that has been lost, stolen or destroyed."

(4) In subsection (6), after "exempt property" insert " by virtue of the first or second case ".

4 After section 809YE insert—

"**809YF Exception to section 809Y: compensation taken offshore or invested**

(1) Section 809Y(1) does not apply to property if—

(a) it ceases to be exempt property because a compensation payment in respect of it is released, and

(b) conditions A and B are met.

(2) Condition A is that the whole of the compensation payment is taken offshore or used by a relevant person to make a qualifying investment within the period of 45 days beginning with the day on which the payment is released.

(3) Condition B is that, if Condition A is satisfied wholly or in part by using the compensation payment to make a qualifying investment, the remittance basis user makes a claim for relief under subsection (4) on or before the first anniversary of the 31 January following the tax year in which the payment is released.

(4) If section 809Y(1) does not apply to property by virtue of subsection (1), the income and gains treated under section 809X as not remitted to the United Kingdom continue to be treated after the compensation payment is released as not remitted to the United Kingdom even though the property has ceased to be exempt property.

(5) But nothing in subsection (4) prevents anything done in relation to any part of the compensation payment after that payment is taken offshore (or used to make a qualifying investment) from counting as a remittance of the underlying income or gains to the United Kingdom at the time when the thing is done.

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(6) Treat the compensation payment as containing or deriving from an amount of each kind of income and gain mentioned in section 809Q(4)(a) to (h) equal to the amount of that kind of income or gain contained in the exempt property when it was brought to, or received or used in, the United Kingdom (as mentioned in section 809X).

(7) Where Condition A was met by using the compensation payment to make a qualifying investment—

(a) the business investment provisions apply to the income and gains that continue, by virtue of subsection (4), to be treated as not remitted as they apply to income or gains that are treated under section 809VA(2) as not remitted, and

(b) if the investment was made using more than just the compensation payment, treat only the part of the investment made using the payment as "the investment" for the purposes of those provisions."

5 (1) Section 809Z (public access rule: general) is amended as follows.

(2) In subsection (1), for "A to D" substitute " B and C ".

(3) Omit subsection (2).

(4) After subsection (8) insert—

"(8A) But if the property is lost or stolen—

(a) the relevant period ends with the time at which it is lost or stolen, and

(b) a new relevant period begins with its importation or the time at which it is recovered."

(5) Omit subsection (10).

6 Omit section 809Z1 (public access rule: relevant VAT relief).

7 (1) Section 809Z4 (temporary importation rule) is amended as follows.

(2) In subsection (1), after "days" insert " (subject to any increase under subsection (3B)) ".

(3) In subsection (3)—

(a) before paragraph (a) insert—

"(za) the property meets the public access rule,",

(b) after paragraph (b) insert—

"(ba) subsection (3A) applies to the property,", and

(c) in paragraph (d) for "or 809YC(2)" substitute " , 809YC(2) or 809YF(4) ".

(4) After that subsection insert—

"(3A) This subsection applies to the property if—

(a) it is not available to be used or enjoyed in the United Kingdom by or for the benefit of a relevant person because it has been lost, stolen or destroyed,

(b) (if lost or stolen) it has not been recovered, and

(c) no compensation payment has been released in respect of it.

(3B) If—

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(a) property that has been lost or stolen is recovered,

(b) the first day after the day on which it is recovered is a countable day, and

(c) excluding that countable day there have already been 231 or more countable days in relation to the property,

the number of countable days specified in subsection (1) is read as being increased by the number necessary for there to be 45 countable days beginning with the countable day mentioned in paragraph (b).”

(5) Omit subsections (4) to (10).

8 In section 809Z6 (exempt property: other interpretation), after subsection (4) insert—

“(5) References to property being lost, stolen or destroyed are to the property being lost, stolen or destroyed whilst in the United Kingdom.

(6) “Compensation payment”, in relation to property that has been lost, stolen or destroyed, means any payment of compensation (whether under an insurance policy or otherwise) in respect of the property.

(7) A compensation payment is “released” on the day on which it first becomes available for use in the United Kingdom by or for the benefit of any relevant person.

(8) Property that has been lost or stolen is “recovered” on the day on which it becomes available to be used or enjoyed in the United Kingdom by or for the benefit of a relevant person.”

9 The amendments made by paragraphs 3, 4, 5(4), 7(2), (3)(b) and (c) and (4) and 8 have effect in relation to property that is lost, stolen or destroyed on or after 6 April 2013.

10 The other amendments made by this Schedule have effect—

(a) in relation to property that is not in the United Kingdom on 6 April 2013, as from that date, and

(b) in relation to property that is in the United Kingdom on that date, as from the time when it ceases to be in the United Kingdom or is lost or stolen.

11 In the case of property that falls within paragraph 10(b) by virtue of being lost or stolen, any period that is a period of importation in relation to the property for the purposes of section 809Z4 of ITA 2007 ends with the time at which it is lost or stolen.

SCHEDULE 8

Section 24

GAINS FROM CONTRACTS FOR LIFE INSURANCE ETC

1 Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc) is amended as follows.

2 In section 476 (special rules: foreign policies) in subsection (2)—

(a) after the entry relating to section 474(3) to (5) insert “ and ”,

(b) omit the entry relating to section 528,

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(c) omit the "and" after the entry relating to sections 531 to 534, and

(d) omit the entry relating to section 536(6).

3 For section 528 substitute—

"**528 Reduction in amount charged on basis of non-UK residence where individual liable for tax**

(1) Subsection (2) applies if—

(a) an individual is liable for tax charged on a gain from a policy of life insurance or a capital redemption policy, and

(b) there are one or more days in the material interest period on which the individual is not UK resident.

(2) In determining the individual's liability for tax, the gain on which the tax is charged in the case of the individual is to be reduced by the appropriate fraction.

(3) The appropriate fraction is—

$$\frac{A}{B}$$

where—

A is the number of days in the material interest period which are days falling within subsection (1)(b), and

B is the number of days in the material interest period.

(4) In subsection (2) the reference to the gain is to be read in accordance with section 463A(4), 463D(4) or 463E(3) (which relates to restricted relief qualifying policies etc) if applicable.

(5) In this section "the material interest period" means so much of the policy period as during which the individual meets condition A, B or C in section 465 in relation to the policy (subject to subsection (7)).

(6) Subsections (7) and (8) apply if, before the chargeable event, there is an assignment falling within section 487(c) in relation to the policy where the individual is the assignee.

(7) There is to be added to the material interest period any part of the policy period falling before the assignment—

(a) during which the assignor meets condition A, B or C in section 465 in relation to the policy, and

(b) which is not included in the material interest period under subsection (5).

(8) In relation to any period added to the material interest period under subsection (7), in subsection (1)(b) the reference to the individual is to be read as a reference to the assignor.

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(9) For the purposes of subsections (5) and (7), in section 465(2) to (4) references to the rights under the policy are to be read as including references to a share of those rights.

(10) In this section "the policy period" means the period for which the policy has run before the chargeable event occurs.

(11) If the policy is a policy of life insurance which is a new policy in relation to another policy, for the purposes of subsection (10) the new policy is to be taken to have run—

(a) from the issue of the other policy, or

(b) if it also was a new policy in relation to an earlier policy, from the issue of the earlier policy,

and so on; and in subsections (5) to (9) references to the policy are to be read accordingly as including any relevant earlier policy.

(12) In subsection (11) "new policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.

528A Reduction in amount charged on basis of non-UK residence of deceased person

(1) Subsection (3) applies if—

(a) personal representatives are liable for tax charged on a gain from a policy of life insurance or a capital redemption policy under section 466, and

(b) there were one or more days in the material interest period on which the deceased was not UK resident.

(2) Subsection (3) also applies if—

(a) trustees are liable for tax charged on a gain from a policy of life insurance or a capital redemption policy under section 467 where—

(i) of conditions A to D in that section, only condition B is met, and

(ii) the absent settlor condition which is met is the one in subsection (4)(b) of that section (deceased settlor),

(b) there were one or more days in the material interest period on which the deceased was not UK resident, and

(c) the deceased was UK resident when the deceased died.

(3) In determining the liability for tax of the personal representatives or trustees, the gain on which the tax is charged in the case of the personal representatives or trustees is to be reduced by the appropriate fraction.

(4) The appropriate fraction is—

$$\frac{A}{B}$$

where—

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A is the number of days in the material interest period which are days falling within subsection (1)(b) or (2)(b) (as the case may be), and

B is the number of days in the material interest period.

(5) In subsection (3) the reference to the gain is to be read in accordance with section 463C(8) (which relates to restricted relief qualifying policies) if applicable.

(6) In this section "the material interest period" means so much of the policy period falling before the deceased's death as during which the deceased met condition A, B or C in section 465 in relation to the policy (subject to subsection (8)).

(7) Subsections (8) and (9) apply if, before the deceased's death, there was an assignment falling within section 487(c) in relation to the policy where the deceased was the assignee.

(8) There is to be added to the material interest period any part of the policy period falling before the assignment—

(a) during which the assignor met condition A, B or C in section 465 in relation to the policy, and

(b) which is not included in the material interest period under subsection (6).

(9) In relation to any period added to the material interest period under subsection (8), in subsection (1)(b) or (2)(b) the reference to the deceased is to be read as a reference to the assignor.

(10) For the purposes of subsections (6) and (8), in section 465(2) to (4) references to the rights under the policy are to be read as including references to a share of those rights.

(11) In this section "the policy period" means the period for which the policy has run before the chargeable event occurs.

(12) If the policy is a policy of life insurance which is a new policy in relation to another policy, for the purposes of subsection (11) the new policy is to be taken to have run—

(a) from the issue of the other policy, or

(b) if it also was a new policy in relation to an earlier policy, from the issue of the earlier policy,

and so on; and in subsections (6) to (10) references to the policy are to be read accordingly as including any relevant earlier policy.

(13) In subsection (12) "new policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA."

4 Omit section 529 (exceptions to section 528).

5 (1) Section 536 (top slicing relieved liability: one chargeable event) is amended as follows.

(2) In subsection (6) for the words from "from" to the end substitute " reduced under section 528 in the case of the individual. "

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(3) For subsection (7) substitute—

"(7) If in the case of the individual the gain is reduced under section 528, for steps 1 and 3 in subsection (1) N is reduced by the number of complete years consisting wholly of days falling within section 528(1)(b) (including days falling within section 528(1)(b) by virtue of section 528(8))."

6 In section 552 of ICTA (information: duty of insurers) after subsection (13) insert—

"(14) For the purposes of this section no account is to be taken of the effect of sections 528 and 528A of ITTOIA 2005."

7 (1) The amendments made by this Schedule have effect in relation to—

(a) any policy of life insurance issued in respect of an insurance made on or after 6 April 2013, or

(b) any contract constituting a capital redemption policy made on or after that date.

(2) The amendment made by paragraph 3 above has effect in relation to any insurance or contract made before 6 April 2013 if on or after that date—

(a) the policy or contract is varied with the result that there is an increase in the benefits secured,

(b) there is or was an assignment (or assignation) of rights, or a share of the rights, conferred by the policy or contract (whether or not for money's worth) to the individual or deceased, or

(c) some or all of the rights conferred by the policy or contract become or became held as a security for a debt of the individual or deceased,

and the other amendments made by this Schedule have effect in relation to the insurance or contract accordingly.

(3) For the purposes of sub-paragraph (2)(a) an exercise of rights conferred by a policy or contract is to count as a variation of the policy or contract.

(4) In the case of a policy or contract treated under section 473A of ITTOIA 2005 as a single policy or contract, for the purposes of sub-paragraphs (1) and (2) the date on which the insurance or contract is made is the date on which, as the case may be—

(a) the first insurance is made in respect of which the connected policies are issued, or

(b) the first of the connected contracts is made.

SCHEDULE 9

Section 25

QUALIFYING INSURANCE POLICIES

PART 1

AMENDMENTS OF SCHEDULE 15 TO ICTA ETC

1 Schedule 15 to ICTA (qualifying insurance policies) is amended as follows.

2 Before Part 1 insert—

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"**PART A1**

PREMIUM LIMIT FOR QUALIFYING POLICIES

Premium limit for qualifying policies to apply from 6 April 2013

A1 (1) Sub-paragraph (2) applies if—

(a) an event falling within sub-paragraph (3) occurs,

(b) apart from sub-paragraph (2), the policy to which the event relates would be a qualifying policy after the event, and

(c) an individual who is a beneficiary under that policy is in breach of the premium limit for qualifying policies.

(2) That policy is not to be a qualifying policy after the event.

(3) The events falling within this sub-paragraph are—

(a) the issue of a policy in respect of an insurance made on or after 6 April 2013;

(b) the variation of a policy on or after 6 April 2013 where as a result of the variation—

(i) the period over which premiums are payable under the policy is or could be lengthened, or

(ii) the total amount of the premiums payable under the policy in any relevant period is or could be increased,

or both;

(c) the assignment on or after 6 April 2013 of any rights, or any share in any rights, under a policy where the assignment falls within paragraph B2(3)(c) to (g) or (5) below;

(d) a deceased beneficiary event on or after 6 April 2013;

(e) the conditions in paragraph 24(3) below being fulfilled for the first time in respect of a new non-resident policy where—

(i) the conditions are fulfilled for the first time on or after 6 April 2013, and

(ii) but for the conditions being fulfilled, the policy could not be a qualifying policy because of paragraph 24(2).

(4) An event does not fall within sub-paragraph (3) if—

(a) the policy to which the event relates is—

(i) a protected policy,

(ii) a restricted relief qualifying policy, or

(iii) a pure protection policy,

(b) the event is the issue of a policy which is a new policy in relation to an earlier policy where—

(i) the new policy is issued in substitution for the earlier policy (and not on its maturity), and

(ii) the life assured under the new policy is different to the life assured under the earlier policy but that is the only

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difference to what the position would have been had the earlier policy continued to run,

(c) paragraph 20ZA below applies to a policy and the event is the reinstatement or replacement of the policy as mentioned in paragraph 20ZA(4),

(d) the event is the issue or variation of a policy in relation to which paragraph 29 of Schedule 39 to the Finance Act 2012 applies, or

(e) the event is an assignment falling within paragraph B2(3)(e) below where the assignment is a mortgage endowment assignment.

(5) In sub-paragraph (3)(b)(ii) "relevant period" means any period of 12 months beginning at or after the time of the variation.

(6) A variation is to be ignored for the purposes of sub-paragraph (3)(b) if its effect is nullified before the end of the period of 3 months after the day on which the variation occurs.

(7) Sub-paragraph (4)(a)(i) does not apply in the case of an event mentioned in sub-paragraph (3)(e).

(8) Sub-paragraph (4)(a)(ii) does not apply in the case of—

(a) an event mentioned in sub-paragraph (3)(c) or (d) occurring in relation to a restricted relief qualifying policy ("the assigned policy"),

(b) any subsequent event relating to the assigned policy, or

(c) any event relating to—

(i) a later policy which is a new policy in relation to the assigned policy, or

(ii) any policy which is a new policy in relation to the later policy,

and so on.

(9) In the case of an event mentioned in sub-paragraph (3)(b), sub-paragraph (4)(a)(iii) applies only if the policy is a pure protection policy both before and after the variation.

(10) This paragraph is to be applied after all other provisions of this Schedule relevant to the question of whether a policy is a qualifying policy after an event have been applied.

Restricted relief qualifying policies

A2 (1) Sub-paragraph (2) applies if—

(a) an event falling within sub-paragraph (3) occurs,

(b) the policy to which the event relates is a qualifying policy after the event, and

(c) an individual who is a beneficiary under that policy is in breach of the premium limit for qualifying policies.

(2) That policy is to be a restricted relief qualifying policy after the event.

(3) The events falling within this sub-paragraph are—

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(a) a premium limit event in relation to a protected policy on or after 21 March 2012;

(b) the issue of a policy as mentioned in paragraph A4(2)(b) below if, assuming that the substitution of the protected policy were instead a variation of that policy, there would be a premium limit event in relation to that policy;

(c) the assignment on or after 6 April 2013 of any rights, or any share in any rights, under a protected policy where the assignment falls within paragraph B2(3)(c) to (g) or (5) below;

(d) a deceased beneficiary event on or after 6 April 2013 where the policy in question is a protected policy;

(e) the issue of a policy in respect of an insurance made on or after 21 March 2012 but before 6 April 2013 otherwise than as mentioned in paragraph A4(2)(b) below;

(f) the variation of a policy, other than a protected policy, on or after 21 March 2012 but before 6 April 2013 where as a result of the variation—

(i) the period over which premiums are payable under the policy is or could be lengthened, or

(ii) the total amount of the premiums payable under the policy in any relevant period is or could be increased,

or both;

(g) the conditions in either sub-paragraph (3) or sub-paragraph (4) of paragraph 24 below being fulfilled for the first time in respect of a new non-resident policy where—

(i) the conditions are fulfilled for the first time on or after 21 March 2012 but before 6 April 2013, and

(ii) but for the conditions being fulfilled, the policy could not be a qualifying policy because of sub-paragraph (2) of paragraph 24.

(4) An event does not fall within sub-paragraph (3) if—

(a) the policy to which the event relates is a pure protection policy,

(b) the event is the issue of a policy which is a new policy in relation to an earlier policy where—

(i) the new policy is issued in substitution for the earlier policy (and not on its maturity), and

(ii) the life assured under the new policy is different to the life assured under the earlier policy but that is the only difference to what the position would have been had the earlier policy continued to run,

(c) paragraph 20ZA below applies to a policy and the event is the reinstatement or replacement of the policy as mentioned in paragraph 20ZA(4),

(d) the event is the issue or variation of a policy in relation to which paragraph 29 of Schedule 39 to the Finance Act 2012 applies, or

(e) the event is an assignment falling within paragraph B2(3)(e) below where the assignment is a mortgage endowment assignment.

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(5) In sub-paragraph (3)(f)(ii) "relevant period" means any period of 12 months beginning at or after the time of the variation.

(6) A premium limit event or a variation is to be ignored for the purposes of sub-paragraph (3)(a) or (f) if its effect is nullified before 6 July 2013.

(7) In the case of a premium limit event which occurs on or after 6 April 2013, in sub-paragraph (6) the reference to 6 July 2013 is to be read as a reference to the end of the period of 3 months after the day on which the premium limit event occurs.

(8) In the case of an event mentioned in sub-paragraph (3)(a) or (f), sub-paragraph (4)(a) applies only if the policy is a pure protection policy both before and after the premium limit event or variation.

(9) A "premium limit event" occurs in relation to a protected policy if—

(a) the policy is varied or a relevant option is exercised so as to change the terms of the policy, and

(b) as a result of the variation or exercise of the relevant option—

(i) the period over which premiums are payable under the policy is or could be lengthened, or

(ii) the total amount of the premiums payable under the policy in any relevant period is or could be increased,

or both.

(10) A "premium limit event" also occurs in relation to a protected policy if on or after 6 April 2013—

(a) the policy is varied or a relevant option is exercised so as to change the terms of the policy, and

(b) as a result of the variation or exercise of the relevant option—

(i) the period over which premiums are payable under the policy is or could be shortened, or

(ii) the total amount of the premiums payable under the policy in any relevant period is or could be decreased,

or both.

(11) In sub-paragraphs (9)(b)(ii) and (10)(b)(ii) "relevant period" means any period of 12 months beginning at or after the time of the variation or exercise of the relevant option.

(12) The variation of, or exercise of a relevant option under, a protected policy is not a premium limit event in relation to the policy if—

(a) the policy secures a capital sum payable either—

(i) on survival for a specified term, or

(ii) on earlier death or on earlier death or disability,

(b) the policy is issued and maintained for the sole purpose of ensuring that the borrower under an interest-only mortgage will have sufficient funds to repay the principal lent under the mortgage, and

(c) the policy is varied, or the relevant option is exercised, for that sole purpose.

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(13) In sub-paragraph (3)(g) references to paragraph 24 below are to that paragraph as it has effect before the appointed date for the purposes of section 55 of the Finance Act 1995.

(14) A qualifying policy which is a new policy in relation to an earlier policy is a restricted relief qualifying policy if the earlier policy is a restricted relief qualifying policy.

(15) A policy which is a restricted relief qualifying policy remains a restricted relief qualifying policy so long as it is a qualifying policy.

(16) Paragraph A1 above is to be ignored in determining for the purposes of sub-paragraph (14) or (15) if a policy is a qualifying policy. This is subject to paragraph A1(8).

(17) For further provision about restricted relief qualifying policies, see sections 463A to 463D of ITTOIA 2005.

The premium limit for qualifying policies

A3 (1) For the purposes of paragraphs A1(1)(c) and A2(1)(c) above an individual is in breach of the premium limit for qualifying policies if the total amount of the premiums payable under relevant policies in any relevant period—

(a) exceeds £3,600, or

(b) could exceed £3,600 as a result of—

(i) the exercise of any one or more relevant options conferred by one or more relevant policies, or

(ii) so far as not covered by sub-paragraph (i), the application of one or more terms of one or more relevant policies relating to increases in premiums.

(2) For the purposes of sub-paragraph (1)—

(a) so much of a premium payable under a relevant policy as is charged on the grounds that an exceptional risk of death or disability is involved is to be left out of account in determining the premiums payable under the policy,

(b) so much of the first premium payable under a relevant policy the liability for the payment of which—

(i) is discharged in accordance with paragraph 15(2) below, or

(ii) in the case of a policy in relation to which paragraph 3 below applies, is discharged under a provision of the policy falling within paragraph 3(4)(c),

is to be left out of account in determining the premiums payable under the policy (subject to sub-paragraph (3) below),

(c) in determining the premiums payable under a relevant policy any provision for the waiver of premiums by reason of a person's disability is to be ignored, and

(d) "relevant period" means any period of 12 months beginning at or after the time when the event falling within paragraph A1(3) or A2(3) above ("the relevant event") occurs.

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(3) The maximum amount that may be left out of account under sub-paragraph (2)(b) in the case of a relevant policy is—

$$£3{,}600 \times N$$

where N is the number of complete years for which ran—

a the other policy involved, or

b if there is more than one other policy involved, the policy which ran for the most number of complete years.

(4) For the purposes of this paragraph the following are "relevant policies"—

(a) the policy to which the relevant event relates, and

(b) any other policy—

(i) which is a qualifying policy, and

(ii) under which the individual is a beneficiary.

(5) But neither a protected policy nor a pure protection policy is to be a relevant policy by virtue of sub-paragraph (4)(b).

(6) Sub-paragraph (7) applies if this paragraph is to be applied in the case of an individual in consequence of two or more events occurring at the same time (including where one or more of the events falls within paragraph A1(3) above and one or more of the events falls within paragraph A2(3) above).

(7) For the purpose of applying this paragraph in the case of the individual in consequence of any of the events, sub-paragraph (4)(a) has effect as if the reference to the policy to which the relevant event relates were a reference to all the policies to which the events, taken together, relate.

(8) But sub-paragraph (7) does not apply, and sub-paragraph (9) applies instead, if—

(a) all the policies in question are policies issued by the same issuer, and

(b) each of them has an unique identifier in a series of unique identifiers which the issuer gives to policies issued by it.

(9) For the purpose of applying this paragraph in the case of the individual in consequence of any of the events, an event relating to a policy ("policy A") is treated as occurring before an event relating to another policy ("policy B") if, in the issuer's series of unique identifiers, policy A's unique identifier comes before policy B's unique identifier.

Protected policies

A4 (1) This paragraph applies for the purposes of this Part of this Schedule.

(2) A policy is "protected" if—

(a) it is issued in respect of an insurance made before 21 March 2012, or

(b) it is issued in respect of an insurance made on or after 21 March 2012 where—

(i) it is a new policy in relation to an earlier policy,

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(ii) it is issued in substitution for the earlier policy (and not on its maturity), and

(iii) the earlier policy is a protected policy (whether by virtue of paragraph (a) or this paragraph).

(3) A policy which is protected ceases to be protected if it becomes a restricted relief qualifying policy.

(4) A policy issued as mentioned in sub-paragraph (2)(b) is not protected if—

(a) its issue is an event falling within paragraph A2(3) above, and

(b) after that event it is a restricted relief qualifying policy.

How to determine if an individual is a beneficiary under a policy

A5 (1) This paragraph applies for the purposes of this Part of this Schedule in determining if an individual is a beneficiary under a policy.

(2) An individual is a beneficiary under a policy if the individual beneficially owns—

(a) any rights under the policy, or

(b) any share in any rights under the policy.

(3) An individual is a beneficiary under a policy if—

(a) any rights under the policy are, or any share in any rights under the policy is, held on non-charitable trusts created by the individual, and

(b) those rights are, or that share is, not beneficially owned by any individual.

(4) The following provisions of ITTOIA 2005 apply for the purposes of sub-paragraph (3)(a)—

(a) section 465(6), and

(b) the definition of "non-charitable trust" in section 545(1).

(5) An individual is a beneficiary under a policy if—

(a) any rights under the policy are, or any share in any rights under the policy is, held as security for a debt of the individual, and

(b) those rights are, or that share is, not beneficially owned by any individual.

Further definitions

A6 (1) In this Part of this Schedule—

(a) "new policy" has the meaning given in paragraph 17 below,

(b) references to the variation of a policy are to a variation in relation to which paragraph 18 below applies,

(c) "pure protection policy" means a policy—

(i) which has no surrender value and is not capable of acquiring a surrender value, or

(ii) under which the benefits payable cannot exceed the amount of the premiums paid except on death or in respect of disability, and

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(d) "relevant option", in relation to a policy, means an option conferred by the policy on the person to whom it is issued to have another policy substituted for it or to have any of its terms changed.

(2) For the purposes of this Part of this Schedule a "deceased beneficiary event" occurs if, in connection with the death of an individual ("D") who was a beneficiary under a policy, an individual ("B") becomes a beneficiary under that policy by reference (wholly or partly) to any rights, or to any share in any rights, by reference to which D was a beneficiary (wholly or partly).

For this purpose, it does not matter if B is already a beneficiary under the policy.

(3) For the purposes of this Part of this Schedule an assignment is a "mortgage endowment assignment" if—

(a) the policy to which the assignment relates secures a capital sum payable either—

(i) on survival for a specified term, or

(ii) on earlier death or on earlier death or disability,

(b) the policy is issued and maintained for the sole purpose of ensuring that the borrower under an interest-only mortgage will have sufficient funds to repay the principal lent under the mortgage, and

(c) when the assignment occurs, it is intended that the policy will continue to be maintained for that sole purpose."

3 At the beginning of Part 1 (qualifying conditions) insert—

"RULES FOR QUALIFYING POLICIES

Rights to be beneficially owned by individuals only

B1 (1) Sub-paragraph (2) applies in relation to a policy issued in respect of an insurance made on or after 6 April 2013.

(2) In order for the policy to be a qualifying policy, when it is issued all the rights under it must be beneficially owned by (and only by)—

(a) one individual, or

(b) two or more individuals taken together.

(This is the case notwithstanding any other provision of this Schedule.)

(3) Sub-paragraph (2) does not apply if the policy is protected.

(4) A policy is "protected" if it is a new policy (as defined in paragraph 17 below) in relation to—

(a) a policy issued in respect of an insurance made before 21 March 2012, or

(b) a policy which is protected (whether by virtue of paragraph (a) or this paragraph).

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Assignments

B2 (1) Sub-paragraph (2) applies if any rights under a qualifying policy are, or any share in any rights under a qualifying policy is, assigned on or after 6 April 2013.

(2) The policy is not to be a qualifying policy after the assignment (notwithstanding any other provision of this Schedule).

(3) Sub-paragraph (2) does not apply if—

(a) the assignment is from an individual by way of security for a debt of the individual,

(b) the assignment is to an individual on the discharge of a debt of the individual secured by the rights or share,

(c) the assignment is from an individual to the individual's spouse or civil partner,

(d) the assignment is to an individual in pursuance of an order made by a court,

(e) the assignment is to an individual in pursuance of a legally enforceable obligation relating to a divorce or the dissolution of a civil partnership,

(f) the assignment is from an individual and, as a result of the assignment, the rights assigned are, or the share assigned is, held on trusts created by the individual,

(g) the assignment is to an individual and, as a result of the assignment, the rights assigned are, or the share assigned is, no longer held on trusts, or

(h) the assignment—

(i) is to the personal representatives of a deceased individual, or

(ii) is to an individual where, as a result of the assignment, a deceased beneficiary event (see paragraph A6(2) above) occurs.

(4) Section 465(6) of ITTOIA 2005 applies for the purposes of sub-paragraph (3)(f).

(5) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that sub-paragraph (2) does not apply if prescribed conditions are met in relation to the assignment.

"Prescribed" means prescribed by the regulations.

(6) Regulations under sub-paragraph (5) may—

(a) make different provision for different cases or circumstances, and

(b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.

(7) See paragraphs A1 and A2 above which may apply in consequence of an assignment falling within sub-paragraph (3) or (5).

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Required statements

B3 (1) Sub-paragraph (2) applies if any of the following events occurs—

(a) the issue of a policy in respect of an insurance made on or after 6 April 2013;

(b) the variation of a policy on or after 6 April 2013 where paragraph 18 below applies in relation to the variation and as a result of the variation—

(i) the period over which premiums are payable under the policy is or could be lengthened, or

(ii) the total amount of the premiums payable under the policy in any relevant period is or could be increased,

or both;

(c) a premium limit event in relation to a protected policy on or after 6 April 2013 (see paragraph A2(9) to (12) above);

(d) an event on or after 6 April 2013 which would be a premium limit event in relation to a protected policy but for paragraph A2(12) above;

(e) the assignment on or after 6 April 2013 of any rights, or any share in any rights, under a policy where the assignment falls within paragraph B2(3)(c) to (g) or (5) above;

(f) a deceased beneficiary event (see paragraph A6(2) above) on or after 6 April 2013;

(g) the conditions in paragraph 24(3) below being fulfilled for the first time in respect of a new non-resident policy where—

(i) the conditions are fulfilled for the first time on or after 6 April 2013, and

(ii) but for the conditions being fulfilled, the policy could not be a qualifying policy because of paragraph 24(2).

(2) Each individual who is a beneficiary under the policy must, before the end of the statement period, make to the issuer of the policy a statement dealing with the prescribed matters.

(3) If an individual does not comply with sub-paragraph (2) the policy is not to be a qualifying policy after the event (notwithstanding any other provision of this Schedule).

(4) In sub-paragraph (1)(b)(ii) "relevant period" means any period of 12 months beginning at or after the time of the variation.

(5) Sub-paragraph (2)—

(a) does not apply in the case of an event mentioned in sub-paragraph (1)(a), (e), (f) or (g) if the policy is a pure protection policy, and

(b) does not apply in the case of an event mentioned in sub-paragraph (1)(b), (c) or (d) if the policy is a pure protection policy both before and after the event.

"Pure protection policy" has the meaning given by paragraph A6(1)(c) above.

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(6) Sub-paragraph (2) does not apply in the case of an event mentioned in sub-paragraph (1)(e) where the assignment falls within paragraph B2(3)(e) above and is a mortgage endowment assignment.

"Mortgage endowment assignment" is to be read in accordance with paragraph A6(3) above.

(7) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that an individual is not required to comply with sub-paragraph (2) if prescribed conditions are met.

"Prescribed" means prescribed by the regulations.

(8) Accordingly, if by virtue of regulations under sub-paragraph (7) an individual is not required to comply with sub-paragraph (2), sub-paragraph (3) does not apply because that individual does not comply with sub-paragraph (2).

(9) In sub-paragraph (2)—

(a) the reference to an individual who is a beneficiary under the policy is to be read in accordance with paragraph A5 above,

(b) "the statement period" means—

(i) the period of 3 months after the day on which the event occurs, or

(ii) if the event occurs before the day on which the first regulations under paragraph (c) below come into force, the period of 3 months after that day,

or such longer period as an officer of Revenue and Customs may allow, and

(c) "prescribed" means prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(10) An officer of Revenue and Customs may allow a longer period for the purposes of sub-paragraph (9)(b) only if—

(a) the individual in question has made a request in writing to an officer of Revenue and Customs for a longer period to be allowed, and

(b) such an officer is satisfied—

(i) that there is a reasonable excuse for the required statement not having been made within the period mentioned in sub-paragraph (9)(b)(i) or (ii), and

(ii) that the request under paragraph (a) was made without unreasonable delay after the reasonable excuse ceased.

(11) Sub-paragraph (12) applies in relation to a policy if the obligations under the policy of its issuer are at any time the obligations of another person ("the transferee") to whom there has been a transfer of the whole or any part of a business previously carried on by the issuer.

(12) In relation to that time, in sub-paragraph (2) the reference to the issuer of the policy is to be read as a reference to the transferee.

(13) Regulations under sub-paragraph (7) or (9)(c) may—

(a) make different provision for different cases or circumstances, and

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(b) contain incidental, supplementary, consequential, transitional, transitory or saving provision."

4 (1) Paragraph 17 (substitutions) is amended as follows.

(2) In sub-paragraph (2) before paragraph (a) insert—

"(za) the new policy cannot be a qualifying policy if the old policy was not a qualifying policy by virtue of—

(i) paragraph A1(2), B1(2), B2(2) or B3(3) above, or

(ii) sub-paragraph (i) above or this sub-paragraph;".

(3) In sub-paragraph (2)(a) after the first "not" insert " and paragraph (za) above does not apply ".

(4) In sub-paragraph (4) for "(2)" substitute " (2)(a) to (c) ".

(5) After sub-paragraph (4) insert—

"(5) In determining under sub-paragraph (2)(a) to (c) above whether the new policy would apart from this paragraph be a qualifying policy, paragraph A1 above is not to be applied in relation to the issue of the new policy; but this does not stop that paragraph being applied in relation to the issue of the new policy after this paragraph has been applied."

5 In paragraph 25 (application of paragraph 17 in cases involving new non-resident policies) after sub-paragraph (2) insert—

"(2A) In determining for the purposes of sub-paragraph (2)(a) above whether a policy would, apart from paragraph 24, have been a qualifying policy, paragraphs A1 and B1 to B3 above are to be ignored.

(But this does not affect the application of any of those paragraphs in relation to the new policy.)".

6 (1) In section 55 of FA 1995 (qualifying life insurance policies: disapplication of paragraph 21 of Schedule 15 to ICTA from appointed date) in subsection (3) after "subject" insert " to paragraphs A1(2), B2(2) and B3(3) of that Schedule and ".

(2) The amendment made by this paragraph is treated as having come into force on the appointed date (see section 55(9) of FA 1995).

PART 2

RESTRICTED RELIEF QUALIFYING POLICIES

7 Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc) is amended as follows.

8 After section 463 insert—

"**463A Restricted relief qualifying policies: disapplication of section 485 etc**

(1) This section applies for the purpose of determining if an individual is liable for tax charged under this Chapter.

(2) In relation to an event occurring on or after 6 April 2013, section 485 (disregard of certain events in relation to qualifying policies) does not apply

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in relation to a policy ("policy X") which is a restricted relief qualifying policy (see paragraph A2 of Schedule 15 to ICTA).

(3) If an individual is liable for tax charged under this Chapter as a result of subsection (2), the gain on which the tax is charged in the case of the individual is reduced by the following amount—

$$G \times \frac{\text{TAP}}{\text{TP}}$$

where—

G is the amount of the gain (apart from this subsection),

TAP is the total amount of premiums payable under policy X during the policy X period so far as they are allowable premiums as determined in accordance with section 463B, and

TP is the total amount of premiums payable under policy X during the policy X period.

(4) If section 528 also applies in the case of the individual in relation to the gain, subsection (3) is to be applied to the gain before section 528 and, accordingly, the reduction to be made under section 528 is to be determined by reference to the gain as reduced by subsection (3).

(5) The following subsections apply for the purposes of this section (except subsection (2)) and section 463B.

(6) "The policy X period" means the period for which policy X has run before the chargeable event occurs.

(7) Subsections (8) and (9) apply if policy X is a new policy in relation to another policy.

(8) For the purposes of subsection (6) policy X is to be taken to have run—

(a) from the issue of the other policy, or

(b) if the other policy was also a new policy in relation to an earlier policy, from the issue of the earlier policy,

and so on.

(9) References to premiums payable under policy X are to be read as including references to premiums payable under any earlier policy taken into account under subsection (8).

(10) The following are to be left out of account in determining the premiums payable under a policy—

(a) so much of a premium as is charged on the grounds that an exceptional risk of death or disability is involved;

(b) subject to subsection (11), so much of the first premium payable the liability for the payment of which—

(i) is discharged in accordance with paragraph 15(2) of Schedule 15 to ICTA, or

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(ii) in the case of a policy in relation to which paragraph 3 of that Schedule applies, is discharged under a provision of the policy falling within paragraph 3(4)(c) of that Schedule.

(11) The maximum amount that may be left out of account under subsection (10)(b) in the case of a policy is—

$$£3{,}600 \times N$$

where N is the number of complete years for which ran—

a the other policy involved, or

b if there is more than one other policy involved, the policy which ran for the most number of complete years.

(12) In determining the premiums payable under a policy any provision for the waiver of premiums by reason of a person's disability is to be ignored.

(13) "New policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.

463B Restricted relief qualifying policies: allowable premiums

(1) This section sets out how to determine the extent to which premiums payable under policy X during the policy X period are allowable premiums for the purposes of section 463A(3).

(2) A premium payable under policy X is allowable if it is payable before the restricted relief date.

(3) In this section "the restricted relief date" means—

(a) 6 April 2013, or

(b) if later, the date on which policy X became a restricted relief qualifying policy.

(4) Premiums payable under policy X in a relevant premium period are allowable so far as they do not exceed in total the premium limit for the period.

(5) In subsection (4) "relevant premium period" means—

(a) any period of one year which—

(i) begins with a relevant date, and

(ii) ends in the policy X period, and

(b) if it is not covered by paragraph (a), the period which—

(i) begins with the last relevant date to fall within the policy X period, and

(ii) ends at the end of the policy X period.

(6) In subsection (5) "relevant date" means—

(a) the restricted relief date, or

(b) any anniversary of the restricted relief date.

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(7) For the purposes of subsection (4) "the premium limit" for a relevant premium period is determined in accordance with subsections (8) to (10).

(8) Determine the premiums payable in the relevant premium period under policies related to policy X.

(9) If the total of those premiums is £3,600 or more, the premium limit is nil (and, accordingly, no premiums payable under policy X in the relevant premium period are allowable).

(10) If the total of those premiums is less than £3,600, the premium limit is the difference between that total and £3,600.

(11) Subsection (4) does not apply if, at the time policy X became a restricted relief qualifying policy, any policy related to policy X was itself a restricted relief qualifying policy.

(12) For the purposes of this section a policy is "related" to policy X if it met the following requirements at the time policy X became a restricted relief qualifying policy—

(a) the policy is a qualifying policy under which the individual is a beneficiary (as determined in accordance with paragraph A5 of Schedule 15 to ICTA);

(b) the policy is neither a protected policy nor a pure protection policy.

(13) In subsection (12)(b)—

"protected policy" is to be read in accordance with paragraph A4 of Schedule 15 to ICTA, and

"pure protection policy" has the meaning given by paragraph A6(1)(c) of that Schedule.

(14) A policy which is a new policy in relation to a policy "related" to policy X (whether by virtue of subsection (12) or this subsection) is also "related" to policy X if it meets the requirements of subsection (12)(a) and (b) when issued.

(15) A policy ceases to be "related" to policy X if it ceases to meet those requirements.

(16) If policy X is a restricted relief qualifying policy as provided for by paragraph A2(14) of Schedule 15 to ICTA, references in this section to policy X becoming a restricted relief qualifying policy are to be read as references to the policy determined under subsection (17) becoming a restricted relief qualifying policy.

(17) The policy is—

(a) the policy ("policy Y") in relation to which policy X was the new policy, or

(b) if policy Y was also a restricted relief qualifying policy as provided for by paragraph A2(14) of Schedule 15 to ICTA, the policy in relation to which policy Y was the new policy,

and so on.

(18) The following subsections apply for the purposes of this section if—

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(a) a premium ("premium A") is payable under policy X on a day ("day A") which is on or after 21 March 2012 but before 6 April 2013, and

(b) the next premium payable under policy X is payable on a day ("day B") which is—

(i) on or after 6 April 2013, and

(ii) more than one month after day A.

(19) Premium A is to be treated as if, instead of being one premium payable on day A, it were a series of premiums payable at monthly intervals with the first premium in the series payable on day A.

(20) The number of premiums in the series is equal to the number of complete months falling within the period beginning with day A and ending with day B.

(21) The amount of each premium in the series is the amount of premium A divided by the number of premiums in the series.

463C Restricted relief qualifying policies: personal representatives and trustees with deceased settlors

(1) This section applies for the purpose of determining if personal representatives are liable for tax charged under this Chapter as provided for by section 466.

(2) This section also applies for the purpose of determining if trustees are liable for tax charged under this Chapter as provided for by section 467 where—

(a) condition B in that section is met, and

(b) the person who created the trusts has died.

(3) In relation to an event occurring on or after 6 April 2013, section 485 (disregard of certain events in relation to qualifying policies) does not apply in relation to a policy if the policy is a restricted relief qualifying policy (see paragraph A2 of Schedule 15 to ICTA).

(4) If any personal representatives or trustees are liable for tax charged under this Chapter as a result of subsection (3), section 463A(3) is to apply in the case of the personal representatives or the trustees—

(a) as if the reference to the individual were to the personal representatives or to the trustees, and

(b) as if the restricted relief qualifying policy were policy X.

(5) For this purpose—

(a) in section 463B(12)(a) the reference to the individual is to be read as a reference to the deceased, and

(b) a policy—

(i) which would otherwise have ceased to be "related" to policy X for the purposes of section 463B on the deceased's death, but

(ii) which continues to run after the deceased's death,

is to be treated as "related" to policy X after the deceased's death.

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(6) A policy which is a new policy (as defined in paragraph 17 of Schedule 15 to ICTA) in relation to a policy treated as "related" to policy X under subsection (5)(b) or this subsection is also to be treated as "related" to policy X if, apart from the deceased's death, it would meet the requirements of section 463B(12)(a) and (b) on its issue.

(7) A policy treated as "related" to policy X under subsection (5)(b) or (6) ceases to be so treated if, apart from the deceased's death, it would cease to meet the requirements of section 463B(12)(a) and (b).

(8) If section 528A also applies in the case of the personal representatives or the trustees in relation to the gain, section 463A(3) is to be applied to the gain before section 528A and, accordingly, the reduction to be made under section 528A is to be determined by reference to the gain as reduced by section 463A(3).

463D Restricted relief qualifying policies: assignments and events following assignments etc

(1) This section applies if—

(a) paragraph A1 of Schedule 15 to ICTA applies in relation to a policy by virtue of paragraph A1(8) in consequence of an event relating to the policy ("the relevant event"),

(b) after the relevant event, the policy is not a qualifying policy by virtue of paragraph A1(2), and

(c) in relation to an event occurring after the relevant event—

(i) an individual is liable for tax charged under this Chapter on a gain from the policy, and

(ii) but for the application of paragraph A1 in relation to the policy, section 463A(3) would have applied in the case of the individual so as to reduce the gain.

(2) Section 463A(3) is to apply in the case of the individual in relation to the gain as if the policy were policy X.

(3) But, for this purpose, section 463B(5) has effect as if the references to the policy X period were to the part of that period falling before the relevant event.

(4) If section 528 also applies in the case of the individual in relation to the gain, section 463A(3) is to be applied to the gain before section 528 and, accordingly, the reduction to be made under section 528 is to be determined by reference to the gain as reduced by section 463A(3).

463E Transitional protection for policies issued in respect of insurances made on or after 21 March 2012 but before 6 April 2013

(1) This section applies if—

(a) a policy ("policy Z") is issued,

(b) the issue of policy Z is an event falling within paragraph A2(3) of Schedule 15 to ICTA by virtue of paragraph (e),

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(c) after its issue, policy Z is a qualifying policy but not a restricted relief qualifying policy,

(d) policy Z is varied on or after 6 April 2013 and the variation is an event falling within paragraph A1(3) of Schedule 15,

(e) after the variation, policy Z is not a qualifying policy by virtue of paragraph A1(2) of that Schedule,

(f) in relation to an event occurring after the variation, an individual is liable for tax charged under this Chapter on a gain from policy Z, and

(g) but for the application of paragraph A1 of Schedule 15 in relation to policy Z, the individual would not have been liable because of section 485.

(2) The gain on which the tax is charged in the case of the individual is reduced by the following amount—

$$G \times \frac{\text{TPV}}{\text{TP}}$$

where—

G is the amount of the gain (apart from this subsection),

TPV is the total amount of premiums payable under policy Z before the variation, and

TP is the total amount of premiums payable under policy Z before the chargeable event.

(3) If section 528 also applies in the case of the individual in relation to the gain, subsection (2) is to be applied to the gain before section 528 and, accordingly, the reduction to be made under section 528 is to be determined by reference to the gain as reduced by subsection (2).

(4) Section 463A(10) to (12) applies for the purposes of subsection (2).”

9 In section 485 (disregard of certain events in relation to qualifying policies) after subsection (7) insert—

“(8) This section is subject to sections 463A and 463C.”

PART 3

INFORMATION POWERS

10 After section 552ZA of ICTA insert—

“**552ZB Regulations in relation to qualifying policies**

(1) The Commissioners for Her Majesty's Revenue and Customs may make regulations—

(a) requiring relevant persons—

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(i) to provide prescribed information to persons who apply for the issue of qualifying policies or who are, or may be, required to make statements under paragraph B3(2) of Schedule 15;

(ii) to provide to an officer of Revenue and Customs prescribed information about qualifying policies which have been issued by them or in relation to which they are or have been a relevant transferee;

(b) making such provision (not falling within paragraph (a)) as the Commissioners think fit for securing that an officer of Revenue and Customs is able—

(i) to ascertain whether there has been or is likely to be any contravention of the requirements of the regulations or of paragraph B3(2) of Schedule 15;

(ii) to verify any information provided to an officer of Revenue and Customs as required by the regulations.

(2) The provision that may be made by virtue of subsection (1)(b) includes, in particular, provision requiring relevant persons to make available books, documents and other records for inspection by or on behalf of an officer of Revenue and Customs.

(3) The regulations may—

(a) make different provision for different cases or circumstances, and

(b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.

(4) In this section—

"prescribed" means prescribed by the regulations,

"qualifying policy" includes a policy which would be a qualifying policy apart from—

(a) paragraph A1(2), B1(2), B2(2) or B3(3) of Schedule 15, or

(b) paragraph 17(2)(za) of that Schedule (including as applied by paragraph 18), and

"relevant person" means a person—

(a) who issues, or has issued, qualifying policies, or

(b) who is, or has been, a relevant transferee in relation to qualifying policies.

(5) For the purposes of this section a person ("X") is at any time a "relevant transferee" in relation to a qualifying policy if the obligations under the policy of its issuer are at that time the obligations of X as a result of there having been a transfer to X of the whole or any part of a business previously carried on by the issuer."

11 In section 552B of ICTA (duties of overseas insurers' tax representatives) in subsection (2)—

(a) after paragraph (b) omit "and", and

(b) after paragraph (c) insert "and

(d) any duties imposed by regulations under section 552ZB,".

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12 In section 98 of TMA 1970 (special returns etc), in the second column of the Table, after the entry for regulations under section 552ZA(6) of ICTA insert— " regulations under section 552ZB; ".

SCHEDULE 10

Section 26

TRANSFER OF ASSETS ABROAD

PART 1

INTRODUCTION

1 Chapter 2 of Part 13 of ITA 2007 (tax avoidance: transfer of assets abroad) is amended as follows.

PART 2

NEW EXEMPTION FOR GENUINE TRANSACTIONS ETC

2 (1) Section 718 (meaning of "person abroad" etc) is amended as follows.

(2) For subsection (1) substitute—

"(1) In this Chapter "person abroad" means—

(a) a person who is resident outside the United Kingdom, or

(b) an individual who is domiciled outside the United Kingdom."

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

3 In section 720 (charge to tax on income treated as arising under section 721) in subsection (7)—

(a) for "742" substitute " 742A ", and

(b) after "transaction" insert " , etc ".

4 In section 727 (charge to tax on income treated as arising under section 728) in subsection (5)—

(a) for "742" substitute " 742A ", and

(b) after "transaction" insert " , etc ".

5 In section 731 (charge to tax on income treated as arising under section 732) in subsection (4)—

(a) for "742" substitute " 742A ", and

(b) after "transaction" insert " , etc ".

6 (1) Section 736 (exemptions: introduction) is amended as follows.

(2) In subsection (1) for "742" substitute " 742A ".

(3) After subsection (2) insert—

"(2A) The exemption given by section 742A applies only in the case of a relevant transaction effected on or after 6 April 2012."

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7 After section 742 insert—

"**742A Post-5 April 2012 transactions: exemption for genuine transactions**

(1) Subsection (2) applies for the purpose of determining the liability of an individual to tax under this Chapter by reference to a relevant transaction if—

(a) the transaction is effected on or after 6 April 2012, and

(b) conditions A and B are met.

(2) Income is to be left out of account so far as the individual satisfies an officer of Revenue and Customs that it is attributable to the transaction.

(3) Condition A is that—

(a) were, viewed objectively, the transaction to be considered to be a genuine transaction having regard to any arrangements under which it is effected and any other relevant circumstances, and

(b) were the individual to be liable to tax under this Chapter by reference to the transaction,

the individual's liability to tax would, in contravention of a relevant treaty provision, constitute an unjustified and disproportionate restriction on a freedom protected under that relevant treaty provision.

(4) In subsection (3) "relevant treaty provision" means—

(a) Title II or IV of Part Three of the Treaty on the Functioning of the European Union,

(b) Part II or III of the EEA agreement, or

(c) the provision of any subsequent treaty replacing a provision mentioned in paragraph (a) or (b).

(5) Condition B is that the individual satisfies an officer of Revenue and Customs that, viewed objectively, the transaction must be considered to be a genuine transaction having regard to any arrangements under which it is effected and any other relevant circumstances.

(6) Without prejudice to the generality of subsection (3)(a) or (5), in order for the transaction to be considered to be a genuine transaction the transaction must not—

(a) be on terms other than those that would have been made between persons not connected with each other dealing at arm's length, or

(b) be a transaction that would not have been entered into between such persons so dealing,

having regard to any arrangements under which the transaction is effected and any other relevant circumstances.

(7) Subsection (8) applies if any asset or income falling within subsection (12) is used for the purposes of, or is received in the course of, activities carried on in a territory outside the United Kingdom by a person ("the relevant person") through a business establishment which the relevant person has in that territory.

(8) Without prejudice to the generality of subsection (3)(a) or (5), in order for the transaction to be considered to be a genuine transaction the activities

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mentioned in subsection (7) must consist of the provision by the relevant person of goods or services to others on a commercial basis and involve—

(a) the use of staff in numbers, and with competence and authority,

(b) the use of premises and equipment, and

(c) the addition of economic value, by the relevant person, to those to whom the goods or services are provided,

commensurate with the size and nature of those activities.

(9) In subsection (8)(a) "staff" means employees, agents or contractors of the relevant person.

(10) To determine if a person has a "business establishment" in a territory outside the United Kingdom, apply sections 1141, 1142(1) and 1143 of CTA 2010 as if in those provisions—

(a) references to a company were to a person, and

(b) references to a permanent establishment were to a business establishment.

(11) Subsection (6) does not apply if—

(a) the relevant transfer is made by an individual who makes it wholly—

(i) for personal reasons (and not commercial reasons), and

(ii) for the personal benefit (and not the commercial benefit) of other individuals, and

(b) no consideration is given (directly or indirectly) for the relevant transfer or otherwise for any benefit received by any individual mentioned in paragraph (a)(ii),

and all assets and income falling within subsection (12) are dealt with accordingly.

(12) The assets and income falling within this subsection are—

(a) any of the assets transferred by the relevant transfer;

(b) any assets directly or indirectly representing any of the assets transferred;

(c) any income arising from any assets within paragraph (a) or (b);

(d) any assets directly or indirectly representing the accumulations of income arising from any assets within paragraph (a) or (b).

(13) In subsections (11) and (12) references to the relevant transfer are to—

(a) if the transaction mentioned in subsection (1) is a relevant transfer, the transfer, or

(b) if the transaction so mentioned is an associated operation, the relevant transfer to which it relates.

(14) Subsection (15) applies if—

(a) subsection (2) would apply in relation to a transaction but for the individual being unable to satisfy an officer of Revenue and Customs for the purposes of condition B that the transaction meets the requirements set out in subsection (6), but

(b) the individual does satisfy an officer of Revenue and Customs that those requirements are met in relation to a part of the transaction.

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(15) Subsection (2) applies as if the reference to the transaction were to that part of the transaction."

8 In section 751 (the Tribunal's jurisdiction on appeals) after paragraph (d) insert—

"(da) section 742A (post-5 April 2012 transactions: exemption for genuine transactions),".

9 (1) The amendments made by paragraph 2 above have effect in relation to times on or after 6 April 2012.

(2) The amendments made by paragraphs 3 to 8 above have effect for the tax year 2012-13 and subsequent tax years.

PART 3

AMENDMENTS RELATING TO THE CHARGES UNDER SECTIONS 720 AND 727

Main provision

10 (1) Section 721 (individuals with power to enjoy income as a result of a relevant transaction) is amended as follows.

(2) In subsection (3) after "the income" insert " of the person abroad ".

(3) Before subsection (4) insert—

"(3B) The amount of the income treated as arising under subsection (1) is equal to the amount of the income of the person abroad (subject to sections 724 and 725).

(3C) Subsection (1) does not apply if—

(a) the individual is liable for income tax charged on the income of the person abroad by virtue of a charge not contained in this Chapter, and

(b) all that income tax has been paid."

(4) In subsection (4) after "the income" insert " of the person abroad ".

(5) Omit subsection (5)(a).

11 (1) Section 724 (special rules where benefit provided out of income of person abroad) is amended as follows.

(2) In subsection (2) after "on" insert " an amount equal to ".

(3) In subsection (3)—

(a) for "on" substitute " by reference to ", and

(b) after "previous tax year" insert " under this Chapter ".

12 (1) Section 725 (reduction in amount charged where controlled foreign company involved) is amended as follows.

(2) In subsection (1), as substituted by paragraph 22 of Schedule 20 to FA 2012, for paragraph (b) and the " and " before it substitute—

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"(b) an amount of income is treated as arising to an individual under section 721 for a tax year, and

(c) the income mentioned in section 721(2) is or includes a sum forming part of the CFC's chargeable profits for that accounting period."

(3) After subsection (2) insert—

"(2A) In a case in which section 724 applies, the reference to S in the formula in subsection (2) is to be read as a reference to X% of S.

(2B) "X%" is determined as follows—

$$100\% \times \frac{A}{I}$$

where—

A is the amount on which the individual is liable as determined under section 724(2), and

I is the amount of the income mentioned in section 721(2)."

(4) In relation to cases in which the amendments made by paragraph 22 of Schedule 20 to FA 2012 are to be ignored in accordance with paragraph 50(9) of that Schedule, the amendment made by sub-paragraph (5) below has effect instead of the amendment made by sub-paragraph (2) above.

(5) In subsection (1) for paragraph (c) and the "and" before it substitute—

"(c) an amount of income is treated as arising to an individual under section 721 for a tax year, and

(d) the income mentioned in section 721(2) is or includes a sum forming part of the controlled foreign company's chargeable profits for that accounting period."

13 In section 726 (non-UK domiciled individuals to whom remittance basis applies) in subsection (2) for "the extent" substitute " the corresponding extent ".

14 (1) Section 728 (individuals receiving capital sums as a result of a relevant transaction) is amended as follows.

(2) After subsection (1) insert—

"(1A) The amount of the income treated as arising under subsection (1) is equal to the amount of the income of the person abroad (subject to subsection (2))."

(3) In subsection (2) for the words from "it applies" to the end substitute "if—

(a) in subsection (1) of that section—

(i) the reference to section 721 were a reference to this section, and

(ii) the reference to section 721(2) were a reference to subsection (1)(a) of this section, and

(b) subsections (2A) and (2B) of that section were omitted."

(4) After subsection (2) insert—

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"(2A) Subsection (1) does not apply if—

(a) the individual is liable for income tax charged on the income of the person abroad by virtue of a charge not contained in this Chapter, and

(b) all that income tax has been paid."

(5) Omit subsection (3)(a).

15 In section 730 (non-UK domiciled individuals to whom remittance basis applies) in subsection (2) for "the extent" substitute " the corresponding extent ".

16 (1) Section 743 (no duplication of charges) is amended as follows.

(2) After subsection (2) insert—

"(2A) Subsection (2B) applies if—

(a) in the case of an individual, an amount of income is taken into account in charging income tax under section 720 or 727, and

(b) the individual subsequently receives that income.

(2B) The income received is treated as not being the individual's income for income tax purposes."

(3) In subsection (3) for "subsections (1) and (2)" substitute " this section ".

(4) Omit subsection (4).

17 (1) Section 744 (meaning of taking income into account in charging income tax for section 743) is amended as follows.

(2) In subsection (1) for "743(1) and (2)" substitute " 743 ".

(3) In subsection (2)—

(a) in paragraph (a) omit "or value of the benefit", and

(b) in paragraph (b) for "income charged" substitute " the income mentioned in section 721(2) ".

(4) In subsection (3) for "that income" substitute " the income mentioned in section 728(1)(a) ".

18 (1) Section 745 (rates of tax applicable to income charged under sections 720 and 727 etc) is amended as follows.

(2) In subsection (1) for "so far as it" substitute " if (and to the corresponding extent that) the income mentioned in section 721(2) or 728(1)(a) ".

(3) For subsections (3) and (4) substitute—

"(3) Subsection (4) applies to income treated as arising to an individual under section 721 or 728 so far as subsection (1) does not apply to it.

(4) The charge to income tax under section 720 or 727 operates by treating the income as if it were income within section 19(2) (meaning of "dividend income") if the income mentioned in section 721(2) or 728(1)(a) would be dividend income were it the income of the individual."

19 In section 746 (deductions and reliefs where individual charged under section 720 or 727) for subsection (2) substitute—

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"(2) For the purpose of determining the deductions and reliefs allowed to the individual, the individual is to be treated as if the individual had actually received the amount by reference to which the income treated as arising to the individual under section 721 or 728 is determined."

Commencement and transitional provision

20 (1) The amendments made by this Part of this Schedule have effect for the tax year 2013-14 and subsequent tax years.

(2) They have effect in relation to relevant transfers occurring before 6 April 2013 as well as relevant transfers occurring on or after that date.

21 (1) Sections 721(3C) and 728(2A) of ITA 2007 (as inserted by paragraphs 10(3) and 14(4) above) have effect only if the income of the person abroad arises to that person on or after 6 April 2013.

(2) The amendments made by paragraphs 10(5) and 14(5) above have no effect in relation to income arising to a person abroad before 6 April 2013.

SCHEDULE 11

Section 27

DEDUCTION OF INCOME TAX AT SOURCE ETC

Deduction from interest payable on compensation

1 Chapter 3 of Part 15 of ITA 2007 (deduction from certain payments of yearly interest) is amended as follows.

2 In section 874 (duty to deduct from certain payments of yearly interest), after subsection (5) insert—

"(5A) For the purposes of subsection (1) a payment of interest which is payable to an individual in respect of compensation is to be treated as a payment of yearly interest (irrespective of the period in respect of which the interest is paid).

(5B) But the Commissioners for Her Majesty's Revenue and Customs may make regulations which provide that subsection (5A) does not apply in the circumstances prescribed in the regulations."

3 In section 875 (interest paid by building societies), at the end insert " unless it is treated as a payment of yearly interest by virtue of section 874(5A). "

4 In section 878 (interest paid by banks), after subsection (1) insert—

"(1A) But that duty does apply to such a payment if it is treated as a payment of yearly interest by virtue of section 874(5A)."

Deduction from yearly interest: specialties

5 In section 874 of ITA 2007 (duty to deduct from certain payments of yearly interest), after subsection (6) insert—

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"(6A) In determining for the purposes of subsection (1) whether a payment of interest arises in the United Kingdom no account is to be taken of the location of any deed which records the obligation to pay the interest."

Payment of interest in kind

6 After section 370 of ITTOIA 2005 insert—

"**370A Valuation of interest not paid in cash**

(1) This section applies to the payment of an amount of interest in the form of—

(a) goods or services, or

(b) a voucher.

(2) Where this section applies by virtue of subsection (1)(a), the amount of the payment is to be taken to be equal to the market value, at the time the payment is made, of the goods or services.

(3) Where this section applies by virtue of subsection (1)(b), the amount of the payment is to be taken to be equal to whichever is the higher of—

(a) the face value of the voucher,

(b) the amount of money for which the voucher is capable of being exchanged, or

(c) the market value, at the time the payment is made, of any goods or services for which the voucher is capable of being exchanged.

(4) In this section references to a voucher are to a voucher, stamp or similar document or token which is capable of being exchanged for money, goods or services."

7 In section 380 of that Act (funding bonds), in subsection (3), at the end insert " (but does not include any instrument providing for payment in the form of goods or services or a voucher) ".

8 In section 939 of ITA 2007 (duty to retain bonds where issue treated as payment of interest), in subsection (6), at the end insert " (but does not include any instrument providing for payment in the form of goods or services or a voucher) ".

9 In section 975 of that Act (statements about deduction of income tax), in subsection (1)—

(a) after "if" insert "—

(a)",

and

(b) at the end insert ", and

(b) the person is not under a duty to provide a statement under section 975A".

10 After section 975 of that Act insert—

"**975A Statements about certain payments of interest**

(1) Subsection (2) applies if a person makes a payment of interest of which the whole or part is in the form of goods or services or a voucher.

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(2) The person must provide the recipient of the payment with a statement showing—

(a) the gross amount of the payment,

(b) the amount of the sum deducted under any provision of Chapters 2 to 7 or under section 919 or 928 (if any),

(c) the actual amount paid, and

(d) the date on which the payment was made.

(3) The amounts mentioned in paragraphs (a) to (c) of subsection (2) are to be calculated in accordance with section 370A of ITTOIA 2005.

(4) Subsection (5) applies where a person—

(a) is treated as making a payment of an amount of interest ("the deemed interest") by virtue of section 413 of CTA 2009 or section 380 of ITTOIA 2005 (funding bonds), and

(b) is under a duty under section 939(2) to retain funding bonds equal in value to income tax on the deemed interest at the basic rate.

(5) The person must provide the recipient of the funding bonds with a statement showing—

(a) the gross amount of the deemed interest,

(b) the sum representing income tax which the person is treated under section 939(3) as having deducted by retaining funding bonds,

(c) the amount of the deemed interest after the deduction of that sum, and

(d) the date on which the deemed interest is treated as being paid.

(6) The amount of the deemed interest is to be calculated in accordance with section 413 of CTA 2009 or section 380 of ITTOIA 2005, as the case may require.

(7) A statement under this section must be provided in writing to the recipient on the date that the payment is made or (as the case may be) the date that the deemed interest is treated as being paid.

(8) The duty to comply with this section is enforceable by the recipient.

(9) In this section—

(a) references to a voucher are to a voucher, stamp or similar document or token which is capable of being exchanged for money, goods or services, and

(b) "funding bonds" has the same meaning as in Chapter 12 (see section 939(6)).".

11 In section 413 of CTA 2009 (issue of funding bonds), in subsection (3), at the end insert " (but does not include any instrument providing for payment in the form of goods or services or a voucher) ".

Commencement

12 (1) The amendments made by paragraphs 1 to 4 have effect—

(a) in relation to any payment of interest by a building society which is made on or after 1 September 2013, and

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(b) in relation to any other payment of interest which is made on or after 1 October 2013.

(2) The amendments made by paragraphs 5 to 11 have effect in relation to any payment of interest which is made on or after the day on which this Act is passed.

SCHEDULE 12

Section 28

DISGUISED INTEREST

Key amendments to Part 4 of ITTOIA 2005

1 Part 4 of ITTOIA 2005 (savings and investment income) is amended in accordance with paragraphs 2 and 3.

2 In section 365(1) (overview of Part 4)—

(a) after paragraph (a) insert—

"(aa) Chapter 2A (disguised interest),", and

(b) omit paragraph (k).

3 After Chapter 2 insert—

"CHAPTER 2A

DISGUISED INTEREST

Charge to tax on disguised interest

381A(1) This Chapter applies where a person is party to an arrangement which produces for the person a return in relation to any amount which is economically equivalent to interest.

(2) Income tax is charged on the return if the return is not charged to income tax under or as a result of any other provision of this Act or any other Act.

(3) Subsection (2) does not apply to a return that would be charged to income tax under or as a result of another provision but for an exemption.

(4) For the purposes of this Chapter a return produced for a person by an arrangement in relation to any amount is "economically equivalent to interest" if (and only if)—

(a) it is reasonable to assume that it is a return by reference to the time value of that amount of money,

(b) it is at a rate reasonably comparable to what is (in all the circumstances) a commercial rate of interest, and

(c) at the relevant time there is no practical likelihood that it will cease to be produced in accordance with the arrangement unless the person by whom it falls to be produced is prevented (by reason of insolvency or otherwise) from producing it.

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(5) In subsection (4)(c) "the relevant time" means the time when the person becomes party to the arrangement or, if later, when the arrangement begins to produce a return for the person.

(6) In this Chapter "arrangement" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

Income charged

381B Tax is charged under this Chapter on the full amount of the return, or any part of the return, arising in the tax year.

Person liable

381C The person liable for any tax charged under this Chapter is the person receiving or entitled to the return or the part of the return.

Avoidance of double taxation

381D (1) This section applies if at any time a tax other than income tax ("the other tax") is charged in relation to a return on which income tax is charged under this Chapter.

(2) In order to avoid a double charge to tax in respect of the return, a person may make a claim for one or more consequential adjustments to be made in respect of the other tax.

(3) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(4) Consequential adjustments may be made—

(a) in respect of any period,

(b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and

(c) despite any time limit imposed by or under any enactment.

Exception for returns from certain shares

381E (1) This Chapter does not apply in relation to an arrangement that produces a return for a person, in relation to an amount, which is economically equivalent to interest where—

(a) the arrangement involves only excluded shares, and

(b) no relevant arrangement has been made (by any person) in relation to those excluded shares.

(2) For the purposes of this section shares are excluded shares if they are admitted to trading on a regulated market and—

(a) they were issued before 6 April 2013, or

(b) if issued on or after that date, at the time of issue no arrangements involving only the shares would produce a return, in relation to an amount, which is economically equivalent to interest.

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(3) In subsection (2) "regulated market" has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments (see Article 4.1(14)).

(4) For the purposes of this section an arrangement is relevant, in relation to excluded shares, where—

(a) the arrangement is made on or after 6 April 2013, and

(b) it is reasonable to assume that the main purpose, or one of the main purposes, of the arrangement is to secure that arrangements involving only the shares produce a return, in relation to an amount, which is economically equivalent to interest."

Consequential amendments

4 The following amendments are in consequence of the amendments made by paragraphs 2(a) and 3.

TCGA 1992

5 TCGA 1992 is amended as follows.

6 In section 37 (consideration chargeable to tax on income), after subsection (2) insert—

"(2A) Subsection (1) is not to be taken as excluding from the consideration so taken into account any money or money's worth which is, or is taken into account in computing, a return on which income tax is charged under Chapter 2A of Part 4 of ITTOIA 2005 (disguised interest) (but see section 381D of that Act)."

7 In section 39 (exclusion of expenditure by reference to tax on income), after subsection (3) insert—

"(3A) This section is not to be taken as excluding, from the sums allowable under section 38 as a deduction in the computation of the gain, expenditure allowable as a deduction in computing a return on which income tax is charged under Chapter 2A of Part 4 of ITTOIA 2005 (disguised interest) (but see section 381D of that Act)."

8 Omit sections 148A to 148C (provision dealing with the capital gains tax consequences of Chapter 12 of Part 4 of ITTOIA 2005).

9 (1) Section 263A (agreements for sale and repurchase of securities) is amended as follows.

(2) Before subsection (1) insert—

"(A1) For the purposes of this section there is a repo in respect of securities if—

(a) a person ("the original owner") has agreed to sell the securities to another person ("the interim holder"), and

(b) the original owner or a person connected with the original owner—

(i) is required to buy back the securities by the agreement or a related agreement,

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(ii) is required to buy back the securities as a result of the exercise of an option acquired under the agreement or a related agreement, or

(iii) exercises an option to buy back the securities which was acquired under the agreement or a related agreement."

(3) In subsection (1), for the words from "falling" to "repos)" substitute " where under a repo in respect of securities the original owner has transferred the securities to the interim holder ".

(4) Omit subsection (5).

10 After section 263A insert—

"**263AA Section 263A: interpretation**

(1) Subsections (2) to (7) apply for the purposes of section 263A.

(2) References to buying back securities include references to—

(a) buying similar securities, and

(b) in the case of a person connected with the person who is the original owner under the repo, buying the securities sold by the original owner or similar securities.

(3) Subsection (2) applies even if the person buying the securities has not held them before.

(4) References to repurchase or a repurchaser are to be read accordingly.

(5) For the purposes of subsection (2) securities are similar if they give their holders—

(a) the same rights against the same persons as to capital and distributions, 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) Agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).

(8) In section 263A and this section "securities" means—

(a) shares in a company wherever resident,

(b) loan stock or other securities of—

(i) the government of the United Kingdom,

(ii) a local authority in the United Kingdom,

(iii) another public authority in the United Kingdom,

(iv) a company resident in the United Kingdom or other body resident in the United Kingdom, or

(c) shares, loan stock, stock or other securities issued by—

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(i) a government, local authority or other public authority of a territory outside the United Kingdom, or

(ii) another body of persons not resident in the United Kingdom."

11 (1) Section 263F (power to modify repo provisions: non-standard repo cases) is amended as follows.

(2) In subsection (2), for the words from "cases" to the end substitute " any case mentioned in section 263A(1). "

(3) For subsection (9) substitute—

"(9) Post-agreement fluctuations" are fluctuations in the value of—

(a) securities transferred in pursuance of the original sale, or

(b) representative securities,

which occur in the period after the making of the agreement for the original sale.

(10) "Representative securities" are securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale."

12 In section 263G (power to modify repo provisions: redemption arrangements)—

(a) in subsection (2), for the words from "cases" to the end substitute " any case mentioned in section 263A(1). ", and

(b) omit subsection (4).

ITTOIA 2005

13 (1) ITTOIA 2005 is amended as follows.

(2) Omit Chapter 12 of Part 4 (disposals of futures and options involving guaranteed returns).

(3) In section 687(2) (application of charge to tax), at the end insert " or to income falling within Chapter 2A of Part 4 ".

(4) In Schedule 1 (consequential amendments), omit paragraph 435.

(5) In Schedule 2 (transitionals and savings), omit paragraph 95.

(6) In Schedule 4 (abbreviations and defined expressions), omit the entry for "future (in Chapter 12 of Part 4)".

FA 2007

14 In Schedule 14 of FA 2007 (sale and repurchase of securities: minor and consequential amendments), omit paragraphs 22 and 23.

ITA 2007

15 (1) ITA 2007 is amended as follows.

(2) Omit the following provisions (which deal with deemed manufactured payments and repos)—

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(a) section 596(5),
(b) sections 597 to 605,
(c) section 606(1) to (7) and (9) and (10), and
(d) sections 607 to 614.

(3) In Schedule 1 (minor and consequential amendments), omit paragraphs 310, 543 and 544.

(4) In Schedule 2 (transitionals and savings), omit paragraphs 112 to 124.

(5) In Schedule 4 (index of defined expressions)—
(a) omit the entries for—

"company UK REIT (in Chapter 4 of Part 11)",

"distribution (in Chapter 4 of Part 11)",

"gross amount (in Chapter 4 of Part 11)",

"group (in Chapter 4 of Part 11)",

"group UK REIT (in Chapter 4 of Part 11)",

"Manufactured dividend (in Chapter 4 of Part 11)",

"principal company (in Chapter 4 of Part 11)",

"property rental business (in Chapter 4 of Part 11)", and

""the repurchase price of the securities (in Chapter 4 of Part 11)", and

(b) in the entry for "distribution (except in Chapter 4 of Part 11)", omit "(except in Chapter 4 of Part 11)".

CTA 2010

16 In Schedule 1 of CTA 2010 (minor and consequential amendments), omit paragraphs 540 to 543 and 544(a), (c) and (d).

FA 2010

17 In Schedule 6 of FA 2010 (charities etc), omit paragraph 21(4).

Commencement and transitional provision

18 (1) Subject to sub-paragraph (2), the amendments made by this Schedule have effect for the tax year 2013-2014 and subsequent tax years.

(2) Chapter 2A of Part 4 of ITTOIA 2005 does not apply in relation to an arrangement that produces a return for a person, in relation to an amount, which is economically equivalent to interest if—
(a) the person became party to the arrangement before 6 April 2013, and
(b) none of the provisions repealed by paragraphs 13(2) and 15(2) applied in relation to the arrangement before that date.

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SCHEDULE 13

Section 33

CHANGE IN OWNERSHIP OF SHELL COMPANY: RESTRICTION OF RELIEF

Amendments of Part 14 of CTA 2010

1 (1) Part 14 of CTA 2010 (change in company ownership) is amended as follows.

(2) In section 672 (overview of Part)—

(a) after subsection (3) insert—

"(3A) Chapter 5A restricts relief for certain non-trading deficits and losses where there is a change of ownership of a shell company.";

(b) in subsection (7), omit the "and" at the end of paragraph (b) and after that paragraph insert—

"(ba) shell company", see section 705A, and".

(3) After Chapter 5 insert—

"CHAPTER 5A

SHELL COMPANIES: RESTRICTIONS ON RELIEF

Introduction

Introduction to Chapter

705A (1) This Chapter applies where there is a change in the ownership of a shell company.

(2) In this Chapter—

"the change in ownership" means the change in ownership mentioned in subsection (1);

"the company" means the company mentioned in subsection (1);

"shell company" means a company that—

(a) is not carrying on a trade,

(b) is not a company with investment business, and

(c) is not carrying on a UK property business.

Notional split of accounting period in which change in ownership occurs

705B (1) This section applies for the purposes of this Chapter.

(2) The accounting period in which the change in ownership occurs ("the actual accounting period") is treated as two separate accounting periods ("notional accounting periods"), the first ending with the change and the second consisting of the remainder of the period.

(3) The amounts for the actual accounting period in column 1 of the table in section 705F(2) are apportioned to the two notional accounting periods in accordance with section 705F.

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(4) In this Chapter "the actual accounting period" and "notional accounting periods" have the same meaning as in this section.

Restrictions on relief

Restriction on debits to be brought into account

705C(1) This section has effect for the purpose of restricting the debits to be brought into account for the purposes of Part 5 of CTA 2009 (loan relationships) in respect of the company's loan relationships.

(2) The debits to be brought into account for the purposes of Part 5 of CTA 2009 for—

(a) the accounting period beginning immediately after the change in ownership, or

(b) any subsequent accounting period,

do not include relevant non-trading debits so far as amount A exceeds amount B.

(3) Amount A is the sum of—

(a) the amount of those relevant non-trading debits, and

(b) the amount of any relevant non-trading debits which have been brought into account for the purposes of that Part for any previous accounting period ending after the change in ownership.

(4) Amount B is the amount of the taxable total profits of the accounting period ending with the change in ownership.

(5) For the meaning of "relevant non-trading debit", see section 730.

Restriction on carry forward of non-trading deficit from loan relationships

705D(1) This section has effect for the purpose of restricting the carry forward of a non-trading deficit from the company's loan relationships under Part 5 of CTA 2009 (loan relationships).

(2) Subsection (3) applies if the non-trading deficit in column 1 of row 4 of the table in section 705F(2) is apportioned in accordance with section 705F to the first notional accounting period.

(3) None of that non-trading deficit may be carried forward to—

(a) the accounting period beginning immediately after the change in ownership, or

(b) any subsequent accounting period.

Restriction on relief for non-trading loss on intangible fixed assets

705E(1) This section has effect for the purpose of restricting relief under section 753 of CTA 2009 (treatment of non-trading losses) in respect of a non-trading loss on intangible fixed assets.

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(2) Relief under section 753 of CTA 2009 against the total profits of the same accounting period is available only in relation to each of the notional accounting periods considered separately.

(3) A non-trading loss on intangible fixed assets for an accounting period beginning before the change in ownership may not be—

(a) carried forward under section 753(3) of that Act to an accounting period ending after the change in ownership, or

(b) treated under that section as if it were a non-trading debit of that period.

Apportionment of amounts

Apportionment of amounts

705F(1) This section applies for the purposes of this Chapter.

(2) Any amount for the actual accounting period in column 1 of the following table is to be apportioned to the two notional accounting periods in accordance with the corresponding method of apportionment in column 2 of the table.

Row	*1. Amount to be apportioned*	*2. Method of apportionment*
1	The amount for the actual accounting period of any adjusted non-trading profits from the company's loan relationships (see section 705G(2))).	Apportion the amount in column 1 on a time basis according to the respective lengths of the two notional accounting periods.
2	The amount for the actual accounting period of any adjusted non-trading deficit from the company's loan relationships (see section 705G(3)).	Apportion the amount in column 1 on a time basis according to the respective lengths of the two notional accounting periods.
3	The amount of any non-trading debit that falls to be brought into account for the actual accounting period for the purposes of Part 5 of CTA 2009 (loan relationships) in respect of any debtor relationship of the company.	(1) If condition A in section 705G(4) is met, apportion the amount in column 1 by reference to the time of accrual of the amount to which the debit relates. (2) If condition B in section 705G(5) is met, apportion the amount in column 1 to the first notional accounting period.
4	The amount of any non-trading deficit carried forward to the actual accounting period under section 457(1) of CTA 2009 (basic rule for deficits: carry forward	Apportion the whole of the amount in column 1 to the first notional accounting period.

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	to accounting periods after deficit period).	
5	The amount of any non-trading credits or debits in respect of intangible fixed assets that fall to be brought into account for the actual accounting period under section 751 of CTA 2009 (non-trading gains and losses), but excluding any amount within column 1 of row 6.	Apportion to each notional accounting period the credits or debits that would fall to be brought into account in that period if it were a period of account for which accounts were drawn up in accordance with generally accepted accounting practice.
6	The amount of any non-trading loss on intangible fixed assets carried forward to the actual accounting period under section 753(3) of CTA 2009 and treated under that section as if it were a non-trading debit of that period.	Apportion the whole of the amount in column 1 to the first notional accounting period.
7	Any other amounts by reference to which the profits or losses of the actual accounting period would (but for this Chapter) be calculated.	Apportion the amount in column 1 on a time basis according to the respective lengths of the two notional accounting periods.

(3) If any method of apportionment in column 2 of the table in subsection (2) would work unjustly or unreasonably in any case, such other method is to be used as is just and reasonable.

(4) For the meaning of certain expressions used in this section, see section 705G.

Meaning of certain expressions in section 705F

705G(1) This section applies for the purposes of the table in section 705F(2).

(2) For the purposes of column 1 of row 1 of the table, the amount for the actual accounting period of any adjusted non-trading profits from the company's loan relationships is the amount which would be the amount of the profits from those relationships chargeable under section 299 of CTA 2009 (charge to tax on non-trading profits) if, in calculating that amount, amounts for that period within column 1 of row 3 or 4 of the table were disregarded.

(3) For the purposes of column 1 of row 2 of the table, the amount for the actual accounting period of any adjusted non-trading deficit from the company's loan relationships is the amount which would be the amount of the non-trading deficit from those relationships if, in calculating that amount, amounts for that period within column 1 of row 3 or 4 of the table were disregarded.

(4) Condition A is that—

(a) the amount in column 1 of row 3 of the table is determined on an amortised cost basis of accounting, and

(b) none of the following provisions applies—

(i) section 373 of CTA 2009 (late interest treated as not accruing until paid in some cases),

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(ii) section 407 of that Act (postponement until redemption of debits for connected companies' deeply discounted securities), or

(iii) section 409 of that Act (postponement until redemption of debits for close companies' deeply discounted securities).

(5) Condition B is that—

(a) the amount in column 1 of row 3 of the table is determined on an amortised cost basis of accounting, and

(b) any of the provisions mentioned in subsection (4)(b) applies."

(4) In section 721 (when things other than share capital may be taken into account: Chapters 2 to 5)—

(a) in the heading, for "**5**" substitute " **5A** ";

(b) in subsection (1), for "5" substitute " 5A ";

(c) in subsection (4), for "or 5" substitute " , 5 or 5A ".

(5) In section 725 (provision applying for the purposes of Chapters 2 to 5)—

(a) in the heading, for "**5**" substitute " **5A** ";

(b) in subsection (1), for "5" substitute " 5A ".

(6) In section 730 (meaning of "relevant non-trading debit")—

(a) in subsection (1), for "and 696" substitute " , 696 and 705C ";

(b) in subsections (3)(c), (4)(c) and (5)(b) for "or 696" substitute " , 696 or 705C ".

Consequential amendments

2 In Schedule 4 to that Act (index of defined expressions) insert at the appropriate places—

"the actual accounting period (in Chapter 5A of Part 14)	section 705B(4)"
"the change in ownership (in Chapter 5A of Part 14)	section 705A(2)"
"the company (in Chapter 5A of Part 14)	section 705A(2)"
"notional accounting periods (in Chapter 5A of Part 14)	section 705B(4)"
"shell company (in Chapter 5A of Part 14)	section 705A(2)".

Commencement

3 The amendments made by this Schedule have effect in relation to changes in ownership that occur on or after 20 March 2013.

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SCHEDULE 14

Section 34

TRANSFER OF DEDUCTIONS

New Part 14A of CTA 2010

1 After Part 14 of CTA 2010 insert—

"PART 14A

TRANSFER OF DEDUCTIONS

Overview

730A (1) This Part makes provision restricting the circumstances in which deductible amounts may be brought into account where there has been a qualifying change in relation to a company.

(2) For the meaning of "deductible amount" and "qualifying change" see section 730B.

Interpretation of Part

730B (1) In this Part—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"C" means the company mentioned in section 730A(1),

"deductible amount" means—

(a) an expense of a trade,

(b) an expense of a UK property business or an overseas property business,

(c) an expense of management of a company's investment business within the meaning of section 1219 of CTA 2009,

(d) a non-trading debit within the meaning of Parts 5 and 6 of CTA 2009 (loan relationships and derivative contracts) (see section 301(2) of that Act), or

(e) a non-trading debit within the meaning of Part 8 of CTA 2009 (intangible fixed assets) (see section 746 of that Act),

but does not include any amount that has been taken into account in determining RTWDV within the meaning of Chapter 16A of Part 2 of CAA 2001 (restrictions on allowance buying) (see section 212K of that Act),

"qualifying change", in relation to a company, has the same meaning as in that Chapter, and

"the relevant day" means the day on which the qualifying change in relation to C occurred.

(2) In this Part, references to bringing an amount into account "as a deduction" in any period are to bringing it into account as a deduction in that period—

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(a) in calculating profits, losses or other amounts for corporation tax purposes, or

(b) from profits or other amounts chargeable to corporation tax.

Disallowance of deductible amounts: relevant claims

730C(1) This section applies where a relevant claim is made for an accounting period ending on or after the relevant day.

(2) "Relevant claim" means a claim by C, or a company connected with C, under—

(a) section 37 (relief for trade losses against total profits), or

(b) Chapter 4 of Part 5 (group relief).

(3) A deductible amount that meets conditions A and B may not be the subject of, or brought into account as a deduction in, the claim.

(4) But subsection (3) does not exclude any amount which could have been the subject of, or brought into account as a deduction in, the claim in the absence of the qualifying change.

(5) Condition A is that, on the relevant day, it is highly likely that the amount, or any part of it, would (disregarding this Part) be the subject of, or brought into account as a deduction in, a relevant claim for an accounting period ending on or after the relevant day.

(6) Any question as to what is "highly likely" on the relevant day for the purposes of subsection (5) is to be determined having regard to—

(a) any arrangements made on or before that day, and

(b) any events that take place on or before that day.

(7) Condition B is that the main purpose, or one of the main purposes, of change arrangements is for the amount (whether or not together with other deductible amounts) to be the subject of, or brought into account as a deduction in, a relevant claim for an accounting period ending on or after the relevant day.

(8) "Change arrangements" means any arrangements made to bring about, or otherwise connected with, the qualifying change.

(9) This section does not apply to a deductible amount if, and to the extent that—

(a) section 730D(2) applies to it, or

(b) for the purposes of section 432, a loss, or any part of a loss, to which section 433(2) applies derives from it.

Disallowance of deductible amounts: profit transfers

730D(1) This section applies where arrangements ("the profit transfer arrangements") are made which result in—

(a) an increase in the total profits of C, or of a company connected with C, or

(b) a reduction of any loss or other amount for which relief from corporation tax could (disregarding this section) have been given to C or a company connected with C,

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in any accounting period ending on or after the relevant day.

(2) A deductible amount that meets conditions D and E may not be brought into account by C, nor any company connected with C, as a deduction in any accounting period ending on or after the relevant day.

(3) Condition D is that, on the relevant day, it is highly likely that the amount, or any part of it, would (disregarding this Part) be brought into account by C, or any company connected with C, as a deduction in any accounting period ending on or after the relevant day.

(4) Any question as to what is "highly likely" on the relevant day for the purposes of subsection (3) is to be determined having regard to—

(a) any arrangements made on or before that day, and

(b) any events that take place on or before that day.

(5) Condition E is that the main purpose, or one of the main purposes, of the profit transfer arrangements is to bring the amount (whether or not together with other deductible amounts) into account as a deduction in any accounting period ending on or after the relevant day.

(6) Subsection (7) applies if—

(a) (disregarding subsection (7)) subsection (2) would prevent a deductible amount being brought into account by a company as a deduction in any accounting period ending on or after the relevant day, and

(b) in the absence of the profit transfer arrangements and disregarding any deductible amounts, the company would have an amount of total profits for that accounting period.

(7) Subsection (2) applies only in relation to such proportion of the deductible amount mentioned in subsection (6)(a) as is just and reasonable."

Consequential amendments

2 (1) In section 1(4) of CTA 2010 (overview of Act), after paragraph (a) insert—

"(aa) transfer of deductions (see Part 14A),".

(2) In section 432 of that Act (sale of lessors: restriction on relief for certain expenses), after subsection (1) insert—

"(1A) For the purposes of subsection (1), an expense is to be disregarded if, and to the extent that, section 730D(2) (disallowance of deductible amounts: profit transfers) applies to it."

(3) In Schedule 4 to that Act (index of defined expressions), insert at the appropriate places—

"arrangements (in Part 14A)	section 730B"
"as a deduction (in Part 14A)	section 730B"
"C (in Part 14A)	section 730B"

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"deductible amount (in Part 14A)	section 730B"
"qualifying change (in Part 14A)	section 730B"
"the relevant day (in Part 14A)	section 730B".

Commencement and transitional provision

3 (1) The amendments made by this Schedule have effect in relation to a qualifying change if the relevant day is on or after 20 March 2013.

(2) But those amendments do not have effect if before that date—

(a) the arrangements made to bring about the qualifying change were entered into, or

(b) there was an agreement, or common understanding, between the parties to those arrangements as to the principal terms on which the qualifying change would be brought about.

(3) If—

(a) the relevant day in relation to a qualifying change is before 26 June 2013, or

(b) paragraph (a) or (b) of sub-paragraph (2) was satisfied before that date,

those amendments have effect in relation to the qualifying change as if section 730C(9)(b) were omitted.

SCHEDULE 15

Section 35

R&D EXPENDITURE CREDITS

PART 1

AMENDMENTS OF CTA 2009

1 In Part 3 of CTA 2009 (trading income), after Chapter 6 insert—

"CHAPTER 6A

TRADE PROFITS: R&D EXPENDITURE CREDITS

Claims for credits

R&D expenditure credits

104A (1) A company carrying on a trade may make a claim for an amount (an "R&D expenditure credit") to be brought into account as a receipt in calculating the profits of the trade for an accounting period.

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(2) The company is entitled to an R&D expenditure credit for the accounting period if the company has qualifying R&D expenditure which is allowable as a deduction in calculating for corporation tax purposes the profits of the trade for the accounting period.

(3) In the case of a company that is a small or medium-sized enterprise in the accounting period, the company's "qualifying R&D expenditure" means—

(a) its qualifying expenditure on sub-contracted R&D (see section 104C),

(b) its subsidised qualifying expenditure (see section 104F), and

(c) its capped R&D expenditure (see section 104I).

(4) In the case of a company that is a large company throughout the accounting period, the company's "qualifying R&D expenditure" means—

(a) its qualifying expenditure on in-house direct research and development (see section 104J),

(b) its qualifying expenditure on contracted out research and development (see section 104K), and

(c) its qualifying expenditure on contributions to independent research and development (see section 104L).

(5) The amount of an R&D expenditure credit to which a company is entitled is determined in accordance with section 104M.

(6) Section 104N contains provision about the effect of a successful claim for an R&D expenditure credit.

(7) Sections 104U to 104W contain provision about insurance companies and group companies.

(8) Section 104X contains anti-avoidance provision.

(9) Section 104Y contains definitions.

(10) For information about the procedure for making claims under this Chapter, see Schedule 18 to FA 1998, in particular Part 9A of that Schedule.

Restriction on claiming relief under Part 13 and credit for same expenditure

104B A company may not make a claim for an R&D expenditure credit and for relief under Part 13 (additional relief for expenditure on research and development) in respect of the same expenditure.

SMEs: qualifying expenditure on sub-contracted R&D

Qualifying expenditure on sub-contracted R&D

104C (1) For the purposes of this Chapter a company's "qualifying expenditure on sub-contracted R&D" means expenditure incurred by it that meets conditions A and B.

(2) Condition A is that the expenditure is incurred on research and development contracted out to the company by—

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(a) a large company, or

(b) any person otherwise than in the course of carrying on a chargeable trade.

(3) A "chargeable trade" is—

(a) a trade, profession or vocation carried on wholly or partly in the United Kingdom, the profits of which are chargeable to income tax under Chapter 2 of Part 2 of ITTOIA 2005, or

(b) a trade carried on wholly or partly in the United Kingdom, the profits of which are chargeable to corporation tax under Chapter 2 of this Part.

(4) Condition B is that the expenditure is expenditure to which section 104D or 104E applies.

Expenditure on sub-contracted R&D undertaken in-house

104D (1) This section applies to expenditure on research and development contracted out to a company if conditions A, B and C are met.

(2) Condition A is that the research and development is undertaken by the company itself.

(3) Condition B is that the expenditure is—

(a) incurred on staffing costs (see section 1123),

(b) incurred on software or consumable items (see section 1125),

(c) qualifying expenditure on externally provided workers (see section 1127), or

(d) incurred on relevant payments to the subjects of a clinical trial (see section 1140).

(4) Condition C is that the expenditure is attributable to relevant research and development in relation to the company.

(5) See sections 1124, 1126 and 1132 for provision about when expenditure within subsection (3)(a), (b) or (c) is attributable to relevant research and development.

Expenditure on sub-contracted R&D not undertaken in-house

104E (1) This section applies to expenditure on research and development contracted out to a company if conditions A, B and C are met.

(2) Condition A is that the expenditure is incurred in making payments to—

(a) a qualifying body,

(b) an individual, or

(c) a firm, each member of which is an individual,

in respect of research and development contracted out by the company to the body, individual or firm.

(3) Condition B is that the research and development is undertaken by the body, individual or firm itself.

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(4) Condition C is that the expenditure is attributable to relevant research and development in relation to the company.

(5) See sections 1124, 1126 and 1132 for provision about when particular kinds of expenditure are attributable to relevant research and development.

SMEs: subsidised qualifying expenditure

Subsidised qualifying expenditure

104F For the purposes of this Chapter a company's "subsidised qualifying expenditure" means—

(a) its subsidised qualifying expenditure on in-house direct research and development (see section 104G), and

(b) its subsidised qualifying expenditure on contracted out research and development (see section 104H).

Subsidised qualifying expenditure on in-house direct R&D

104G (1) A company's "subsidised qualifying expenditure on in-house direct research and development" means expenditure incurred by it in relation to which each of conditions A to D is met.

(2) Condition A is that the expenditure is subsidised.

(3) Condition B is that the expenditure is—

(a) incurred on staffing costs (see section 1123),

(b) incurred on software or consumable items (see section 1125),

(c) qualifying expenditure on externally provided workers (see section 1127), or

(d) incurred on relevant payments to the subjects of a clinical trial (see section 1140).

(4) Condition C is that the expenditure is attributable to relevant research and development undertaken by the company itself.

(5) Condition D is that the expenditure is not incurred by the company in carrying on activities which are contracted out to the company by any person.

(6) See sections 1124, 1126 and 1132 for provision about when expenditure within subsection (3)(a), (b) or (c) is attributable to relevant research and development.

Subsidised qualifying expenditure on contracted out R&D

104H (1) A company's "subsidised qualifying expenditure on contracted out research and development" means expenditure—

(a) which is incurred by it in making the qualifying element of a sub-contractor payment (see sections 1134 to 1136), and

(b) in relation to which each of conditions A to E is met.

(2) Condition A is that the expenditure is subsidised.

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(3) Condition B is that the sub-contractor is—

(a) a qualifying body,

(b) an individual, or

(c) a firm, each member of which is an individual.

(4) Condition C is that the body, individual or firm concerned undertakes the contracted out research and development itself.

(5) Condition D is that the expenditure is attributable to relevant research and development in relation to the company.

(6) Condition E is that the expenditure is not incurred by the company in carrying on activities which are contracted out to the company by any person.

(7) See sections 1124, 1126 and 1132 for provision about when particular kinds of expenditure are attributable to relevant research and development.

SMEs: capped R&D expenditure

Capped R&D expenditure

104I For the purposes of this Chapter a company's "capped R&D expenditure" means any expenditure—

(a) in respect of which the company is not entitled to relief under Chapter 2 of Part 13 merely because of section 1113 (cap on R&D aid),

(b) which is not qualifying expenditure on sub-contracted R&D, and

(c) which would have been qualifying R&D expenditure had the company been a large company throughout the accounting period in question.

Large companies: qualifying R&D expenditure

Qualifying expenditure on in-house direct R&D

104J (1) A company's "qualifying expenditure on in-house direct research and development" means expenditure incurred by it in relation to which conditions A, B and C are met.

(2) Condition A is that the expenditure is—

(a) incurred on staffing costs (see section 1123),

(b) incurred on software or consumable items (see section 1125),

(c) qualifying expenditure on externally provided workers (see section 1127), or

(d) incurred on relevant payments to the subjects of a clinical trial (see section 1140).

(3) Condition B is that the expenditure is attributable to relevant research and development undertaken by the company itself.

(4) Condition C is that, if the expenditure is incurred in carrying on activities contracted out to the company, the activities are contracted out by—

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(a) a large company, or
(b) any person otherwise than in the course of carrying on a chargeable trade.

(5) A "chargeable trade" is—
(a) a trade, profession or vocation carried on wholly or partly in the United Kingdom, the profits of which are chargeable to income tax under Chapter 2 of Part 2 of ITTOIA 2005, or
(b) a trade carried on wholly or partly in the United Kingdom, the profits of which are chargeable to corporation tax under Chapter 2 of this Part.

(6) See sections 1124, 1126 and 1132 for provision about when expenditure within subsection (2)(a), (b) or (c) is attributable to relevant research and development.

Qualifying expenditure on contracted out R&D

104K (1) A company's "qualifying expenditure on contracted out research and development" means expenditure incurred by it in relation to which each of conditions A to D is met.

(2) Condition A is that the expenditure is incurred in making payments to—
(a) a qualifying body,
(b) an individual, or
(c) a firm, each member of which is an individual,
in respect of research and development contracted out by the company to the body, individual or firm concerned ("the contracted out R&D").

(3) Condition B is that the body, individual or firm concerned undertakes the contracted out R&D itself.

(4) Condition C is that the expenditure is attributable to relevant research and development in relation to the company.

(5) Condition D is that, if the contracted out R&D is itself contracted out to the company, it is contracted out by—
(a) a large company, or
(b) any person otherwise than in the course of carrying on a chargeable trade.

(6) A "chargeable trade" is—
(a) a trade, profession or vocation carried on wholly or partly in the United Kingdom, the profits of which are chargeable to income tax under Chapter 2 of Part 2 of ITTOIA 2005, or
(b) a trade carried on wholly or partly in the United Kingdom, the profits of which are chargeable to corporation tax under Chapter 2 of this Part.

(7) See sections 1124, 1126 and 1132 for provision about when particular kinds of expenditure are attributable to relevant research and development.

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Qualifying expenditure on contributions to independent R&D

104L (1) A company's "qualifying expenditure on contributions to independent research and development" means expenditure incurred by it in relation to which each of conditions A to E is met.

(2) Condition A is that the expenditure is incurred in making payments to—

(a) a qualifying body,

(b) an individual, or

(c) a firm, each member of which is an individual,

for the purpose of funding research and development carried on by the body, individual or firm concerned ("the funded R&D").

(3) Condition B is that the funded R&D is relevant research and development in relation to the company.

(4) Condition C is that the funded R&D is not contracted out to the qualifying body, individual or firm concerned by another person.

(5) Condition D is that, if the payment is made to an individual, the company is not connected with the individual when the payment is made.

(6) Condition E is that, if the payment is made to a firm (other than a qualifying body), the company is not connected with any member of the firm when the payment is made.

Amount of credit

Amount of R&D expenditure credit

104M (1) The amount of the R&D expenditure credit to which a company is entitled for an accounting period is the relevant percentage of the amount of the company's qualifying R&D expenditure for the period.

(2) In the case of a ring fence trade, the relevant percentage is 49%.

In this subsection "ring fence trade" has the meaning given by section 277 of CTA 2010.

(3) In any other case, the relevant percentage is 10%.

(4) The Treasury may by order replace the percentage for the time being specified in subsection (2) or (3) with a different percentage.

(5) An order under subsection (4) may contain incidental, supplemental, consequential and transitional provision and savings.

Payment of credit

Payment of R&D expenditure credit

104N (1) This section applies if a company is entitled to an R&D expenditure credit for an accounting period under this Chapter.

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(2) The amount to which the company is entitled in respect of the R&D expenditure credit ("the set-off amount") is to be treated in the following way—

Step 1 The set-off amount is to be applied in discharging any liability of the company to pay corporation tax for the accounting period. If any of the set-off amount is remaining, go to step 2.

Step 2 If the amount remaining after step 1 is greater than the net value of the set-off amount (see subsection (3)), that amount is to be reduced to the net value of the set-off amount. For provision about the treatment of the amount deducted under this step from the amount remaining after step 1, see section 104O.

Step 3 If the amount remaining after step 2 is greater than the company's total expenditure on workers for the accounting period (see section 104P)—

(a) that amount is to be reduced to the amount of that expenditure (which may be nil), and

(b) the amount deducted under paragraph (a) from the amount remaining after step 2 is to be treated for the purposes of this section as an amount of R&D expenditure credit to which the company is entitled for its next accounting period.

If any of the set-off amount is remaining, go to step 4.

Step 4 The amount remaining after step 3 is to be applied in discharging any liability of the company to pay corporation tax for any other accounting period. If any of the set-off amount is remaining, go to step 5.

Step 5 If the company is a member of a group, it may surrender the whole or any part of the amount remaining after step 4 to any other member of the group (see section 104R). If no such surrender is made, or any of the set-off amount is otherwise remaining, go to step 6.

Step 6 The amount remaining after step 5 is to be applied in discharging any other liability of the company to pay a sum to the Commissioners under or by virtue of an enactment or under a contract settlement. If any of the set-off amount is remaining, go to step 7.

Step 7 The amount remaining after step 6 is payable to the company by an officer of Revenue and Customs. But this is subject to section 104S (restrictions on payment of R&D expenditure credit).

(3) To determine the net value of the set-off amount for the purposes of step 2 in subsection (2), deduct from the set-off amount amount A and, in the case of a ring fence trade, amount B.

Amount A is the amount equal to the corporation tax that would be chargeable on the set-off amount if—

(a) it did not include any amount treated as an amount of R&D expenditure credit for the accounting period by virtue of step 3 in subsection (2), and

(b) it was an amount of profits (or in the case of a ring fence trade, ring fence profits) of the company for the accounting period and corporation tax on such profits was chargeable at the main rate.

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Amount B is the amount equal to the supplementary charge that would be chargeable on the set-off amount if—

(a) it did not include any amount treated as an amount of R&D expenditure credit for the accounting period by virtue of step 3 in subsection (2), and

(b) it was an amount of adjusted ring fence profits for the accounting period.

(4) In this section—

"adjusted ring fence profits" has the meaning given by section 330(2) of CTA 2010,

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs,

"contract settlement" means an agreement made in connection with any person's liability to make a payment to the Commissioners under or by virtue of an enactment,

"ring fence profits" has the meaning given by section 276 of CTA 2010, and

"ring fence trade" has the meaning given by section 277 of CTA 2010.

Amounts deducted by way of tax adjustment

104O (1) This section applies if—

(a) a company is entitled to an R&D expenditure credit for an accounting period under this Chapter, and

(b) the amount of the set-off amount remaining after step 1 in section 104N(2) is greater than the net value of the set-off amount.

(2) An amount equal to the difference between—

(a) the amount remaining after step 1 in section 104N(2), and

(b) the net value of the set-off amount,

("the step 2 amount") is to be applied in discharging any liability of the company to pay corporation tax for any subsequent accounting period.

This is subject to subsection (3).

(3) If the company is a member of a group, it may surrender the whole or any part of the step 2 amount to any other member of the group (the "relevant group member").

In such a case, section 104R(3) applies to the amount surrendered as it applies to an amount of R&D expenditure credit surrendered under step 5 in section 104N(2).

(4) If any of the amount surrendered under subsection (3) is remaining after the operation of step 3 in section 104R(3), it is to be treated for the purposes of this section as if it had not been surrendered to the relevant group member.

(5) Any amounts to be applied under subsection (2) or (3) in discharging any liability of a company to pay corporation tax for an accounting period are to be so applied before any amounts that may be so applied under step 1, 4 or 5 in section 104N(2).

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(6) The surrender by a company of the whole or any part of the step 2 amount to another company under this section—

(a) is not to be taken into account in determining the profits or losses of either company for corporation tax purposes, and

(b) for corporation tax purposes is not to be regarded as the making of a distribution.

(7) Any reference in this section to the set-off amount, or the net value of the set-off amount, is to be read in accordance with section 104N.

Total expenditure on workers

104P (1) For the purposes of section 104N, the amount of a company's total expenditure on workers for an accounting period is the sum of—

(a) the relevant portion of the company's staffing costs for the period (see subsection (2)), and

(b) if the company is a member of a group and has incurred expenditure on any externally provided workers, the relevant portion of any staffing costs for the period incurred by another member of the group (the "relevant group company") in providing any of those workers for the company (see subsection (3)).

(2) The relevant portion of the company's staffing costs for an accounting period is the amount of those costs that—

(a) are paid to, or in respect of, directors or employees who are directly and actively engaged in relevant research and development (whether they are wholly or partly so engaged), and

(b) form part of the total amount of the company's PAYE and NIC liabilities for the accounting period (see section 104Q).

(3) The relevant portion of any staffing costs for an accounting period incurred by a relevant group company in providing externally provided workers for the company is the sum of the amounts to be determined in the case of each of those workers as follows—

Step 1 Calculate the amount of expenditure that—

(a) has been incurred by the relevant group company in providing the externally provided worker for the company,

(b) has been incurred on staffing costs, and

(c) forms part of the total amount of the relevant group company's PAYE and NIC liabilities for the accounting period (see section 104Q).

Step 2 Calculate the percentage (the "appropriate percentage") given by—

$$\frac{R}{T} \times 100$$

where—

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R is the amount of the company's qualifying expenditure on the externally provided worker that has been taken into account in calculating the amount of the company's qualifying R&D expenditure for the period, and

T is the total amount of the company's qualifying expenditure on the externally provided worker.

Step 3 The amount to be determined in the case of the externally provided worker is the appropriate percentage of the amount given by step 1.

Total amount of company's PAYE and NIC liabilities

104Q(1) For the purposes of section 104P the total amount of a company's PAYE and NIC liabilities for an accounting period is the sum of—

(a) amount A, and

(b) amount B.

(2) Amount A is the total amount of income tax for which the company is required to account to an officer of Revenue and Customs under PAYE regulations for the accounting period.

(3) In calculating amount A disregard any deduction the company is authorised to make in respect of child tax credit or working tax credit.

(4) Amount B is the total amount of Class 1 national insurance contributions for which the company is required to account to an officer of Revenue and Customs for the accounting period.

(5) In calculating amount B disregard any deduction the company is authorised to make in respect of payments of statutory sick pay, statutory maternity pay, child tax credit or working tax credit.

(6) In a case where the company is required to account for any amount of income tax or Class 1 national insurance contributions for a payment period that does not fall wholly within the accounting period, the portion of that amount to be included in the total amount of the company's PAYE and NIC liabilities for the accounting period is to be determined on such basis as is just and reasonable in all the circumstances.

Surrender of credit to other group companies

104R(1) This section applies if—

(a) a company is entitled to an R&D expenditure credit under this Chapter for an accounting period ("the surrender period"), and

(b) the company surrenders the whole or any part of the credit to another member of the group (the "relevant group member") under step 5 in section 104N(2).

(2) In this section an accounting period of a relevant group member is a "relevant accounting period" if there is a period ("the overlapping period") that is common to the accounting period and the surrender period.

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(3) The amount surrendered is to be applied in discharging any liability of the relevant group member to pay corporation tax for any relevant accounting period as follows—

Step 1 Take the proportion of the relevant accounting period included in the overlapping period. Apply that proportion to the amount of corporation tax payable by the relevant group member for the relevant accounting period.

Step 2 Take the proportion of the surrender period included in the overlapping period. Apply that proportion to the amount surrendered to the relevant group member.

Step 3 The amount given by step 2 is to be applied in discharging the amount given by step 1.

(4) If any of the amount surrendered is remaining after the operation of step 3 in subsection (3), it is to be treated for the purposes of section 104N as if it had not been surrendered to the relevant group member.

(5) The surrender by a company of the whole or any part of an R&D expenditure credit to another company under step 5 in section 104N(2)—

(a) is not to be taken into account in determining the profits or losses of either company for corporation tax purposes, and

(b) for corporation tax purposes is not to be regarded as the making of a distribution.

Restrictions on payment of R&D expenditure credit

104S (1) This section applies if—

(a) a company is entitled to an R&D expenditure credit for an accounting period under this Chapter, and

(b) an amount of the R&D expenditure credit is payable to the company under step 7 of section 104N(2).

(2) If at the time of claiming the credit the company was not a going concern (see section 104T)—

(a) the company is not entitled to be paid that amount, and

(b) that amount is extinguished.

(3) But if the company becomes a going concern on or before the last day on which an amendment of the company's tax return for the accounting period could be made under paragraph 15 of Schedule 18 to FA 1998, the company is entitled to be paid that amount.

(4) If the company's tax return for the accounting period is enquired into by an officer of Revenue and Customs—

(a) no payment of that amount need be made before the officer's enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998), but

(b) the officer may make a payment on a provisional basis of such amount as the officer thinks fit.

(5) No payment of that amount need be made if the company has outstanding PAYE and NIC liabilities for the period.

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(6) A company has outstanding PAYE and NIC liabilities for an accounting period if it has not paid to an officer of Revenue and Customs any amount that it is required to pay—

(a) under PAYE regulations, or

(b) in respect of Class 1 national insurance contributions,

for payment periods ending in the accounting period.

"Going concern"

104(1) For the purposes of section 104S(2) and (3) a company is a going concern if—

(a) its latest published accounts were prepared on a going concern basis, and

(b) nothing in those accounts indicates that they were only prepared on that basis because of an expectation that the company would receive R&D expenditure credits under this Chapter.

This is subject to subsection (2).

(2) A company is not a going concern at any time if it is in administration or liquidation at that time.

(3) For the purposes of this section a company is in administration if—

(a) it is in administration under Part 2 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or

(b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.

(4) For the purposes of this section a company is in liquidation if—

(a) it is in liquidation within the meaning of section 247 of that Act or Article 6 of that Order, or

(b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.

(5) Section 436(2) of the Companies Act 2006 (meaning of "publication" of documents) has effect for the purposes of this section.

Insurance companies

Insurance companies treated as large companies

104(1) This section applies if an insurance company—

(a) carries on life assurance business in an accounting period, and

(b) is a small or medium-sized enterprise in the period.

(2) For the purposes of this Chapter the company is to be treated as if it were not such an enterprise in the period (and accordingly is to be treated as a large company for the purposes of this Chapter).

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(3) Section 1119 (meaning of "small or medium-sized enterprise"), as it has effect for the purposes of this Chapter (see section 104Y), is to be read subject to this section.

Entitlement to credit: I minus E basis

104W (1) This section applies if—

(a) for an accounting period, an insurance company is charged to tax in respect of its basic life assurance and general annuity business in accordance with the I-E rules, and

(b) the calculation of the company's charge to tax for the period in respect of that business does not involve the calculation of any BLAGAB trade profit or loss of the company.

(2) Section 104A has effect as if—

(a) the reference in subsection (1) to calculating the profits of a trade were a reference to calculating the I-E profit of the basic life assurance and general annuity business carried on by the company, and

(b) the reference in subsection (2) to qualifying R&D expenditure allowable as a deduction in calculating the profits of a trade for an accounting period were a reference to any such expenditure that would be allowable as such a deduction if the company were to calculate its BLAGAB trade profit or loss for the period.

(3) Any receipt to be brought into account by virtue of this section is to be treated for the purposes of section 92 of FA 2012 (certain BLAGAB trading receipts to count as deemed I-E receipts) as if it had been taken into account in calculating the company's BLAGAB trade profit or loss for the period.

(4) In this section "BLAGAB trade profit" and "BLAGAB trade loss" have the meaning given by section 136 of FA 2012.

Group companies

R&D expenditure of group companies

104X (1) This section applies if—

(a) a company ("A") incurs expenditure on making a payment to another company ("B") in respect of activities contracted out by A to B,

(b) the activities would, if carried out by A, be research and development of A (taken together with A's other activities), and

(c) A and B are members of the same group at the time the payment is made.

(2) If the activities are undertaken by B itself, they are to be treated for the purposes of this Chapter (so far as it would not otherwise be the case) as research and development undertaken by B itself.

(3) If B makes a payment to a third party ("C"), any of the activities—

(a) contracted out by B to C, and

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(b) undertaken by C itself,

are to be treated for the purposes of this Chapter (so far as it would not otherwise be the case) as research and development contracted out by B to C.

Anti-avoidance

Artificially inflated claims for credit

104X(1) To the extent that a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it is to be disregarded for the purpose of determining for an accounting period R&D expenditure credits to which a company is entitled under this Chapter.

(2) Arrangements are entered into wholly or mainly for a "disqualifying purpose" if their main object, or one of their main objects, is to enable a company to obtain—

(a) an R&D expenditure credit under this Chapter to which it would not otherwise be entitled, or

(b) an R&D expenditure credit under this Chapter of a greater amount than that to which it would otherwise be entitled.

(3) In this section "arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable.

Interpretation

Interpretation

104Y(1) In this Chapter the following terms have the same meaning as they have in Part 13 (additional relief for expenditure on R&D)—

"large company" (see section 1122),

"payment period" (see section 1141),

"qualifying body" (see section 1142),

"relevant research and development" (see section 1042),

"research and development" (see section 1041),

"small or medium-sized enterprise" (see section 1119).

(2) The following sections apply for the purposes of this Chapter as they apply for the purposes of Part 13—

sections 1123 and 1124 (staffing costs),

sections 1125 and 1126 (software or consumable items),

sections 1127 to 1132 (qualifying expenditure on externally provided workers),

sections 1133 to 1136 (sub-contractor payments),

section 1138 ("subsidised expenditure"),

section 1140 (relevant payments to the subjects of a clinical trial).

(3) For the purposes of this Chapter two companies are members of the same group if they are members of the same group of companies for the purposes of Part 5 of CTA 2010 (group relief)."

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2 (1) Part 13 of CTA 2009 (additional relief for expenditure on research and development) is amended as follows.

(2) After section 1040 (and before the cross-heading "*Interpretation*") insert—

"**1040A R&D expenditure credits**

(1) For provision enabling a company carrying on a trade to make a claim for an amount in respect of expenditure on research and development (an "R&D expenditure credit") to be brought into account as a receipt in calculating the profits of the trade for an accounting period, see Chapter 6A of Part 3.

(2) For provision prohibiting a company from making a claim for an R&D expenditure credit and for relief under this Part in respect of the same expenditure, see section 104B."

(3) In section 1138 (meaning of "subsidised expenditure"), in subsection (3), omit the "and" at the end of paragraph (a) and after paragraph (b) insert—

"(c) R&D expenditure credits under Chapter 6A of Part 3."

3 In Schedule 4 to CTA 2009 (index of defined expressions), at the appropriate place insert—

"capped R&D expenditure (in Chapter 6A of Part 3)	section 104I";
"large company (in Chapter 6A of Part 3)	section 1122 (as applied by section 104Y)";
"payment period (in Chapter 6A of Part 3)	section 1141 (as applied by section 104Y)";
"qualifying body (in Chapter 6A of Part 3)	section 1142 (as applied by section 104Y)";
"qualifying expenditure on sub-contracted R&D (in Chapter 6A of Part 3)	section 104C";
"qualifying R&D expenditure (in Chapter 6A of Part 3)	section 104A";
"relevant payment to the subject of a clinical trial (in Chapter 6A of Part 3)	section 1140 (as applied by section 104Y)";
"relevant research and development (in Chapter 6A of Part 3)	section 1042 (as applied by section 104Y)";

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"research and development (in Chapter 6A of Part 3)	section 1041 (as applied by section 104Y)";	
"small or medium-sized enterprise (in Chapter 6A of Part 3)	section 1119 (as applied by section 104Y)";	
"software or consumable items (in Chapter 6A of Part 3)	section 1125 (as applied by section 104Y)";	
"staffing costs (in Chapter 6A of Part 3)	section 1123 (as applied by section 104Y)";	
"subsidised qualifying expenditure (in Chapter 6A of Part 3)	section 104F".	

PART 2

CONSEQUENTIAL AMENDMENTS

FA 1998

4 Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.

5 In paragraph 10(2) (other claims and elections to be included in return), after "first-year tax credits" insert " , R&D expenditure credits ".

6 (1) Paragraph 52 (recovery of excessive repayments etc) is amended as follows.

(2) In sub-paragraph (2), after paragraph (b) insert—

"(bza) R&D expenditure credit under Chapter 6A of Part 3 of the Corporation Tax Act 2009,".

(3) In sub-paragraph (5)—

(a) after paragraph (a) insert—

"(aa) an amount of R&D expenditure credit paid to a company for an accounting period,";

(b) after "paragraph (a)," insert " (aa), ".

7 (1) Part 9A (claims for R&D tax relief) is amended as follows.

(2) In paragraph 83A (introduction), for the words after "applies" substitute "to—

(a) claims for R&D expenditure credits under Chapter 6A of Part 3 of the Corporation Tax Act 2009, and

(b) claims for R&D tax relief under Part 13 of that Act."

(3) In paragraph 83C (content of claim), before "relief" insert " credit or ".

(4) Accordingly, the heading of the Part becomes " CLAIMS FOR R&D EXPENDITURE CREDITS OR R&D TAX RELIEF ".

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FA 2007

8 In Schedule 24 to FA 2007 (penalties for errors), in paragraph 28(fa) (definition of "corporation tax credit"), after sub-paragraph (i) insert—

"(ia) an R&D expenditure credit under Chapter 6A of Part 3 of CTA 2009,".

CTA 2010

9 Part 8A of CTA 2010 (profits arising from the exploitation of patents etc) is amended as follows.

10 In section 357CG (adjustments in calculating profits of trade), in subsection (4), after "amounts to be deducted are" insert "—

(a) the amount of any R&D expenditure credits (within the meaning of Chapter 6A of Part 3 of CTA 2009) brought into account in calculating the profits of the trade for the accounting period, and

(b)".

11 In section 357CK (deductions that are not routine deductions), in subsection (3)—

(a) in paragraph (a), the words from "for which" to the end become sub-paragraph (i);

(b) after that sub-paragraph insert ", or

(ii) in respect of which the company is entitled to an R&D expenditure credit for the accounting period under Chapter 6A of Part 3 of CTA 2009,";

(c) at the beginning of paragraph (b) insert " where the company obtains an additional deduction as mentioned in paragraph (a)(i), ".

PART 3

ABOLITION OF CERTAIN RELIEF UNDER PART 13 OF CTA 2009

Amendments of Part 13 of CTA 2009

12 Part 13 of CTA 2009 (additional relief for expenditure on research and development) is amended as follows.

13 (1) Section 1039 (overview of Part) is amended as follows.

(2) In subsection (3)—

(a) for "Chapters 2 to 4" substitute " Chapter 2 ";

(b) omit paragraphs (b) and (c).

(3) Omit subsection (4).

(4) In subsection (5)—

(a) for "Chapters 2 to 5" substitute " Chapter 2 ";

(b) omit paragraphs (b) and (c).

14 Omit Chapter 3 (relief for SMEs: R&D sub-contracted to SME).

15 Omit Chapter 4 (relief for SMEs: subsidised and capped expenditure on R&D).

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16 Omit Chapter 5 (relief for large companies).

17 (1) Section 1081 (insurance companies treated as large companies) is amended as follows.

(2) In subsection (2), for "Chapters 2 to 5" substitute " Chapter 2 ".

(3) Omit subsection (3).

18 Omit section 1082 (R&D expenditure of group companies).

19 Omit section 1083 (refunds of expenditure treated as income chargeable to tax).

20 (1) Section 1084 (artificially inflated claims for relief or tax credit) is amended as follows.

(2) In subsection (2)(a), for "Chapters 2 to 5" substitute " Chapter 2 ".

(3) In subsection (3)(a) and (b), for "Chapters 2 to 5" substitute " Chapter 2 ".

21 In section 1119 (meaning of "small or medium-sized enterprise"), in subsection (3), for "Chapters 2 to 5" substitute " Chapter 2 ".

22 In section 1133 (meaning of "sub-contractor" etc), in subsection (3), omit "section 1072(1)(a),".

Consequential amendments

23 In Schedule 4 to CTA 2009 (index of defined expressions), omit the following entries— " capped R&D expenditure (in Part 13) ", " qualifying Chapter 3 expenditure (in Part 13) ", " qualifying Chapter 4 expenditure (in Part 13) ", and " qualifying Chapter 5 expenditure (in Part 13) ".

24 (1) CTA 2010 is amended as follows.

(2) In section 312 (ring fence expenditure supplement: qualifying pre-commencement expenditure), omit subsections (8) and (9).

(3) In section 1173, in Part 1 of the table in subsection (2), omit the entry relating to section 1083(5) of CTA 2009.

(4) In Schedule 1, omit paragraph 671.

25 In section 13 of F(No.3)A 2010, omit subsections (4) and (5).

26 (1) FA 2012 is amended as follows.

(2) In section 78(3), omit the entry relating to section 1080(2) of CTA 2009.

(3) In Schedule 16, omit paragraph 190.

PART 4

COMMENCEMENT AND TRANSITIONAL PROVISION

27 The amendments made by Parts 1 and 2 of this Schedule have effect in relation to expenditure incurred on or after 1 April 2013.

28 Subject to paragraph 29, the amendments made by Part 3 of this Schedule have effect in relation to expenditure incurred on or after 1 April 2016.

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29 (1) If a company claims an R&D expenditure credit under section 104A of CTA 2009 for an accounting period beginning before 1 April 2016, the amendments made by Part 3 of this Schedule are treated as having effect in relation to expenditure incurred by the company on or after the first day of that accounting period.

(2) But in a case where the accounting period includes 1 April 2013, those amendments are treated as having effect in relation to expenditure incurred by the company on or after that day.

SCHEDULE 16

Section 36

TAX RELIEF FOR TELEVISION PRODUCTION

PART 1

AMENDMENTS OF CTA 2009

1 After Part 15 of CTA 2009 insert—

"**PART 15A**

TELEVISION PRODUCTION

CHAPTER 1

INTRODUCTION

Introductory

Overview of Part

1216AA(1) This Part is about television production.

(2) Sections 1216AA to 1216AJ contain definitions and other provisions about interpretation that apply for the purposes of this Part. See, in particular—

(a) section 1216AB, which explains what is meant by a "relevant programme", and

(b) section 1216AE, which explains how a company comes to be treated as the television production company in relation to a relevant programme.

(3) Chapter 2 is about the taxation of the activities of a television production company and includes—

(a) provision for the company's activities in relation to its relevant programme to be treated as a separate trade, and

(b) provision about the calculation of the profits and losses of that trade.

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(4) Chapter 3 is about relief (called "television tax relief") which can be given to a television production company—

(a) by way of additional deductions to be made in calculating the profits or losses of the company's separate trade, or

(b) by way of a payment (a "television tax credit") to be made on the company's surrender of losses from that trade.

(5) Chapter 4 is about the relief which can be given for losses made by a television production company in its separate trade, including provision for certain such losses to be transferred to other separate trades.

(6) Chapter 5 provides—

(a) for relief under Chapters 3 and 4 to be given on a provisional basis, and

(b) for such relief to be withdrawn if it turns out that conditions that must be met for such relief to be given are not actually met.

Meaning of "television programme", "relevant programme" etc

"Television programme"

1216AA(1) This section applies for the purposes of this Part.

(2) "Television programme" means any programme (with or without sounds) which—

(a) is produced to be seen on television, and

(b) consists of moving or still images or of legible text or of a combination of those things.

(3) In subsection (2) "television" includes the internet.

(4) Any television programmes that are commissioned together under the same agreement are treated as a single television programme.

(5) A television programme is completed when it is first in a form in which it can reasonably be regarded as ready for broadcast to the general public.

"Relevant programme"

1216AB(1) This section applies for the purposes of this Part.

(2) A television programme is a "relevant programme" if—

(a) conditions A and B are met, and

(b) in the case of a television programme that is not animation, conditions C and D are met.

(3) Condition A is that the programme is—

(a) a drama,

(b) a documentary, or

(c) animation.

For further provision about these terms, see section 1216AC.

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(4) Condition B is that the programme is not an excluded programme (see section 1216AD).

(5) Condition C is that the slot length in relation to the programme is greater than 30 minutes.

(6) Condition D is that the average core expenditure per hour of slot length in relation to the programme is not less than £1 million.

For the meaning of "core expenditure", see section 1216AG.

(7) "Slot length", in relation to a television programme, means the period of time which the programme is commissioned to fill.

Types of programme eligible to be relevant programmes

1216AC (1) This section applies for the purposes of this Part.

(2) A programme is a "drama" if—

(a) it consists wholly or mainly of a depiction of events,

(b) the events are depicted (wholly or mainly) by one or more persons performing, and

(c) the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, acting, singing or dancing, involves the playing of a role,

and for these purposes "drama" includes comedy.

(3) A drama or documentary that includes animation is to be treated as animation if the core expenditure on the completed animation constitutes at least 51% of the total core expenditure on the completed programme.

Excluded programmes

1216AD (1) For the purposes of this Part a television programme is an excluded programme if it falls within any of the Heads set out in the following subsections—

(a) subsection (2) (advertisements etc),

(b) subsection (3) (current affairs etc),

(c) subsection (4) (entertainment shows),

(d) subsection (5) (competitions),

(e) subsection (6) (live performances),

(f) subsection (7) (training programmes).

(2) Head 1 is any advertisement or other promotional programme.

(3) Head 2 is any news or current affairs programme or discussion programme.

(4) Head 3 is any quiz show, game show, panel show, variety show, chat show or similar entertainment.

(5) Head 4 is any programme consisting of or including—

(a) a competition or contest, or

(b) the results of a competition or contest.

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(6) Head 5 is any broadcast of a live event or of a theatrical or artistic performance given otherwise than for the purpose of being filmed.

(7) Head 6 is any programme produced for training purposes.

Other interpretation

Television production company

1216AE(1) For the purposes of this Part "television production company" is to be read in accordance with this section.

(2) There cannot be more than one television production company in relation to a relevant programme.

(3) A company is the television production company in relation to a relevant programme if the company (otherwise than in partnership)—

(a) is responsible—

(i) for pre-production, principal photography and post-production of the programme, and

(ii) for delivery of the programme,

(b) is actively engaged in production planning and decision-making during pre-production, principal photography and post-production, and

(c) directly negotiates, contracts and pays for rights, goods and services in relation to the programme.

(4) A company is the television production company in relation to a relevant programme that is a qualifying co-production if the company (otherwise than in partnership)—

(a) is a co-producer, and

(b) makes an effective creative, technical and artistic contribution to the programme.

(5) If there is more than one company meeting the description in subsection (3) or (4), the company that is most directly engaged in the activities referred to in that subsection is the television production company in relation to the relevant programme.

(6) If there is no company meeting the description in subsection (3) or (4), there is no television production company in relation to the relevant programme.

(7) A company may elect to be regarded as a company which does not meet the description in subsection (3) or (4).

(8) The election—

(a) must be made by the company by being included in its company tax return for an accounting period (and may be included in the return originally made or by amendment), and

(b) may be withdrawn by the company only by amending its company tax return for that accounting period.

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(9) The election has effect in relation to relevant programmes which commence principal photography in that or any subsequent accounting period.

"Television production activities" etc

1216AH (1) In this Part "television production activities", in relation to a relevant programme, means the activities involved in development, pre-production, principal photography and post-production of the programme.

(2) If all or any of the images in a relevant programme are generated by computer, references in this Part to principal photography are to be read as references to, or as including, the generation of those images.

(3) The Treasury may by regulations—

(a) amend subsections (1) and (2),

(b) provide that specified activities are or are not to be regarded as television production activities or as television production activities of a particular description, and

(c) provide that, in relation to a specified description of relevant programme, references to television production activities of a particular description are to be read as references to such activities as may be specified.

"Specified" means specified in the regulations.

"Production expenditure" and "core expenditure"

1216AG (1) This section applies for the purposes of this Part.

(2) "Production expenditure", in relation to a relevant programme, means expenditure on television production activities in connection with the programme.

(3) "Core expenditure", in relation to a relevant programme, means production expenditure on pre-production, principal photography and post-production of the programme.

"UK expenditure" etc

1216AH (1) In this Part "UK expenditure", in relation to a relevant programme, means expenditure on goods or services that are used or consumed in the United Kingdom.

(2) Any apportionment of expenditure as between UK expenditure and non-UK expenditure for the purposes of this Part is to be made on a just and reasonable basis.

(3) The Treasury may by regulations amend subsection (1).

"Qualifying co-production" and "co-producer"

1216AI In this Part—

(a) "qualifying co-production" means a relevant programme that is eligible to be certified as a British programme under section 1216CB

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as a result of an agreement between Her Majesty's Government in the United Kingdom and any other government, international organisation or authority, and

(b) "co-producer" means a person who is a co-producer for the purposes of the agreement mentioned in paragraph (a).

"Company tax return"

1216AJ In this Part "company tax return" has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1)).

CHAPTER 2

TAXATION OF ACTIVITIES OF TELEVISION PRODUCTION COMPANY

Separate programme trade

Activities of television production company treated as a separate trade

1216B(1) This Chapter applies for corporation tax purposes to a company that is the television production company in relation to a relevant programme.

(2) The company's activities in relation to the programme are treated as a trade separate from any other activities of the company (including any activities in relation to any other television programme).

(3) In this Chapter the separate trade is called "the separate programme trade".

(4) The company is treated as beginning to carry on the separate programme trade—

(a) when pre-production begins, or

(b) if earlier, when any income from the relevant programme is received by the company.

Calculation of profits or losses of separate programme trade

1216BA(1) This section applies for the purpose of calculating the profits or losses of the separate programme trade.

(2) For the first period of account the following are brought into account—

(a) as a debit, the costs of the relevant programme incurred (and represented in work done) to date, and

(b) as a credit, the proportion of the estimated total income from the relevant programme treated as earned at the end of that period.

(3) For subsequent periods of account the following are brought into account—

(a) as a debit, the difference between the amount of the costs of the relevant programme incurred (and represented in work done) to date and the corresponding amount for the previous period, and

(b) as a credit, the difference between the proportion of the estimated total income from the relevant programme treated as earned at the

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end of that period and the corresponding amount for the previous period.

(4) The proportion of the estimated total income treated as earned at the end of a period of account is given by—

$$\frac{C}{T} \times I$$

where—

C is the total to date of costs incurred (and represented in work done),

T is the estimated total cost of the relevant programme, and

I is the estimated total income from the relevant programme.

Supplementary

Income from the relevant programme

1216BB(1) References in this Chapter to income from the relevant programme are to any receipts by the company in connection with the making or exploitation of the programme.

(2) This includes—

(a) receipts from the sale of the programme or rights in it,

(b) royalties or other payments for use of the programme or aspects of it (for example, characters or music),

(c) payments for rights to produce games or other merchandise, and

(d) receipts by the company by way of a profit share agreement.

(3) Receipts that (apart from this subsection) would be regarded as of a capital nature are treated as being of a revenue nature.

Costs of the relevant programme

1216BC(1) References in this Chapter to the costs of the relevant programme are to expenditure incurred by the company on—

(a) television production activities in connection with the programme, or

(b) activities with a view to exploiting the programme.

(2) This is subject to any provision of the Corporation Tax Acts prohibiting the making of a deduction, or restricting the extent to which a deduction is allowed, in calculating the profits of a trade.

(3) Expenditure that (apart from this subsection) would be regarded as of a capital nature by reason only of being incurred on the creation of an asset (the relevant programme) is treated as being of a revenue nature.

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When costs are taken to be incurred

1216BD (1) For the purposes of this Chapter costs are incurred when they are represented in the state of completion of the work in progress.

(2) Accordingly—

(a) payments in advance for work to be done are ignored until the work has been carried out, and

(b) deferred payments are recognised to the extent that the work is represented in the state of completion.

(3) The costs incurred on the relevant programme are taken to include an amount that has not been paid only if it is the subject of an unconditional obligation to pay.

(4) If an obligation is linked to income being earned from the relevant programme, no amount is to be brought into account in respect of the costs of the obligation unless an appropriate amount of income is or has been brought into account.

Pre-trading expenditure

1216BE (1) This section applies if, before the company began to carry on the separate programme trade, it incurred expenditure on development of the relevant programme.

(2) The expenditure may be treated as expenditure of the separate programme trade and as if incurred immediately after the company began to carry on that trade.

(3) If expenditure so treated has previously been taken into account for other tax purposes, the company must amend any relevant company tax return accordingly.

(4) Any amendment or assessment necessary to give effect to subsection (3) may be made despite any limitation on the time within which an amendment or assessment may normally be made.

Estimates

1216BF Estimates for the purposes of this Chapter must be made as at the balance sheet date for each period of account, on a just and reasonable basis taking into consideration all relevant circumstances.

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CHAPTER 3

TELEVISION TAX RELIEF

Introductory

Availability and overview of television tax relief

1216C(1) This Chapter applies for corporation tax purposes to a company that is the television production company in relation to a relevant programme.

(2) Relief under this Chapter ("television tax relief") is available to the company if the conditions specified in the following sections are met in relation to the programme—

(a) section 1216CA (intended for broadcast),

(b) section 1216CB (British programme), and

(c) section 1216CE (UK expenditure).

(3) Television tax relief is given by way of—

(a) additional deductions (see sections 1216CF and 1216CG), and

(b) television tax credits (see sections 1216CH to 1216CJ).

(4) But television tax relief is not available in respect of any expenditure if—

(a) the company is entitled to an R&D expenditure credit under Chapter 6A of Part 3 in respect of the expenditure, or

(b) the company has obtained relief under Part 13 (additional relief for expenditure on research and development) in respect of the expenditure.

(5) Sections 1216CK to 1216CN contain provision about unpaid costs, artificially inflated claims and confidentiality of information.

(6) In this Chapter "the separate programme trade" means the company's separate trade in relation to the relevant programme (see section 1216B).

(7) See Schedule 18 to FA 1998 (in particular, Part 9D) for information about the procedure for making claims for television tax relief.

"Intended for broadcast"

Intended for broadcast

1216CA(1) The relevant programme must be intended for broadcast to the general public.

(2) Whether this condition is met is determined when television production activities begin, so that—

(a) where a relevant programme is originally intended for broadcast, this condition continues to be met even if that ceases to be the intention, and

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(b) where a relevant programme is not originally intended for broadcast, this condition is not met even if that becomes the intention.

British programmes

British programme

1216CB(1) The relevant programme must be certified by the Secretary of State as a British programme.

(2) The Secretary of State, with the approval of the Treasury, may by regulations specify conditions which must be met by a relevant programme before it may be certified as a British programme.

These conditions are known as the "cultural test".

(3) Regulations under subsection (2) may—

(a) specify different conditions in relation to different descriptions of relevant programme,

(b) provide that specified descriptions of programme may not be certified as a British programme, and

(c) enable the Secretary of State to direct that any provision made by virtue of paragraph (b) does not apply to a programme that meets specified conditions.

"Specified" means specified in the regulations.

(4) Regulations under subsection (2) are to be made by statutory instrument.

(5) A statutory instrument containing regulations under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.

(6) Sections 1216CC and 1216CD contain further provision about certification of programmes as British programmes, including provision about applications for, and withdrawal of, certification.

Applications for certification

1216CC(1) An application for certification of a relevant programme as a British programme is to be made to the Secretary of State by the television production company.

(2) The application may be for an interim or final certificate.

(3) An interim certificate is a certificate that—

(a) is granted before the programme is completed, and

(b) states that the programme, if completed in accordance with the proposals set out in the application, will be a British programme.

(4) A final certificate is a certificate that—

(a) is granted after the programme is completed, and

(b) states that the programme is a British programme.

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(5) The applicant must provide the Secretary of State with any documents or information which the Secretary of State requires in order to determine the application.

(6) The Secretary of State may require information provided for the purposes of the application to be accompanied by a statutory declaration, made by the person providing it, as to the truth of the information.

(7) The Secretary of State may by regulations make provision supplementing this section, including—

(a) provision about the form of applications,

(b) provision about the particulars and evidence necessary for satisfying the Secretary of State that a programme meets the cultural test, and

(c) provision that any statutory declaration which is required by subsection (6) to be made by any person may be made on the person's behalf by such person as is specified in the regulations.

(8) Regulations under subsection (7) are to be made by statutory instrument.

(9) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of the House of Commons.

Certification and withdrawal of certification

1216CD(1) If the Secretary of State is satisfied that the requirements are met for interim or final certification of a relevant programme as a British programme, the Secretary of State must certify the programme accordingly.

(2) If the Secretary of State is not satisfied that those requirements are met, the Secretary of State must refuse the application.

(3) An interim certificate—

(a) may be given subject to conditions, and (unless the Secretary of State directs otherwise) is of no effect if the conditions are not met, and

(b) may be expressed to expire after a specified period, and (unless the Secretary of State directs otherwise) ceases to have effect at the end of that period.

(4) An interim certificate ceases to have effect when a final certificate is issued.

(5) If it appears to the Secretary of State that a relevant programme certified under this Part ought not to have been certified, the Secretary of State may revoke its certification.

(6) Unless the Secretary of State directs otherwise, a certificate that is revoked is treated as never having had effect.

UK expenditure

UK expenditure

1216CE(1) At least 25% of the core expenditure on the relevant programme incurred—

(a) in the case of a British programme that is not a qualifying co-production, by the company, and

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(b) in the case of a qualifying co-production, by the co-producers,

must be UK expenditure.

(2) The Treasury may by regulations amend the percentage specified in subsection (1).

Additional deductions

Additional deduction for qualifying expenditure

1216CF1 (1) If television tax relief is available to the company, it may (on making a claim) make an additional deduction in respect of qualifying expenditure on the relevant programme.

(2) The deduction is made in calculating the profit or loss of the separate programme trade.

(3) In this Chapter "qualifying expenditure" means core expenditure on the relevant programme that falls to be taken into account under Chapter 2 in calculating the profit or loss of the separate programme trade for tax purposes.

(4) The Treasury may by regulations—

(a) amend subsection (3), and

(b) provide that expenditure of a specified description is or is not to be regarded as qualifying expenditure.

Amount of additional deduction

1216CG1 (1) For the first period of account during which the separate programme trade is carried on, the amount of the additional deduction is—

$$E$$

where E is—

a so much of the qualifying expenditure as is UK expenditure, or

b if less, 80% of the total amount of qualifying expenditure.

(2) For any period of account after the first, the amount of the additional deduction is given by—

$$E - P$$

where—

E is—

(a) so much of the qualifying expenditure incurred to date as is UK expenditure, or

(b) if less, 80% of the total amount of qualifying expenditure incurred to date, and

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P is the total amount of the additional deductions given for previous periods.

(3) The Treasury may by regulations amend this section.

Television tax credits

Television tax credit claimable if company has surrenderable loss

1216CH1 (1) If television tax relief is available to the company, it may claim a television tax credit for an accounting period in which it has a surrenderable loss.

(2) The company's surrenderable loss in an accounting period is—

(a) the company's available loss for the period in the separate programme trade (see subsection (3)), or

(b) if less, the available qualifying expenditure for the period (see subsections (5) and (6)).

(3) The company's available loss for an accounting period is given by—

$$L + \text{RUL}$$

where—

L is the amount of the company's loss for the period in the separate programme trade, and

RUL is the amount of any relevant unused loss of the company (see subsection (4)).

(4) The "relevant unused loss" of a company is so much of any available loss of the company for the previous accounting period as has not been—

(a) surrendered under section 1216CI(1), or

(b) carried forward under section 45 of CTA 2010 and set against profits of the separate programme trade.

(5) For the first period of account during which the separate programme trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1216CG(1).

(6) For any period of account after the first, the available qualifying expenditure is given by—

$$E - S$$

where—

E is the amount that is E for that period for the purposes of section 1216CG(2), and

S is the total amount previously surrendered under section 1216CI(1).

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(7) If a period of account of the separate programme trade does not coincide with an accounting period, any necessary apportionments are to be made by reference to the number of days in the periods concerned.

Surrendering of loss and amount of television tax credit

1216C(1) The company may surrender the whole or part of its surrenderable loss in an accounting period.

(2) If the company surrenders the whole or part of that loss, the amount of the television tax credit to which it is entitled for the accounting period is 25% of the amount of the loss surrendered.

(3) The company's available loss for the accounting period is reduced by the amount surrendered.

Payment in respect of television tax credit

1216C(1) If the company—

(a) is entitled to a television tax credit for a period, and

(b) makes a claim,

the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") must pay to the company the amount of the credit.

(2) An amount payable in respect of—

(a) a television tax credit, or

(b) interest on a television tax credit under section 826 of ICTA,

may be applied in discharging any liability of the company to pay corporation tax.

To the extent that it is so applied the Commissioners' liability under subsection (1) is discharged.

(3) If the company's company tax return for the accounting period is enquired into by the Commissioners, no payment in respect of a television tax credit for that period need be made before the Commissioners' enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998).

In those circumstances the Commissioners may make a payment on a provisional basis of such amount as they consider appropriate.

(4) No payment need be made in respect of a television tax credit for an accounting period before the company has paid to the Commissioners any amount that it is required to pay for payment periods ending in that accounting period—

(a) under PAYE regulations,

(b) under section 966 of ITA 2007 (visiting performers), or

(c) in respect of Class 1 national insurance contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

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(5) A payment in respect of a television tax credit is not income of the company for any tax purpose.

Miscellaneous

No account to be taken of amount if unpaid

1216CK(1) In determining for the purposes of this Chapter the amount of costs incurred on a relevant programme at the end of a period of account, ignore any amount that has not been paid 4 months after the end of that period.

(2) This is without prejudice to the operation of section 1216BD (when costs are taken to be incurred).

Artificially inflated claims for additional deduction or tax credit

1216CL(1) So far as a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it is to be ignored in determining for any period—

(a) any additional deduction which a company may make under this Chapter, and

(b) any television tax credit to be given to a company.

(2) Arrangements are entered into wholly or mainly for a disqualifying purpose if their main object, or one of their main objects, is to enable a company to obtain—

(a) an additional deduction under this Chapter to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled, or

(b) a television tax credit to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled.

(3) "Arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable.

Confidentiality of information

1216CM(1) Section 18(1) of the Commissioners for Revenue and Customs Act 2005 (restriction on disclosure by Revenue and Customs officials) does not prevent disclosure to the Secretary of State for the purposes of the Secretary of State's functions under any of the provisions listed in subsection (2).

(2) The provisions referred to in subsection (1) are—

(a) sections 1216CB to 1216CD (certification of relevant programmes as British),

(b) sections 1217CB to 1217CD (certification of video games as British), and

(c) Schedule 1 to the Films Act 1985 (certification of films as British).

(3) Information so disclosed may be disclosed to the British Film Institute.

(4) The Treasury may by order amend subsection (3)—

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(a) so as to substitute for the person or body specified in that subsection a different person or body, or

(b) in consequence of a change in the name of the person or body so specified.

(5) A person to whom information is disclosed under subsection (1) or (3) may not otherwise disclose it except—

(a) for the purposes of the Secretary of State's functions under any of the provisions listed in subsection (2),

(b) if the disclosure is authorised by an enactment,

(c) in pursuance of an order of a court,

(d) for the purposes of a criminal investigation or legal proceedings (whether civil or criminal) connected with the operation of any of Parts 15 to 15B of this Act or Schedule 1 to the Films Act 1985,

(e) with the consent of the Commissioners for Her Majesty's Revenue and Customs, or

(f) with the consent of each person to whom the information relates.

Wrongful disclosure

1216CN(1) A person ("X") commits an offence if—

(a) X discloses revenue and customs information relating to a person (as defined in section 19(2) of the Commissioners for Revenue and Customs Act 2005),

(b) the identity of the person to whom the information relates is specified in the disclosure or can be deduced from it, and

(c) the disclosure contravenes section 1216CM(5).

(2) If a person ("Y") is charged with an offence under subsection (1), it is a defence for Y to prove that Y reasonably believed—

(a) that the disclosure was lawful, or

(b) that the information had already and lawfully been made available to the public.

(3) A person guilty of an offence under subsection (1) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or

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

(4) A prosecution for an offence under subsection (1) may be brought in England and Wales only—

(a) by the Director of Revenue and Customs Prosecutions, or

(b) with the consent of the Director of Public Prosecutions.

(5) A prosecution for an offence under subsection (1) may be brought in Northern Ireland only—

(a) by the Commissioners for Her Majesty's Revenue and Customs, or

(b) with the consent of the Director of Public Prosecutions for Northern Ireland.

(6) In the application of this section—

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(a) in England and Wales, in relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003, or

(b) in Northern Ireland,

the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.

CHAPTER 4

PROGRAMME LOSSES

Application of sections 1216DA and 1216DB

1216D(1) Sections 1216DA and 1216DB apply to a company that is the television production company in relation to a relevant programme.

(2) In those sections—

"the completion period" means the accounting period of the company—

(a) in which the relevant programme is completed, or

(b) if the company does not complete the relevant programme, in which it abandons television production activities in relation to the programme,

"loss relief" includes any means by which a loss might be used to reduce the amount in respect of which the company, or any other person, is chargeable to tax,

"pre-completion period" means an accounting period of the company before the completion period, and

"the separate programme trade" means the company's separate trade in relation to the relevant programme (see section 1216B).

Restriction on use of losses while programme in production

1216DA(1) This section applies if in a pre-completion period a loss is made in the separate programme trade.

(2) The loss is not available for loss relief except to the extent that it may be carried forward under section 45 of CTA 2010 to be set against profits of the separate programme trade in a subsequent period.

Use of losses in later periods

1216DB(1) This section applies to the following accounting periods of the company ("relevant later periods")—

(a) the completion period, and

(b) any subsequent accounting period during which the separate programme trade continues.

(2) Subsection (3) applies if a loss made in the separate programme trade is carried forward under section 45 of CTA 2010 from a pre-completion period to a relevant later period.

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(3) So much (if any) of the loss as is not attributable to television tax relief (see subsection (6)) may be treated for the purposes of loss relief as if it were a loss made in the period to which it is carried forward.

(4) Subsection (5) applies if in a relevant later period a loss is made in the separate programme trade.

(5) The amount of the loss that may be—

(a) deducted from total profits of the same or an earlier period under section 37 of CTA 2010, or

(b) surrendered as group relief under Part 5 of that Act,

is restricted to the amount (if any) that is not attributable to television tax relief (see subsection (6)).

(6) The amount of a loss in any period that is attributable to television tax relief is calculated by deducting from the total amount of the loss the amount there would have been if there had been no additional deduction under Chapter 3 in that or any earlier period.

(7) This section does not apply to a loss to the extent that it is carried forward or surrendered under section 1216DC.

Terminal losses

1216DC (1) This section applies if—

(a) a company ("company A") is the television production company in relation to a qualifying programme,

(b) company A ceases to carry on its separate trade in relation to that programme ("trade X") (see section 1216B), and

(c) if company A had not ceased to carry on trade X, it could have carried forward an amount under section 45 of CTA 2010 to be set against profits of trade X in a later period ("the terminal loss").

(2) If on cessation of trade X company A—

(a) is the television production company in relation to another qualifying programme, and

(b) is carrying on its separate trade in relation to that programme ("trade Y"),

it may (on making a claim) make an election under subsection (3).

(3) The election is to have the terminal loss (or a part of it) treated as if it were a loss brought forward under section 45 of CTA 2010 to be set against the profits of trade Y in the first accounting period beginning after the cessation and so on.

(4) Subsection (5) applies if on cessation of trade X—

(a) there is another company ("company B") that is the television production company in relation to a qualifying programme,

(b) company B is carrying on its separate trade in relation to that programme ("trade Z"), and

(c) company B is in the same group as company A for the purposes of Part 5 of CTA 2010 (group relief).

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(5) Company A may surrender the terminal loss (or a part of it) to company B.

(6) On the making of a claim by company B the amount surrendered is treated as if it were a loss brought forward by company B under section 45 of CTA 2010 to be set against the profits of trade Z of the first accounting period of that company beginning after the cessation and so on.

(7) The Treasury may, in relation to the surrender of a loss under subsection (5) and the resulting claim under subsection (6), make provision by regulations corresponding, subject to such adaptations or other modifications as appear to them to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).

(8) "Qualifying programme" means a relevant programme in relation to which the conditions for television tax relief are met (see 1216C(2)).

CHAPTER 5

PROVISIONAL ENTITLEMENT TO RELIEF

Introduction

1216E (1) In this Chapter—

"the company" means the television production company in relation to a relevant programme,

"the completion period" means the accounting period of the company—

(a) in which the relevant programme is completed, or

(b) if the company does not complete the relevant programme, in which it abandons television production activities in relation to it,

"interim accounting period" means any earlier accounting period of the company during which television production activities are carried on in relation to the relevant programme,

"interim certificate" and "final certificate" have the meaning given by section 1216CC,

"the separate programme trade" means the company's separate trade in relation to the relevant programme (see section 1216B), and

"special television relief" means—

(a) television tax relief, or

(b) relief under section 1216DC (transfer of terminal losses from one relevant programme to another).

(2) The company's company tax return for the completion period must state that the relevant programme has been completed or that the company has abandoned television production activities in relation to it (as the case may be).

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Certification as a British programme

1216EA (1) The company is not entitled to special television relief for an interim accounting period unless its company tax return for the period is accompanied by an interim certificate.

(2) If an interim certificate ceases to be in force (otherwise than on being superseded by a final certificate) or is revoked, the company—

(a) is not entitled to special television relief for any period for which its entitlement depended on the certificate, and

(b) must amend accordingly its company tax return for any such period.

(3) If the relevant programme is completed by the company—

(a) its company tax return for the completion period must be accompanied by a final certificate,

(b) if that requirement is met, the final certificate has effect for the completion period and for any interim accounting period, and

(c) if that requirement is not met, the company—

(i) is not entitled to special television relief for any period, and

(ii) must amend accordingly its company tax return for any period for which such relief was claimed.

(4) If the company abandons television production activities in relation to the relevant programme—

(a) its company tax return for the completion period may be accompanied by an interim certificate, and

(b) the abandonment of television production activities does not affect any entitlement to special television relief in that or any previous accounting period.

(5) If a final certificate is revoked, the company—

(a) is not entitled to special television relief for any period, and

(b) must amend accordingly its company tax return for any period for which such relief was claimed.

The UK expenditure condition

1216EB (1) The company is not entitled to special television relief for an interim accounting period unless—

(a) its company tax return for the period states the amount of planned core expenditure on the relevant programme that is UK expenditure, and

(b) that amount is such as to indicate that the condition in section 1216CE (the UK expenditure condition) will be met on completion of the programme.

If those requirements are met, the company is provisionally treated in relation to that period as if that condition was met.

(2) If such a statement is made but it subsequently appears that the condition will not be met on completion of the programme, the company—

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(a) is not entitled to special television relief for any period for which its entitlement depended on such a statement, and

(b) must amend accordingly its company tax return for any such period.

(3) When the relevant programme is completed or the company abandons television production activities in relation to it (as the case may be), the company's company tax return for the completion period must be accompanied by a final statement of the amount of core expenditure on the programme that is UK expenditure.

(4) If that statement shows that the condition in section 1216CE is not met, the company—

(a) is not entitled to special television relief for any period, and

(b) must amend accordingly its company tax return for any period for which such relief was claimed.

Time limit for amendments and assessments

1216EC Any amendment or assessment necessary to give effect to the provisions of this Chapter may be made despite any limitation on the time within which an amendment or assessment may normally be made."

Commencement Information

I3 Sch. 16 para. 1 in force at 19.7.2013 for the purposes of the amendment made by that paragraph, so far as it is not already in force by S.I. 2013/1817, **art. 2(1)**

PART 2

COMMENCEMENT

2 (1) Any power conferred on the Secretary of State or the Treasury by virtue of this Schedule to make regulations or an order comes into force on the day on which this Act is passed.

(2) So far as not already brought into force by sub-paragraph (1), the amendments made by this Schedule come into force in accordance with provision contained in an order made by the Treasury.

(3) An order under sub-paragraph (2)—

(a) may make different provision for different purposes;

(b) may make such adaptations of Part 15A of CTA 2009 as appear to be necessary or expedient in consequence of other provisions of this Act not yet having come into force.

3 (1) The amendments made by this Schedule have effect in relation to accounting periods beginning on or after 1 April 2013.

(2) Sub-paragraph (3) applies where a company has an accounting period beginning before 1 April 2013 and ending on or after that date ("the straddling period").

(3) For the purposes of Part 15A of CTA 2009—

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(a) so much of the straddling period as falls before 1 April 2013, and so much of that period as falls on or after that date, are treated as separate accounting periods, and

(b) any amounts brought into account for the purposes of calculating for corporation tax purposes the profits of any trade of the company for the straddling period are apportioned to the two separate accounting periods on such basis as is just and reasonable.

SCHEDULE 17

Section 36

TAX RELIEF FOR VIDEO GAMES DEVELOPMENT

PART 1

AMENDMENTS OF CTA 2009

1 After Part 15A of CTA 2009 (inserted by Schedule 16 above) insert—

"**PART 15B**

VIDEO GAMES DEVELOPMENT

CHAPTER 1

INTRODUCTION

Introductory

Overview of Part

1217A(1) This Part is about video games development.

(2) Sections 1217AA to 1217AF contain definitions and other provisions about interpretation that apply for the purposes of this Part. See, in particular—

(a) section 1217AA, which contains provision about the meaning of "video game", and

(b) section 1217AB, which explains how a company comes to be treated as the video games development company in relation to a video game.

(3) Chapter 2 is about the taxation of the activities of a video games development company and includes—

(a) provision for the company's activities in relation to its video game to be treated as a separate trade, and

(b) provision about the calculation of the profits and losses of that trade.

(4) Chapter 3 is about relief (called "video games tax relief") which can be given to a video games development company—

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(a) by way of additional deductions to be made in calculating the profits or losses of the company's separate trade, or

(b) by way of a payment (a "video game tax credit") to be made on the company's surrender of losses from that trade.

(5) Chapter 4 is about the relief which can be given for losses made by a video games development company in its separate trade, including provision for certain such losses to be transferred to other separate trades.

(6) Chapter 5 provides—

(a) for relief under Chapters 3 and 4 to be given on a provisional basis, and

(b) for such relief to be withdrawn if it turns out that conditions that must be met for such relief to be given are not actually met.

Interpretation

"Video game" etc

1217AA(1) This section applies for the purposes of this Part.

(2) "Video game" does not include—

(a) anything produced for advertising or promotional purposes, or

(b) anything produced for the purposes of gambling (within the meaning of the Gambling Act 2005).

(3) References to a video game include the game's soundtrack.

(4) A video game is completed when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and made available to the general public.

Video games development company

1217AB(1) For the purposes of this Part "video games development company" is to be read in accordance with this section.

(2) There cannot be more than one video games development company in relation to a video game.

(3) A company is the video games development company in relation to a video game if the company (otherwise than in partnership)—

(a) is responsible for designing, producing and testing the video game,

(b) is actively engaged in planning and decision-making during the design, production and testing of the video game, and

(c) directly negotiates, contracts and pays for rights, goods and services in relation to the video game.

(4) If there is more than one company meeting the description in subsection (3), the company that is most directly engaged in the activities referred to in that subsection is the video games development company in relation to the video game.

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(5) If there is no company meeting the description in subsection (3), there is no video games development company in relation to the video game.

(6) A company may elect to be regarded as a company which does not meet the description in subsection (3).

(7) The election—

(a) must be made by the company by being included in its company tax return for an accounting period (and may be included in the return originally made or by amendment), and

(b) may be withdrawn by the company only by amending its company tax return for that accounting period.

(8) The election has effect in relation to video games which begin to be produced in that or any subsequent accounting period.

"Video game development activities" etc

1217AC(1) In this Part "video game development activities", in relation to a video game, means the activities involved in designing, producing and testing the video game.

(2) The Treasury may by regulations—

(a) amend subsection (1),

(b) provide that specified activities are or are not to be regarded as video game development activities or as video game development activities of a particular description, and

(c) provide that, in relation to a specified description of video game, references to video game development activities of a particular description are to be read as references to such activities as may be specified.

"Specified" means specified in the regulations.

"Core expenditure"

1217AD(1) In this Part "core expenditure", in relation to a video game, means expenditure on designing, producing and testing the video game.

(2) But the following descriptions of expenditure are not to be regarded as core expenditure for the purposes of this Part—

(a) any expenditure incurred in designing the initial concept for a video game;

(b) any expenditure incurred in debugging a completed video game or carrying out any maintenance in connection with such a video game.

"UK expenditure" etc

1217AE(1) In this Part "UK expenditure", in relation to a video game, means expenditure on goods or services that are used or consumed in the United Kingdom.

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(2) Any apportionment of expenditure as between UK expenditure and non-UK expenditure for the purposes of this Part is to be made on a just and reasonable basis.

(3) The Treasury may by regulations amend subsection (1).

"Company tax return"

1217AF In this Part "company tax return" has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1)).

CHAPTER 2

TAXATION OF ACTIVITIES OF VIDEO GAMES DEVELOPMENT COMPANY

Separate video game trade

Activities of video games development company treated as a separate trade

1217B (1) This Chapter applies for corporation tax purposes to a company that is the video games development company in relation to a video game.

(2) The company's activities in relation to the video game are treated as a trade separate from any other activities of the company (including any activities in relation to any other video game).

(3) In this Chapter the separate trade is called "the separate video game trade".

(4) The company is treated as beginning to carry on the separate video game trade—

(a) when the design of the video game begins, or

(b) if earlier, when any income from the video game is received by the company.

Calculation of profits or losses of separate video game trade

1217BA (1) This section applies for the purpose of calculating the profits or losses of the separate video game trade.

(2) For the first period of account the following are brought into account—

(a) as a debit, the costs of the video game incurred (and represented in work done) to date, and

(b) as a credit, the proportion of the estimated total income from the video game treated as earned at the end of that period.

(3) For subsequent periods of account the following are brought into account—

(a) as a debit, the difference between the amount of the costs of the video game incurred (and represented in work done) to date and the corresponding amount for the previous period, and

(b) as a credit, the difference between the proportion of the estimated total income from the video game treated as earned at the end of that period and the corresponding amount for the previous period.

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(4) The proportion of the estimated total income treated as earned at the end of a period of account is given by—

$$\frac{C}{T} \times I$$

where—

C is the total to date of costs incurred (and represented in work done),

T is the estimated total cost of the video game, and

I is the estimated total income from the video game.

Supplementary

Income from the video game

1217BB(1) References in this Chapter to income from the video game are to any receipts by the company in connection with the production or exploitation of the video game.

(2) This includes—

(a) receipts from the sale of the video game or rights in it,

(b) royalties or other payments for use of the video game or aspects of it (for example, characters or music),

(c) payments for rights to produce games or other merchandise, and

(d) receipts by the company by way of a profit share agreement.

(3) Receipts that (apart from this subsection) would be regarded as of a capital nature are treated as being of a revenue nature.

Costs of the video game

1217BC(1) References in this Chapter to the costs of the video game are to expenditure incurred by the company on—

(a) video game development activities in connection with the video game, or

(b) activities with a view to exploiting the video game.

(2) This is subject to any provision of the Corporation Tax Acts prohibiting the making of a deduction, or restricting the extent to which a deduction is allowed, in calculating the profits of a trade.

(3) Expenditure that (apart from this subsection) would be regarded as of a capital nature by reason only of being incurred on the creation of an asset (the video game) is treated as being of a revenue nature.

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When costs are taken to be incurred

1217BD (1) For the purposes of this Chapter costs are incurred when they are represented in the state of completion of the work in progress.

(2) Accordingly—

(a) payments in advance for work to be done are ignored until the work has been carried out, and

(b) deferred payments are recognised to the extent that the work is represented in the state of completion.

(3) The costs incurred on the video game are taken to include an amount that has not been paid only if it is the subject of an unconditional obligation to pay.

(4) If an obligation is linked to income being earned from the video game, no amount is to be brought into account in respect of the costs of the obligation unless an appropriate amount of income is or has been brought into account.

Estimates

1217BE Estimates for the purposes of this Chapter must be made as at the balance sheet date for each period of account, on a just and reasonable basis taking into consideration all relevant circumstances.

CHAPTER 3

VIDEO GAMES TAX RELIEF

Introductory

Availability and overview of video games tax relief

1217C (1) This Chapter applies for corporation tax purposes to a company that is the video games development company in relation to a video game.

(2) Relief under this Chapter ("video games tax relief") is available to the company if the conditions specified in the following sections are met in relation to the video game—

(a) section 1217CA (intended for supply),

(b) section 1217CB (British video game), and

(c) section 1217CE (UK expenditure).

(3) Video games tax relief is given by way of—

(a) additional deductions (see sections 1217CF and 1217CG), and

(b) video game tax credits (see sections 1217CH to 1217CJ).

(4) But video games tax relief is not available in respect of any expenditure if—

(a) the company is entitled to an R&D expenditure credit under Chapter 6A of Part 3 in respect of the expenditure, or

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(b) the company has obtained relief under Part 13 (additional relief for expenditure on research and development) in respect of the expenditure.

(5) Sections 1217CK to 1217CN contain provision about unpaid costs, artificially inflated claims and confidentiality of information.

(6) In this Chapter "the separate video game trade" means the company's separate trade in relation to the video game (see section 1217B).

(7) See Schedule 18 to FA 1998 (in particular, Part 9D) for information about the procedure for making claims for video games tax relief.

"Intended for supply"

Intended for supply

1217CA(1) The video game must be intended for supply to the general public.

(2) Whether this condition is met is determined when video game production activities begin, so that—

(a) where a video game is originally intended for supply, this condition continues to be met even if that ceases to be the intention, and

(b) where a video game is not originally intended for supply, this condition is not met even if that becomes the intention.

British video games

British video game

1217CB(1) The video game must be certified by the Secretary of State as a British video game.

(2) The Secretary of State, with the approval of the Treasury, may by regulations specify conditions which must be met by a video game before it may be certified as a British video game.

These conditions are known as the "cultural test".

(3) Regulations under subsection (2) may—

(a) specify different conditions in relation to different descriptions of video game,

(b) provide that specified descriptions of video game may not be certified as a British video game, and

(c) enable the Secretary of State to direct that any provision made by virtue of paragraph (b) does not apply to a video game that meets specified conditions.

"Specified" means specified in the regulations.

(4) Regulations under subsection (2) are to be made by statutory instrument.

(5) A statutory instrument containing regulations under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.

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(6) Sections 1217CC and 1217CD contain further provision about certification of video games as British video games, including provision about applications for, and withdrawal of, certification.

Applications for certification

1217CC(1) An application for certification of a video game as a British video game is to be made to the Secretary of State by the video games development company.

(2) The application may be for an interim or final certificate.

(3) An interim certificate is a certificate that—

(a) is granted before the video game is completed, and

(b) states that the video game, if completed in accordance with the proposals set out in the application, will be a British video game.

(4) A final certificate is a certificate that—

(a) is granted after the video game is completed, and

(b) states that the video game is a British video game.

(5) The applicant must provide the Secretary of State with any documents or information which the Secretary of State requires in order to determine the application.

(6) The Secretary of State may require information provided for the purposes of the application to be accompanied by a statutory declaration, made by the person providing it, as to the truth of the information.

(7) The Secretary of State may by regulations make provision supplementing this section, including—

(a) provision about the form of applications,

(b) provision about the particulars and evidence necessary for satisfying the Secretary of State that a video game meets the cultural test, and

(c) provision that any statutory declaration which is required by subsection (6) to be made by any person may be made on the person's behalf by such person as is specified in the regulations.

(8) Regulations under subsection (7) are to be made by statutory instrument.

(9) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of the House of Commons.

Certification and withdrawal of certification

1217CD(1) If the Secretary of State is satisfied that the requirements are met for interim or final certification of a video game as a British video game, the Secretary of State must certify the video game accordingly.

(2) If the Secretary of State is not satisfied that those requirements are met, the Secretary of State must refuse the application.

(3) An interim certificate—

(a) may be given subject to conditions, and (unless the Secretary of State directs otherwise) is of no effect if the conditions are not met, and

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(b) may be expressed to expire after a specified period, and (unless the Secretary of State directs otherwise) ceases to have effect at the end of that period.

(4) An interim certificate ceases to have effect when a final certificate is issued.

(5) If it appears to the Secretary of State that a video game certified under this Part ought not to have been certified, the Secretary of State may revoke its certification.

(6) Unless the Secretary of State directs otherwise, a certificate that is revoked is treated as never having had effect.

UK expenditure

UK expenditure

1217CE(1) At least 25% of the core expenditure on the video game incurred by the company must be UK expenditure.

(2) The Treasury may by regulations amend the percentage specified in subsection (1).

Additional deductions

Additional deduction for qualifying expenditure

1217CF(1) If video games tax relief is available to the company, it may (on making a claim) make an additional deduction in respect of qualifying expenditure on the video game.

(2) The deduction is made in calculating the profit or loss of the separate video game trade.

(3) In this Chapter "qualifying expenditure" means core expenditure on the video game that falls to be taken into account under Chapter 2 in calculating the profit or loss of the separate video game trade for tax purposes.

(4) The Treasury may by regulations—

(a) amend subsection (3), and

(b) provide that expenditure of a specified description is or is not to be regarded as qualifying expenditure.

Amount of additional deduction

1217CG(1) For the first period of account during which the separate video game trade is carried on, the amount of the additional deduction is—

$$E$$

where E is—

a so much of the qualifying expenditure as is UK expenditure, or

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b if less, 80% of the total amount of qualifying expenditure.

(2) For any period of account after the first, the amount of the additional deduction is given by—

$$E - P$$

where—

E is—

(a) so much of the qualifying expenditure incurred to date as is UK expenditure, or

(b) if less, 80% of the total amount of qualifying expenditure incurred to date, and

P is the total amount of the additional deductions given for previous periods.

(3) The Treasury may by regulations amend this section.

Video game tax credits

Video game tax credit claimable if company has surrenderable loss

1217CH(1) If video games tax relief is available to the company, it may claim a video game tax credit for an accounting period in which it has a surrenderable loss.

(2) The company's surrenderable loss in an accounting period is—

(a) the company's available loss for the period in the separate video game trade (see subsection (3)), or

(b) if less, the available qualifying expenditure for the period (see subsections (5) and (6)).

(3) The company's available loss for an accounting period is given by—

$$L + \text{RUL}$$

where—

L is the amount of the company's loss for the period in the separate video game trade, and

RUL is the amount of any relevant unused loss of the company (see subsection (4)).

(4) The "relevant unused loss" of a company is so much of any available loss of the company for the previous accounting period as has not been—

(a) surrendered under section 1217CI(1), or

(b) carried forward under section 45 of CTA 2010 and set against profits of the separate video game trade.

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(5) For the first period of account during which the separate video game trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1217CG(1).

(6) For any period of account after the first, the available qualifying expenditure is given by—

$$E - S$$

where—

E is the amount that is E for that period for the purposes of section 1217CG(2), and

S is the total amount previously surrendered under section 1217CI(1).

(7) If a period of account of the separate video game trade does not coincide with an accounting period, any necessary apportionments are to be made by reference to the number of days in the periods concerned.

Surrendering of loss and amount of video game tax credit

1217CH(1) The company may surrender the whole or part of its surrenderable loss in an accounting period.

(2) If the company surrenders the whole or part of that loss, the amount of the video game tax credit to which it is entitled for the accounting period is 25% of the amount of the loss surrendered.

(3) The company's available loss for the accounting period is reduced by the amount surrendered.

Payment in respect of video game tax credit

1217CI(1) If the company—

(a) is entitled to a video game tax credit for a period, and

(b) makes a claim,

the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") must pay to the company the amount of the credit.

(2) An amount payable in respect of—

(a) a video game tax credit, or

(b) interest on a video game tax credit under section 826 of ICTA,

may be applied in discharging any liability of the company to pay corporation tax.

To the extent that it is so applied the Commissioners' liability under subsection (1) is discharged.

(3) If the company's company tax return for the accounting period is enquired into by the Commissioners, no payment in respect of a video game tax credit for that period need be made before the Commissioners' enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998).

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In those circumstances the Commissioners may make a payment on a provisional basis of such amount as they consider appropriate.

(4) No payment need be made in respect of a video game tax credit for an accounting period before the company has paid to the Commissioners any amount that it is required to pay for payment periods ending in that accounting period—

(a) under PAYE regulations,

(b) under section 966 of ITA 2007 (visiting performers), or

(c) in respect of Class 1 national insurance contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(5) A payment in respect of a video game tax credit is not income of the company for any tax purpose.

Miscellaneous

No account to be taken of amount if unpaid

1217CK(1) In determining for the purposes of this Chapter the amount of costs incurred on a video game at the end of a period of account, ignore any amount that has not been paid 4 months after the end of that period.

(2) This is without prejudice to the operation of section 1217BD (when costs are taken to be incurred).

Artificially inflated claims for additional deduction or tax credit

1217CL(1) So far as a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it is to be ignored in determining for any period—

(a) any additional deduction which a company may make under this Chapter, and

(b) any video game tax credit to be given to a company.

(2) Arrangements are entered into wholly or mainly for a disqualifying purpose if their main object, or one of their main objects, is to enable a company to obtain—

(a) an additional deduction under this Chapter to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled, or

(b) a video game tax credit to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled.

(3) "Arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable.

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Confidentiality of information

1217CM(1) Section 18(1) of the Commissioners for Revenue and Customs Act 2005 (restriction on disclosure by Revenue and Customs officials) does not prevent disclosure to the Secretary of State for the purposes of the Secretary of State's functions under any of the provisions listed in subsection (2).

(2) The provisions referred to in subsection (1) are—

(a) sections 1216CB to 1216CD (certification of relevant programmes as British),

(b) sections 1217CB to 1217CD (certification of video games as British), and

(c) Schedule 1 to the Films Act 1985 (certification of films as British).

(3) Information so disclosed may be disclosed to the British Film Institute.

(4) The Treasury may by order amend subsection (3)—

(a) so as to substitute for the person or body specified in that subsection a different person or body, or

(b) in consequence of a change in the name of the person or body so specified.

(5) A person to whom information is disclosed under subsection (1) or (3) may not otherwise disclose it except—

(a) for the purposes of the Secretary of State's functions under any of the provisions listed in subsection (2),

(b) if the disclosure is authorised by an enactment,

(c) in pursuance of an order of a court,

(d) for the purposes of a criminal investigation or legal proceedings (whether civil or criminal) connected with the operation of any of Parts 15 to 15B of this Act or Schedule 1 to the Films Act 1985,

(e) with the consent of the Commissioners for Her Majesty's Revenue and Customs, or

(f) with the consent of each person to whom the information relates.

Wrongful disclosure

1217CN(1) A person ("X") commits an offence if—

(a) X discloses revenue and customs information relating to a person (as defined in section 19(2) of the Commissioners for Revenue and Customs Act 2005),

(b) the identity of the person to whom the information relates is specified in the disclosure or can be deduced from it, and

(c) the disclosure contravenes section 1217CM(5).

(2) If a person ("Y") is charged with an offence under subsection (1), it is a defence for Y to prove that Y reasonably believed—

(a) that the disclosure was lawful, or

(b) that the information had already and lawfully been made available to the public.

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(3) A person guilty of an offence under subsection (1) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or

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

(4) A prosecution for an offence under subsection (1) may be brought in England and Wales only—

(a) by the Director of Revenue and Customs Prosecutions, or

(b) with the consent of the Director of Public Prosecutions.

(5) A prosecution for an offence under subsection (1) may be brought in Northern Ireland only—

(a) by the Commissioners for Her Majesty's Revenue and Customs, or

(b) with the consent of the Director of Public Prosecutions for Northern Ireland.

(6) In the application of this section—

(a) in England and Wales, in relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003, or

(b) in Northern Ireland,

the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.

CHAPTER 4

VIDEO GAME LOSSES

Application of sections 1217DA and 1217DB

1217D(1) Sections 1217DA and 1217DB apply to a company that is the video games development company in relation to a video game.

(2) In those sections—

"the completion period" means the accounting period of the company—

(a) in which the video game is completed, or

(b) if the company does not complete the video game, in which it abandons video game development activities in relation to the video game,

"loss relief" includes any means by which a loss might be used to reduce the amount in respect of which the company, or any other person, is chargeable to tax,

"pre-completion period" means an accounting period of the company before the completion period, and

"the separate video game trade" means the company's separate trade in relation to the video game (see section 1217B).

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Restriction on use of losses while video game in development

1217DA(1) This section applies if in a pre-completion period a loss is made in the separate video game trade.

(2) The loss is not available for loss relief except to the extent that it may be carried forward under section 45 of CTA 2010 to be set against profits of the separate video game trade in a subsequent period.

Use of losses in later periods

1217DB(1) This section applies to the following accounting periods of the company ("relevant later periods")—

(a) the completion period, and

(b) any subsequent accounting period during which the separate video game trade continues.

(2) Subsection (3) applies if a loss made in the separate video game trade is carried forward under section 45 of CTA 2010 from a pre-completion period to a relevant later period.

(3) So much (if any) of the loss as is not attributable to video games tax relief (see subsection (6)) may be treated for the purposes of loss relief as if it were a loss made in the period to which it is carried forward.

(4) Subsection (5) applies if in a relevant later period a loss is made in the separate video game trade.

(5) The amount of the loss that may be—

(a) deducted from total profits of the same or an earlier period under section 37 of CTA 2010, or

(b) surrendered as group relief under Part 5 of that Act,

is restricted to the amount (if any) that is not attributable to video games tax relief (see subsection (6)).

(6) The amount of a loss in any period that is attributable to video games tax relief is calculated by deducting from the total amount of the loss the amount there would have been if there had been no additional deduction under Chapter 3 in that or any earlier period.

(7) This section does not apply to a loss to the extent that it is carried forward or surrendered under section 1217DC.

Terminal losses

1217DC(1) This section applies if—

(a) a company ("company A") is the video games development company in relation to a qualifying video game,

(b) company A ceases to carry on its separate trade in relation to that video game ("trade X") (see section 1217B), and

(c) if company A had not ceased to carry on trade X, it could have carried forward an amount under section 45 of CTA 2010 to be set against profits of trade X in a later period ("the terminal loss").

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(2) If on cessation of trade X company A—

(a) is the video games development company in relation to another qualifying video game, and

(b) is carrying on its separate trade in relation to that video game ("trade Y"),

it may (on making a claim) make an election under subsection (3).

(3) The election is to have the terminal loss (or a part of it) treated as if it were a loss brought forward under section 45 of CTA 2010 to be set against the profits of trade Y in the first accounting period beginning after the cessation and so on.

(4) Subsection (5) applies if on cessation of trade X—

(a) there is another company ("company B") that is the video games development company in relation to a qualifying video game,

(b) company B is carrying on its separate trade in relation to that video game ("trade Z"), and

(c) company B is in the same group as company A for the purposes of Part 5 of CTA 2010 (group relief).

(5) Company A may surrender the terminal loss (or a part of it) to company B.

(6) On the making of a claim by company B the amount surrendered is treated as if it were a loss brought forward by company B under section 45 of CTA 2010 to be set against the profits of trade Z of the first accounting period of that company beginning after the cessation and so on.

(7) The Treasury may, in relation to the surrender of a loss under subsection (5) and the resulting claim under subsection (6), make provision by regulations corresponding, subject to such adaptations or other modifications as appear to them to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).

(8) "Qualifying video game" means a video game in relation to which the conditions for video games tax relief are met (see 1217C(2)).

CHAPTER 5

PROVISIONAL ENTITLEMENT TO RELIEF

Introduction

1217E(1) In this Chapter—

"the company" means the video games development company in relation to a video game,

"the completion period" means the accounting period of the company—

(a) in which the video game is completed, or

(b) if the company does not complete the video game, in which it abandons video game development activities in relation to it,

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"interim accounting period" means any earlier accounting period of the company during which video game development activities are carried on in relation to the video game,

"interim certificate" and "final certificate" have the meaning given by section 1217CC,

"the separate video game trade" means the company's separate trade in relation to the video game (see section 1217B), and

"special video games relief" means—

(a) video games tax relief, or

(b) relief under section 1217DC (transfer of terminal losses from one video game to another).

(2) The company's company tax return for the completion period must state that the video game has been completed or that the company has abandoned video game development activities in relation to it (as the case may be).

Certification as a British video game

1217EA(1) The company is not entitled to special video games relief for an interim accounting period unless its company tax return for the period is accompanied by an interim certificate.

(2) If an interim certificate ceases to be in force (otherwise than on being superseded by a final certificate) or is revoked, the company—

(a) is not entitled to special video games relief for any period for which its entitlement depended on the certificate, and

(b) must amend accordingly its company tax return for any such period.

(3) If the video game is completed by the company—

(a) its company tax return for the completion period must be accompanied by a final certificate,

(b) if that requirement is met, the final certificate has effect for the completion period and for any interim accounting period, and

(c) if that requirement is not met, the company—

(i) is not entitled to special video games relief for any period, and

(ii) must amend accordingly its company tax return for any period for which such relief was claimed.

(4) If the company abandons video game development activities in relation to the video game—

(a) its company tax return for the completion period may be accompanied by an interim certificate, and

(b) the abandonment of video game development activities does not affect any entitlement to special video games relief in that or any previous accounting period.

(5) If a final certificate is revoked, the company—

(a) is not entitled to special video games relief for any period, and

(b) must amend accordingly its company tax return for any period for which such relief was claimed.

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The UK expenditure condition

1217EB (1) The company is not entitled to special video games relief for an interim accounting period unless—

(a) its company tax return for the period states the amount of planned core expenditure on the video game that is UK expenditure, and

(b) that amount is such as to indicate that the condition in section 1217CE (the UK expenditure condition) will be met on completion of the video game.

If those requirements are met, the company is provisionally treated in relation to that period as if that condition was met.

(2) If such a statement is made but it subsequently appears that the condition will not be met on completion of the video game, the company—

(a) is not entitled to special video games relief for any period for which its entitlement depended on such a statement, and

(b) must amend accordingly its company tax return for any such period.

(3) When the video game is completed or the company abandons video game development activities in relation to it (as the case may be), the company's company tax return for the completion period must be accompanied by a final statement of the amount of core expenditure on the video game that is UK expenditure.

(4) If that statement shows that the condition in section 1217CE is not met, the company—

(a) is not entitled to special video games relief for any period, and

(b) must amend accordingly its company tax return for any period for which such relief was claimed.

Time limit for amendments and assessments

1217EC Any amendment or assessment necessary to give effect to the provisions of this Chapter may be made despite any limitation on the time within which an amendment or assessment may normally be made."

Commencement Information

I4 Sch. 17 para. 1 in force at 1.4.2014 for the purposes of the amendment made by that paragraph, so far as it is not already in force by S.I. 2014/1962, **art. 2(1)**(2)

PART 2

COMMENCEMENT

2 (1) Any power conferred on the Secretary of State or the Treasury by virtue of this Schedule to make regulations or an order comes into force on the day on which this Act is passed.

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(2) So far as not already brought into force by sub-paragraph (1), the amendments made by this Schedule come into force in accordance with provision contained in an order made by the Treasury.

(3) An order under sub-paragraph (2)—

(a) may make different provision for different purposes;

(b) may provide for those amendments to be treated as having come into force on a day earlier than the day on which the order is made or this Act is passed;

(c) may make such adaptations of Part 15B of CTA 2009 as appear to be necessary or expedient in consequence of other provisions of this Act not yet having come into force.

3 (1) The amendments made by this Schedule have effect in relation to accounting periods beginning on or after the day specified for the purposes of this paragraph in an order made by the Treasury ("the specified day").

(2) An order under sub-paragraph (1) may specify a day earlier than the day on which the order is made or this Act is passed.

(3) Sub-paragraph (4) applies where a company has an accounting period beginning before the specified day and ending on or after that day ("the straddling period").

(4) For the purposes of Part 15B of CTA 2009—

(a) so much of the straddling period as falls before the specified day, and so much of that period as falls on or after that day, are treated as separate accounting periods, and

(b) any amounts brought into account for the purposes of calculating for corporation tax purposes the profits of any trade of the company for the straddling period are apportioned to the two separate accounting periods on such basis as is just and reasonable.

Modifications etc. (not altering text)

C15 Sch. 17 para. 3(1): 1.4.2014 appointed as "the specified day" by S.I. 2014/1962, art. 2(2)

4 (1) The Treasury may by order make such amendments of this Schedule as are necessary for the purpose of complying with any undertakings given to the European Commission, or any conditions imposed by the Commission, in connection with an application for State aid approval.

(2) In this paragraph "State aid approval" means approval that the provision made by Part 15B of CTA 2009, to the extent that it constitutes the granting of aid to which any of the provisions of Article 107 or 108 of the Treaty on the Functioning of the European Union applies, is, or would be, compatible with the internal market, within the meaning of Article 107 of that Treaty.

(3) An order under this paragraph may—

(a) make incidental, supplemental, consequential, transitional or saving provision, including provision amending Schedule 18;

(b) contain provision having effect in relation to times before the order is made or this Act is passed.

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(4) A statutory instrument that contains (whether alone or with other provisions) an order under this paragraph may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

SCHEDULE 18

Section 36

TELEVISION AND VIDEO GAMES TAX RELIEF: CONSEQUENTIAL AMENDMENTS

ICTA

1 (1) Section 826 of ICTA (interest on tax overpaid) is amended as follows.

(2) In subsection (1), after paragraph (f) insert—

"(fa) a payment of television tax credit falls to be made to a company; or

(fb) a payment of video game tax credit falls to be made to a company; or".

(3) In subsection (3C), after "film tax credit" insert " , television tax credit or video game tax credit ".

(4) In subsection (8A)(b)(ii), after "film tax credit" insert " or television tax credit or video game tax credit ".

(5) In subsection (8BA), after "film tax credit" (in both places) insert " or television tax credit or video game tax credit ".

Commencement Information

I5 Sch. 18 para. 1 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I6 Sch. 18 para. 1 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

FA 1998

2 Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.

3 (1) Paragraph 10 (other claims and elections to be included in return) is amended as follows.

(2) In sub-paragraph (4), for "film tax relief" substitute " tax relief under Part 15, 15A or 15B of the Corporation Tax Act 2009 ".

(3) After sub-paragraph (5) insert—

"(6) An election under section 1216AE(7) of the Corporation Tax Act 2009 (election not to be a television production company) can only be made by being included in a company tax return (see section 1216AE(8)(a) of that Act).

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(7) An election under section 1217AB(6) of the Corporation Tax Act 2009 (election not to be a video games development company) can only be made by being included in a company tax return (see section 1217AB(7)(a) of that Act).”

Commencement Information

I7 Sch. 18 para. 3 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I8 Sch. 18 para. 3 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

4 (1) Paragraph 52 (recovery of excessive overpayments etc) is amended as follows.

(2) In sub-paragraph (2), after paragraph (bd) insert—

“(be) television tax credit under Part 15A of that Act,

(bf) video game tax credit under Part 15B of that Act,”.

(3) In sub-paragraph (5)—

(a) after paragraph (af) insert—

“(ag) an amount of television tax credit paid to a company for an accounting period,

(ah) an amount of video game tax credit paid to a company for an accounting period,”;

(b) after “(ae)” insert “ , (ag), (ah) ”.

Commencement Information

I9 Sch. 18 para. 4 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I10 Sch. 18 para. 4 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

5 (1) Part 9D (claims for film tax relief) is amended as follows.

(2) In paragraph 83S (introduction), for “film tax relief” substitute “the following reliefs —

(a) film tax relief,

(b) television tax relief,

(c) video games tax relief.”

(3) The heading of that Part becomes “ CLAIMS FOR TAX RELIEF UNDER PART 15, 15A OR 15B OF THE CORPORATION TAX ACT 2009 ”.

Commencement Information

I11 Sch. 18 para. 5 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I12 Sch. 18 para. 5 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

***Changes to legislation:** Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

CAA 2001

F104 6 . . . . . .

Textual Amendments

F104 Sch. 18 para. 6 repealed (with effect in accordance with s. 33(5) of the amending Act) by Finance Act 2019 (c. 1), **s. 33(2)(c)(x)(c)**

FA 2007

7 In Schedule 24 to FA 2007 (penalties for errors), in paragraph 28(fa) (meaning of "corporation tax credit"), omit the "or" at the end of sub-paragraph (iv) and after that sub-paragraph insert—

"(iva) a television tax credit under Chapter 3 of Part 15A of that Act,

(ivb) a video game tax credit under Chapter 3 of Part 15B of that Act, or".

Commencement Information

I13 Sch. 18 para. 7 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I14 Sch. 18 para. 7 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

CTA 2009

8 In Chapter 6A of Part 3 of CTA 2009 (trade profits: R&D expenditure credits), after section 104B insert—

"**104BA Restriction on claiming other tax reliefs**

(1) For provision prohibiting an R&D expenditure credit being given under this Chapter and relief being given under Chapter 3 of Part 15 (film tax relief), see section 1195(3A).

(2) For provision prohibiting an R&D expenditure credit being given under this Chapter and relief being given under Chapter 3 of Part 15A (television tax relief), see section 1216C(4).

(3) For provision prohibiting an R&D expenditure credit being given under this Chapter and relief being given under Chapter 3 of Part 15B (video games tax relief), see section 1217C(4)."

Commencement Information

I15 Sch. 18 para. 8 in force at 19.7.2013 for the purposes of the amendment made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I16 Sch. 18 para. 8 in force at 1.4.2014 for the purposes of the amendment made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

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9 In Part 8 of CTA 2009 (intangible fixed assets), in Chapter 10 (excluded assets), after section 808 insert—

"**808A Assets representing production expenditure on certain TV programmes**

(1) This Part does not apply to an intangible fixed asset held by a television production company so far as it represents production expenditure on a television programme to which Chapter 2 of Part 15A (taxation of activities of television production company) applies.

(2) In this section—

(a) "television programme" has the same meaning as in Part 15A (see section 1216AA),

(b) "television production company" has the same meaning as in that Part (see section 1216AE), and

(c) "production expenditure" has the same meaning as in that Part (see section 1216AG(2)).

808B Assets representing core expenditure on video games

(1) This Part does not apply to an intangible fixed asset held by a video games development company so far as it represents core expenditure on a video game to which Chapter 2 of Part 15B (taxation of activities of video games development company) applies.

(2) In this section—

(a) "video game" has the same meaning as in Part 15B (see section 1217AA),

(b) "video games development company" has the same meaning as in that Part (see section 1217AB), and

(c) "core expenditure" has the same meaning as in that Part (see section 1217AD)."

Commencement Information

I17 Sch. 18 para. 9 in force at 19.7.2013 for the purposes of the amendment made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I18 Sch. 18 para. 9 in force at 1.4.2014 for the purposes of the amendment made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

10 In Part 13 of CTA 2009 (additional relief for expenditure on research and development), after section 1040 insert—

"**1040ZA Restriction on claiming other tax reliefs**

(1) For provision prohibiting relief being given under this Part and under Chapter 3 of Part 15 (film tax relief), see section 1195(3A).

(2) For provision prohibiting relief being given under this Part and under Chapter 3 of Part 15A (television tax relief), see section 1216C(4).

(3) For provision prohibiting relief being given under this Part and under Chapter 3 of Part 15B (video games tax relief), see section 1217C(4)."

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Commencement Information

I19 Sch. 18 para. 10 in force at 19.7.2013 for the purposes of the amendment made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I20 Sch. 18 para. 10 in force at 1.4.2014 for the purposes of the amendment made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

11 Part 15 of CTA 2009 (film tax relief) is amended as follows.

12 In section 1195 (availability and overview of film tax relief), after subsection (3) insert—

"(3A) But film tax relief is not available in respect of any expenditure if—

(a) the company is entitled to an R&D expenditure credit under Chapter 6A of Part 3 in respect of the expenditure, or

(b) the company has obtained relief under Part 13 (additional relief for expenditure on research and development) in respect of the expenditure."

Commencement Information

I21 Sch. 18 para. 12 in force at 19.7.2013 for the purposes of the amendment made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I22 Sch. 18 para. 12 in force at 1.4.2014 for the purposes of the amendment made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

13 (1) Section 1206 (confidentiality of information) is amended as follows.

(2) In subsection (1), for the words from "Schedule 1" to the end substitute " any of the provisions listed in subsection (1A) ".

(3) After subsection (1) insert—

"(1A) The provisions referred to in subsection (1) are—

(a) sections 1216CB to 1216CD (certification of relevant programmes as British),

(b) sections 1217CB to 1217CD (certification of video games as British), and

(c) Schedule 1 to the Films Act 1985 (certification of films as British)."

(4) In subsection (2), for "UK Film Council" substitute " British Film Institute ".

(5) After that subsection insert—

"(2A) The Treasury may by order amend subsection (2)—

(a) so as to substitute for the person or body specified in that subsection a different person or body, or

(b) in consequence of a change in the name of the person or body so specified."

(6) In subsection (3)—

(a) in paragraph (a), for the words from "Schedule 1" to the end substitute " any of the provisions listed in subsection (1A) ";

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(b) in paragraph (d), for "that Schedule or this Part" substitute " any of Parts 15 to 15B of this Act or Schedule 1 to the Films Act 1985 ".

Commencement Information

I23 Sch. 18 para. 13 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I24 Sch. 18 para. 13 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

14 (1) In section 1310 of CTA 2009 (orders and regulations), subsection (4) is amended as follows.

(2) Omit the "or" at the end of paragraph (e) and after that paragraph insert—

"(ea) section 1216AF(3) (meaning of "television production activities" etc),

(eb) section 1216AH(3) (meaning of "UK expenditure" etc),

(ec) section 1216CE(2) (UK expenditure),

(ed) section 1216CF(4) (additional deduction for qualifying expenditure),

(ee) section 1216CG(3) (amount of additional deduction),

(ef) section 1217AC(2) (meaning of "video games development activities" etc),

(eg) section 1217AE(3) (meaning of "UK expenditure" etc),

(eh) section 1217CE(2) (UK expenditure),

(ei) section 1217CF(4) (additional deduction for qualifying expenditure),

(ej) section 1217CG(3) (amount of additional deduction),".

Commencement Information

I25 Sch. 18 para. 14 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I26 Sch. 18 para. 14 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

15 (1) Schedule 4 to CTA 2009 (index of defined expressions) is amended as follows.

(2) At the appropriate place insert—

"the company (in Chapter 5 of Part 15A)	section 1216E(1)";
"company tax return (in Part 15A)	section 1216AJ";
"the completion period (in Chapter 5 of Part 15A)	section 1216E(1)";
"co-producer (in Part 15A)	section 1216AI";

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“core expenditure (in Part 15A)	section 1216AG(3)”;
“costs of the relevant programme (in Chapter 2 of Part 15A)	section 1216BC”;
“final certificate (in Chapter 5 of Part 15A)	section 1216CC”;
“income from the relevant programme (in Chapter 2 of Part 15A)	section 1216BB”;
“interim accounting period (in Chapter 5 of Part 15A)	section 1216E(1)”;
“interim certificate (in Chapter 5 of Part 15A)	section 1216CC”;
“principal photography (in Part 15A)	section 1216AF(2)”;
“production expenditure (in Part 15A)	section 1216AG(2)”;
“qualifying co-production (in Part 15A)	section 1216AI”;
“qualifying expenditure (in Chapter 3 of Part 15A)	section 1216CF(3)”;
“relevant programme (in Part 15A)	section 1216AB”;
“the separate programme trade (in Chapters 2, 3 and 5 of Part 15A)	section 1216B(3)”;
“special television relief (in Chapter 5 of Part 15A)	section 1216E(1)”;
“television production activities (in Part 15A)	section 1216AF”;
“television production company (in Part 15A)	section 1216AE”;
“television programme (in Part 15A)	section 1216AA”;
“television tax relief (in Part 15A)	section 1216C(2)”;
“UK expenditure (in Part 15A)	section 1216AH”.

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(3) At the appropriate place insert—

"the company (in Chapter 5 of Part 15B)	section 1217E(1)";
"company tax return (in Part 15B)	section 1217AF";
"the completion period (in Chapter 5 of Part 15B)	section 1217E(1)";
"core expenditure (in Part 15B)	section 1217AD";
"costs of the video game (in Chapter 2 of Part 15B)	section 1217BC";
"final certificate (in Chapter 5 of Part 15B)	section 1217CC";
"income from the video game (in Chapter 2 of Part 15B)	section 1217BB";
"interim accounting period (in Chapter 5 of Part 15B)	section 1217E(1)";
"interim certificate (in Chapter 5 of Part 15B)	section 1217CC";
"qualifying expenditure (in Chapter 3 of Part 15B)	section 1217CF(3)";
"the separate video game trade (in Chapters 2, 3 and 5 of Part 15B)	section 1217B(3)";
"special video games relief (in Chapter 5 of Part 15B)	section 1217E(1)";
"UK expenditure (in Part 15B)	section 1217AE";
"video game (in Part 15B)	section 1217AA";
"video games development activities (in Part 15B)	section 1217AC";
"video games development company (in Part 15B)	section 1217AB";

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"video games tax relief (in Part 15B)	section 1217C(2)".

Commencement Information

I27 Sch. 18 para. 15 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I28 Sch. 18 para. 15 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

FA 2009

16 In Schedule 54A to FA 2009 (further provision as to late payment interest and repayment interest), in paragraph 2(2), omit the "or" at the end of paragraph (d) and after paragraph (e) insert—

"(f) a payment of television tax credit under Chapter 3 of Part 15 of CTA 2009 for an accounting period, or

(g) a payment of video game tax credit under Chapter 3 of Part 15B of CTA 2009 for an accounting period."

Commencement Information

I29 Sch. 18 para. 16 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I30 Sch. 18 para. 16 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

CTA 2010

17 Part 8A of CTA 2010 (profits arising from the exploitation of patents etc) is amended as follows.

18 (1) Section 357CG (adjustments in calculating profits of trade) is amended as follows.

(2) In subsection (3), omit the "and" at the end of paragraph (a) and after paragraph (b) insert—

"(c) the amount of any additional deduction for the accounting period obtained by the company under Part 15A of CTA 2009 in respect of qualifying expenditure on a television programme, and

(d) the amount of any additional deduction for the accounting period obtained by the company under Part 15B of CTA 2009 in respect of qualifying expenditure on a video game."

(3) After subsection (5) insert—

"(5A) In a case where—

(a) the company is—

(i) a television production company in relation to a television programme, or

(ii) a video games development company in relation to a video game, and

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(b) there is a shortfall in qualifying expenditure in relation to the separate programme trade or (as the case may be) the separate video game trade for a relevant accounting period (see section 357CHA),

the amount of qualifying expenditure brought into account in calculating the profits of the trade for that accounting period is to be increased by the amount mentioned in section 357CHA(2).”

(4) In subsection (6)—

(a) for “subsection (5)” substitute “ subsections (5) and (5A) ”;

(b) before the definition of “R&D expenditure” insert—

““qualifying expenditure”—

(a) in relation to a company that is a television production company, has the same meaning as in Chapter 3 of Part 15A of CTA 2009, and

(b) in relation to a company that is a video games development company, has the same meaning as in Chapter 3 of Part 15B of that Act,”;

(c) omit the “and” before the definition of “research and development”;

(d) after that definition insert—

““the separate programme trade”, in relation to a television production company, has the same meaning as in Chapter 2 of Part 15A of CTA 2009 (see section 1216B),

“the separate video game trade”, in relation to a video games development company, has the same meaning as in Chapter 2 of Part 15B of CTA 2009 (see section 1217B),

“television production company” has the same meaning as in Part 15A of CTA 2009 (see section 1216AE), and

“video games development company” has the same meaning as in Part 15B of CTA 2009 (see section 1217AB).”

Commencement Information

I31 Sch. 18 para. 18 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I32 Sch. 18 para. 18 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

19 After section 357CH insert—

“**357CHA Shortfall in qualifying expenditure**

(1) There is a shortfall in qualifying expenditure in relation to the separate programme trade of a television production company or (as the case may be) the separate video game trade of a video games development company for a relevant accounting period if the actual qualifying expenditure of the trade for the accounting period (as adjusted under subsections (8) to (11)) is less than 75% of the average amount of qualifying expenditure.

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(2) The amount that is to be added to the actual qualifying expenditure for the purposes of section 357CG(5A) is an amount equal to the difference between—

(a) 75% of the average amount of qualifying expenditure, and

(b) the actual qualifying expenditure, as adjusted under subsections (8) to (11).

(3) In this section—

(a) the "actual qualifying expenditure" of a trade of a company for an accounting period is the amount of qualifying expenditure that (ignoring section 357CG(5A)) is brought into account in calculating the profits of the trade for the accounting period, and

(b) the following terms have the meaning given by section 357CG(6)—

"qualifying expenditure",

"relevant accounting period",

"the separate programme trade",

"the separate video game trade",

"television production company",

"video games development company".

(4) The average amount of qualifying expenditure is—

$$\frac{E}{N} \times 365$$

where—

E is the amount of qualifying expenditure that—

(a) has been incurred by the company during the relevant period, and

(b) has been brought into account in calculating the profits of the trade for any accounting period ending before the first relevant accounting period, and

N is the number of days in the relevant period.

(5) The relevant period is the shorter of—

(a) the period of 4 years ending immediately before the first relevant accounting period, and

(b) the period beginning with the day on which the company begins to carry on the trade and ending immediately before the first relevant accounting period.

(6) For a relevant accounting period of less than 12 months, the average amount of qualifying expenditure is proportionately reduced.

(7) Subsections (8) to (11) apply for the purposes of determining—

(a) whether there is a shortfall in qualifying expenditure for a relevant accounting period, and

(b) if there is such a shortfall, the amount to be added by virtue of subsection (2).

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(8) If the amount of the actual qualifying expenditure for a relevant accounting period is greater than the average amount of qualifying expenditure, the difference between the two amounts is to be added to the actual qualifying expenditure for the next relevant accounting period.

(9) If—

(a) there is not a shortfall in qualifying expenditure for a relevant accounting period, but

(b) in the absence of any additional amount, there would be a shortfall in qualifying expenditure for that accounting period,

the remaining portion of the additional amount is to be added to the actual qualifying expenditure for the next relevant accounting period.

(10) For the purposes of this section—

"additional amount", in relation to a relevant accounting period, means any amount added to the actual qualifying expenditure for that accounting period by virtue of subsection (8), (9) or (11), and

"the remaining portion" of an additional amount is so much of that amount as exceeds the difference between—

(a) the actual qualifying expenditure for the relevant accounting period in the absence of the additional amount, and

(b) 75% of the average amount of qualifying expenditure.

(11) If—

(a) there is not a shortfall in qualifying expenditure for a relevant accounting period, and

(b) there would not be a shortfall in qualifying expenditure for that accounting period in the absence of any additional amount,

the additional amount is to be added to the actual qualifying expenditure for the next relevant accounting period (in addition to any additional amount so added by virtue of subsection (8)).".

Commencement Information

I33 Sch. 18 para. 19 in force at 19.7.2013 for the purposes of the amendment made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I34 Sch. 18 para. 19 in force at 1.4.2014 for the purposes of the amendment made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

20 (1) Section 357CK (deductions that are not routine deductions) is amended as follows.

(2) In subsection (1), at the end insert—

"(e) subsection (7A) (television production expenditure),

(f) subsection (7B) (video games development expenditure)."

(3) After subsection (7) insert—

"(7A) Head 5 is—

(a) the amount of any qualifying expenditure on a television programme for which an additional deduction for the accounting period is obtained by the company under Part 15A of CTA 2009, and

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(b) the amount of that additional deduction.

(7B) Head 6 is—

(a) the amount of any qualifying expenditure on a video game for which an additional deduction for the accounting period is obtained by the company under Part 15B of CTA 2009, and

(b) the amount of that additional deduction."

Commencement Information

I35 Sch. 18 para. 20 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I36 Sch. 18 para. 20 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

Consequential renumbering

21 (1) Sections 1217 and 1218 of CTA 2009 are renumbered as follows—

(a) section 1217 becomes section 1218A, and

(b) section 1218 becomes section 1218B.

(2) In the following provisions of CTA 2009, for "section 1218" substitute " section 1218B "

section 985(3),
section 999(4),
section 1000(3),
section 1013(3), and
section 1021(3).

(3) In Schedule 4 to CTA 2009—

(a) in the entry for "company with investment business (in Part 16)", for "section 1218(1) and (2)" substitute " section 1218B(1) and (2) ", and

(b) in the entry for "investment business in a company (in Part 16)", for "section 1218(3)" substitute " section 1218B(3) ".

(4) In section 18 of CAA 2001, for "section 1218" substitute " section 1218B ".

Commencement Information

I37 Sch. 18 para. 21 in force at 19.7.2013 for the purposes of the amendments made by that paragraph, so far as relating to television tax relief by S.I. 2013/1817, **art. 2(2)**

I38 Sch. 18 para. 21 in force at 1.4.2014 for the purposes of the amendments made by that paragraph, so far as relating to video games development tax relief by S.I. 2014/1962, **art. 2(3)**

Commencement

22 (1) The amendments made by this Schedule come into force in accordance with provision contained in an order made by the Treasury.

(2) An order under sub-paragraph (1)—

(a) may make different provision for different purposes;

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(b) may provide for any of those amendments to be treated as having come into force on a day earlier than the day on which the order is made or this Act is passed;

(c) may make such adaptations of provisions of this Schedule brought into force as appear to be necessary or expedient in consequence of other provisions of this Act not yet having come into force.

23 (1) The amendments made by this Schedule have effect in relation to accounting periods beginning on or after the relevant day.

(2) "The relevant day" is—

(a) in the case of amendments relating to Part 15A of CTA 2009, 1 April 2013, and

(b) in the case of amendments relating to Part 15B of that Act, the day specified by order for the purposes of paragraph 3 of Schedule 17.

(3) For provision about the case where a company has an accounting period beginning before the relevant day and ending on or after that day, see paragraph 3(3) of Schedule 16 or (as the case may be) paragraph 3(4) of Schedule 17.

SCHEDULE 19

Section 39

REAL ESTATE INVESTMENT TRUSTS: UK REITS WHICH INVEST IN OTHER UK REITS

1 Part 12 of CTA 2010 (real estate investment trusts) is amended as follows.

2 (1) Section 530 (condition as to distribution of profits) is amended as follows.

(2) For subsection (1) substitute—

"(1) In the case of a group UK REIT, the condition in this section is met in relation to an accounting period if—

(a) so much of the group's UK profits arising in the period as are UK REIT investment profits (see section 549A), and

(b) at least 90% of the rest of the group's UK profits arising in the period,

are distributed by the principal company of the group on or before the filing date for the principal company's tax return for the period (see paragraph 14 of Schedule 18 to FA 1998)."

(3) For subsection (4) substitute—

"(4) In the case of a company UK REIT, the condition in this section is met in relation to an accounting period if—

(a) so much of the profits of the company's property rental business arising in the period as are UK REIT investment profits (see section 549A), and

(b) at least 90% of the rest of the profits of the company's property rental business arising in the period,

are distributed on or before the filing date for the company's tax return for the period (see paragraph 14 of Schedule 18 to FA 1998).

(4A) For the purposes of subsection (4) profits of the company's property rental business are to be calculated in accordance with section 599."

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3 (1) Section 530A (condition as to distribution of profits: increase in profits after delivery of tax return) is amended as follows.

(2) In subsection (2) for "530(1)(c)" substitute " 530(1) ".

(3) In subsection (6) for "530(4)(b)" substitute " 530(4) ".

(4) After subsection (9) insert—

"(10) This section cannot be relied upon to satisfy the requirement of section 530(1)(a) or (4)(a)."

4 (1) Section 531 (conditions as to balance of business) is amended as follows.

(2) After subsection (4) insert—

"(4A) In the case of a group, for the purposes of subsections (1) and (2) a distribution falling within section 549A(6) or (8) received by a member of the group is to be treated as profits of a property rental business in accordance with section 549A(1) notwithstanding section 549A(5).

(4B) In the case of a company, for the purposes of subsections (1) and (3) a distribution falling within section 549A(6) or (8) received by the company is to be treated as profits of a property rental business in accordance with section 549A(1) notwithstanding section 549A(5)."

(3) In subsection (5)(b) after "cash" insert " or relevant UK REIT shares ".

(4) In subsection (6)(b) after "cash" insert " and relevant UK REIT shares ".

(5) After subsection (8) insert—

"(9) In this section "relevant UK REIT shares" means—

(a) in the case of a group UK REIT, shares held by a member of the group in the principal company of another group UK REIT or in a company UK REIT, and

(b) in the case of a company UK REIT, shares held by the company in the principal company of a group UK REIT or in another company UK REIT."

5 (1) Section 548 (distributions: liability to tax) is amended as follows.

(2) In subsection (5) after "2009)" insert " so far as the distribution is a distribution of exempt profits ".

(3) In subsection (6) after "2005)" insert " so far as the distribution is a distribution of exempt profits ".

(4) After subsection (8) insert—

"(9) This section does not apply in relation to a distribution falling within section 549A(6) or (8) so far as the distribution is a distribution of exempt profits.

(10) For the purposes of this Chapter a distribution is a "distribution of exempt profits" so far as the distribution falls within section 550(2)(a), (aa), (c) or (d).

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(11) In applying section 550 for the purposes of subsection (10) in relation to a distribution made by the principal company of a post-cessation group or by a post-cessation company—

(a) subsection (1)(a) is to be read as referring to the principal company of the post-cessation group, or (as the case may be)

(b) subsection (1)(b) is to be read as referring to the post-cessation company."

6 (1) Section 549 (distributions: supplementary) is amended as follows.

(2) In **[**F105subsection**]** (2A) after "shareholder" insert " so far as they are distributions of exempt profits ".

(3) After subsection (3) insert—

"(3A) Relevant distribution" does not include a distribution falling within section 549A(6) or (8) so far as the distribution is a distribution of exempt profits."

(4) In subsection (4) after the first "shareholder" insert " (so far as they are distributions of exempt profits) ".

Textual Amendments

F105 Word in Sch. 19 para. 6(2) substituted (15.9.2016) (with effect in accordance with Sch. 1 para. 73 of the amending Act) by Finance Act 2016 (c. 24), **Sch. 1 para. 71(a)**

7 After section 549 insert—

"**549A Distributions from one UK REIT to another UK REIT**

(1) If a company receives a distribution falling within subsection (6) or (8), the distribution is to be treated as profits of a property rental business carried on by the company in the United Kingdom.

Such profits are referred to in this Part as "UK REIT investment profits".

(2) The property rental business mentioned in subsection (1) is to be treated as separate from any other property rental business of the company.

(3) References to profits of property rental business or UK property rental business are to be read as including UK REIT investment profits accordingly, including where the profits referred to are otherwise profits calculated in accordance with international accounting standards or section 599.

(4) Section 549(2) and (2A) applies in relation to distributions falling within subsection (6) or (8) as it applies in relation to relevant distributions.

(5) Subsection (1) applies in relation to a distribution only so far as the distribution is a distribution of exempt profits.

This is subject to section 531(4A) and (4B).

(6) A distribution falls within this subsection if—

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(a) it is made by the principal company of a group UK REIT to a shareholder of the company which is—

(i) a member of another group UK REIT, or

(ii) a company UK REIT, and

(b) it is a distribution of amounts shown in the financial statements under section 532(2)(a) (statement of group's property rental business) as—

(i) profits or gains (or both) of UK members of the group, or

(ii) profits or gains (or both) of UK property rental business of non-UK members of the group.

(7) In subsection (6) the reference to a distribution made by the principal company includes a reference to a distribution made by the principal company of the post-cessation group.

(8) A distribution falls within this subsection if—

(a) it is made by a company UK REIT to a shareholder of the company which is—

(i) a member of a group UK REIT, or

(ii) another company UK REIT, and

(b) it is a distribution in respect of profits or gains (or both) of property rental business of the company.

(9) In subsection (8) the reference to a distribution made by a company UK REIT includes a reference to a distribution made by the post-cessation company."

8 In section 550 (attribution of distributions) in subsection (2)—

(a) for paragraph (a) substitute—

"(a) first, to distributions in satisfaction of the requirement of section 530(1)(a) or 530(4)(a) (as the case may be),

(aa) second, to distributions in satisfaction of the requirement of section 530(1)(b) or 530(4)(b) (as the case may be),",

(b) in paragraph (b) for "second" substitute " third ",

(c) in paragraph (c) for "third" substitute " fourth ",

(d) in paragraph (d) for "fourth" substitute " fifth ", and

(e) in paragraph (e) for "fifth" substitute " sixth ".

9 In section 588 (joint ventures: effect of notice under section 586) after subsection (6) insert—

"(7) Subsections (3) to (6) apply (in particular) for the purpose of interpreting section 549A(6)(a)(i) and (8)(a)(i)."

10 In section 589 (joint ventures: effect of notice under section 587) after subsection (6) insert—

"(7) Subsections (3) to (6) apply (in particular) for the purpose of interpreting section 549A(6)(a)(i) and (8)(a)(i)."

11 In section 605 (property rental business: exclusion of business producing listed income) after subsection (1) insert—

"(1A) But see section 549A which treats income falling within class 7 of the table as profits of property rental business."

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12 In Chapter 18 of Part 15 of ITA 2007 (deduction of income tax at source) in sections 973 and 974 (which relate to distributions made by UK REITs) after subsection (6) insert—

"(7) In relation to references to profits of property rental business, see section 549A of CTA 2010."

13 (1) The amendments made by paragraph 4(3) to (5) above have effect for accounting periods beginning on or after the day on which this Act is passed.

(2) Subject to what follows, the amendments made by paragraphs 5 to 7 above have effect in relation to distributions received on or after the day on which this Act is passed.

(3) A distribution received by a member of a group UK REIT does not fall within section 549A(6) or (8) of CTA 2010 if it is received in an accounting period of the principal company of the group beginning before the day on which this Act is passed.

(4) A distribution received by a company UK REIT does not fall within section 549A(6) or (8) of CTA 2010 if it is received in an accounting period of the company beginning before the day on which this Act is passed.

SCHEDULE 20

Section 42

TAX MISMATCH SCHEMES

1 CTA 2010 is amended in accordance with paragraphs 2 to 4.

2 In section 1(4) (overview of Act), after paragraph (j) insert—

"(ja) tax mismatch schemes (see Part 21BA),".

3 After Part 21B insert—

"**PART 21BA**

TAX MISMATCH SCHEMES

Losses and profits from tax mismatch scheme to be disregarded

938(1) This section applies to a company that is (at any time) a party to a tax mismatch scheme.

(2) No scheme loss or profit made by the company in any accounting period in relation to the scheme is to be brought into account as a debit or credit for the purposes of Part 5 of CTA 2009 (loan relationships) or Part 7 of that Act (derivative contracts).

(3) An amount that would, apart from this section, be brought into account for the purposes of Part 5 or 7 of that Act as respects any matter—

(a) is treated, for the purposes of section 464(1) or (as the case may be) 699(1) of that Act (priority of Part 5 or 7 for corporation tax purposes), as if it were so brought into account, and

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(b) accordingly, may not be brought into account for any other corporation tax purposes as respects that matter.

Meaning of "tax mismatch scheme"

938P (1) A scheme is a tax mismatch scheme if condition A or B is met.

(2) Condition A is that, at the time the scheme is entered into, there is no practical likelihood that the scheme will fail to secure a relevant tax advantage of £2 million or more.

(3) The Treasury may by order substitute a higher amount for the amount for the time being specified in subsection (2).

(4) Any such substitution is to have effect in relation to schemes entered into on or after the day on which the order comes into force.

(5) Condition B is that—

(a) the purpose, or one of the main purposes, of the company in entering into the scheme is to obtain the chance of securing a relevant tax advantage (of any amount), and

(b) at the time the scheme is entered into—

(i) there is no chance that the scheme will secure a relevant tax disadvantage, or

(ii) there is such a chance, but the expected value of the scheme is nevertheless a positive amount.

(6) If, at the time the company enters into the scheme, there are chances that the scheme would, if carried out, secure different relevant tax advantages or disadvantages in different circumstances, the amounts and probabilities of each must be taken into account in determining the expected value of the scheme.

(7) In determining whether condition A or B is met, it is to be assumed that the parties to the scheme carry it out.

(8) Where, at the time the scheme is entered into, the length of the scheme period is uncertain, condition A or B is met if it would be met on any reasonable assumption as to the length of the scheme period.

(9) In determining whether condition A or B is met, section 938O (scheme profits and losses to be left out of account) is to be disregarded.

Meaning of "scheme loss" and "scheme profit"

938Q (1) A loss or profit made by a company in an accounting period is a "scheme loss" or "scheme profit" in relation to a tax mismatch scheme if the loss or profit—

(a) arises from a transaction, or series of transactions, that forms part of the scheme,

(b) is, or is comprised in, an amount that is brought into account as a debit or credit for the purposes of Part 5 or 7 of CTA 2009, and

(c) meets the first or second asymmetry condition.

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(2) The first asymmetry condition is that the loss or profit affects the amount of any relevant tax advantage secured by the scheme.

(3) Where, at the end of the accounting period—

(a) it is not certain whether the scheme will secure a relevant tax advantage, or

(b) it is not certain what the amount of the relevant tax advantage secured by the scheme will be,

a loss or profit is to be treated as meeting the first asymmetry condition if, at that time, there is a chance that the scheme will secure a relevant tax advantage and that the loss or profit will affect its amount.

(4) Where—

(a) a loss or profit meets the conditions in subsection (1)(a) and (b), and

(b) a part, but not the whole, of the loss or profit meets the first asymmetry condition,

only that part of the loss or profit is a "scheme loss" or "scheme profit".

(5) The second asymmetry condition is that the loss or profit—

(a) does not meet the first asymmetry condition, but

(b) arises from a transaction, or series of transactions, that might (if events had turned out differently) have given rise to a loss or profit that would have done so.

(6) References in this section to a loss or profit include a loss or profit arising in respect of interest or expenses.

(7) In determining whether the condition in subsection (1)(b) or the first or second asymmetry condition is met, section 938O (scheme profits and losses to be left out of account) is to be disregarded.

Meaning of "relevant tax advantage" etc and "the scheme period"

938R(1) In this Part "relevant tax advantage", in relation to a scheme, means an economic profit that—

(a) is made by the company over the scheme period,

(b) meets the condition in subsection (3), and

(c) is not negligible.

(2) In this Part "relevant tax disadvantage", in relation to a scheme, means an economic loss that—

(a) is made by the company over the scheme period,

(b) meets the condition in subsection (3), and

(c) is not negligible.

(3) The condition is that the economic profit or loss arises as a result of asymmetries in the way that the company brings, or does not bring, amounts into account as debits and credits for the purposes of Part 5 or 7 of CTA 2009.

(4) A reference in this section to asymmetries includes, in particular—

(a) asymmetries relating to quantification, and

(b) asymmetries relating to timing.

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(5) In this section—

(a) a reference to an economic profit includes an increase in an economic profit and a decrease in an economic loss, and

(b) a reference to an economic loss includes an increase in an economic loss and a decrease in an economic profit.

(6) In this Part "the scheme period", in relation to a scheme, means the period during which the scheme has effect.

Meaning of references to economic profits and losses

938S(1) An economic profit or loss is to be computed for the purposes of this Part taking into account, in particular—

(a) profits and losses made as a result of the operation of the Corporation Tax Acts, and

(b) any adjustments required to reflect the time value of money.

(2) In determining for the purposes of this Part the amount of an economic profit or loss made by the company over the scheme period, profits and losses made by the company are to be taken into account only to the extent that they are attributable to times at which the company is a party to the scheme.

Tax capacity assumption

938T(1) This section applies for the purpose of determining whether a scheme will, or might, secure a relevant tax advantage.

(2) The economic profits and losses made by the company over the scheme period must be calculated on the assumption that the company—

(a) obtains the full tax benefit of any loss made by the company in relation to a loan relationship or a derivative contract during the period, and

(b) incurs the full tax cost of any profit made by the company in relation to a loan relationship or a derivative contract during the period.

(3) The "full tax benefit" of a loss is the reduction in the liability of the company to corporation tax that would result if—

(a) the loss were brought into account as a debit or as a reduction in a credit for the purposes of Part 5 or 7 of CTA 2009, and

(b) the company's profits chargeable to corporation tax, disregarding the loss, were equal to the debit (or the reduction in the credit) determined by reference to the loss.

(4) The "full tax cost" of a profit is the increase in the liability of the company to corporation tax that would result if—

(a) the profit were brought into account as a credit or as a reduction in a debit for the purposes of Part 5 or 7 of CTA 2009, and

(b) the company's profits chargeable to corporation tax, disregarding the profit, were nil.

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Meaning of "scheme"

938U In this Part "scheme" includes any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving a single transaction or two or more transactions.

Priority

938V For the purposes of this Part the following provisions are to be treated as of no effect—

(a) section 441 of CTA 2009 (loan relationships for unallowable purposes);

(b) section 690 of that Act (derivative contracts for unallowable purposes);

(c) Part 6 of TIOPA 2010 (tax arbitrage);

(d) Part 7 of that Act (tax treatment of financing costs and income)."

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

"economic loss (in Part 21BA)	section 938S"
"economic profit (in Part 21BA)	section 938S"
"relevant tax advantage (in Part 21BA)	section 938R"
"relevant tax disadvantage (in Part 21BA)	section 938R"
"scheme (in Part 21BA)	section 938U"
"scheme loss (in Part 21BA)	section 938Q"
"the scheme period (in Part 21BA)	section 938R"
"scheme profit (in Part 21BA)	section 938Q".
""a tax mismatch scheme (in Part 21BA)	section 938P".

5 In section 231(8) of TIOPA 2010 (tax arbitrage: overview), for the words from "section" to the end substitute " sections 938N and 938V of CTA 2010 (this Part treated as of no effect for the purposes of Parts 21B and 21BA of CTA 2010 (group mismatch and tax mismatch schemes)). "

6 (1) The amendments made by this Schedule have effect in relation to schemes entered into at any time (including any time before the commencement date).

(2) But section 938O in Part 21BA of CTA 2010 (as inserted by paragraph 3 of this Schedule) does not apply to—

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(a) scheme losses or profits that relate to a time before the commencement date, or

(b) scheme profits that relate to a time on or after that date but are made in relation to a scheme entered into before that date.

(3) In this paragraph "the commencement date" means 5 December 2012.

SCHEDULE 21

Section 46

COMMUNITY AMATEUR SPORTS CLUBS

Introductory

1 Chapter 9 of Part 13 of CTA 2010 (community amateur sports clubs) is amended as follows.

Meaning of "open to the whole community"

2 (1) Section 659 (meaning of "open to the whole community") is amended as follows.

(2) In subsection (1), for paragraph (c) substitute—

"(c) the costs associated with membership of the club for any year do not represent a significant obstacle to membership of the club, use of its facilities or full participation in its activities (see subsection (2A))."

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (1)(c) the costs associated with membership of a club for any year represent a significant obstacle to membership of the club, use of its facilities or full participation in its activities if—

(a) those costs exceed the amount specified for the year for the purposes of this subsection in regulations made by the Treasury, and

(b) the club has not made such arrangements as are necessary to secure that those costs do not represent such an obstacle.

(2B) The Treasury may by regulations make provision supplementing subsection (2A), including—

(a) provision as to what constitutes full participation in a club's activities;

(b) provision as to costs that are, or are not, to be regarded as the costs associated with membership of a club;

(c) provision about calculating the amount of the costs associated with membership of a club for any year.

(2C) The provision that may be made by regulations under this section includes—

(a) different provision for different purposes, and

(b) provision having effect in relation to times before the regulations are made.

(2D) Section 1171(4) (orders and regulations subject to negative resolution procedure) does not apply to any regulations made under this section if a

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draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons."

(4) For subsection (3) substitute—

"(3) A club is not prevented from being "open to the whole community" for the purposes of section 658 merely because it charges different fees for different descriptions of person."

Commencement Information

I39 Sch. 21 para. 2 in force at 1.4.2010 for the purposes of the amendments made by that paragraph so far as not already in force by S.I. 2015/674, **art. 2**

Meaning of "organised on an amateur basis"

3 (1) Section 660 (meaning of "organised on an amateur basis") is amended as follows.

(2) In subsection (1), omit the "and" after paragraph (b) and after that paragraph insert—

"(ba) it does not exceed the limit on paid players (see subsection (5A)), and".

(3) In subsection (4)(g)—

(a) after "travel" insert " or subsistence ", and

(b) for "travelling to away matches" substitute " in connection with away matches ".

(4) After subsection (4) insert—

"(4A) In subsection (4)(g) "subsistence expenses" means expenses on food, drink and temporary living accommodation."

(5) After subsection (5) insert—

"(5A) A club does not exceed the limit on paid players for the purposes of subsection (1) if—

(a) the number of persons paid to play for the club does not at any time exceed the specified maximum,

(b) the number of such persons in any year does not exceed the specified maximum for that year,

(c) the amount paid to any such person in any year in respect of activities undertaken for the club does not exceed the specified maximum for that year, and

(d) the total amount paid to such persons in any year in respect of activities undertaken for the club does not exceed the specified maximum for that year.

"Specified" means specified in regulations made by the Treasury.

(5B) The Treasury may by regulations make provision supplementing subsection (5A), including—

(a) provision as when a person is, or is not, to be regarded as a person paid to play for a club, and

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(b) provision about calculating for the purposes of subsection (5A) the amount paid to such a person."

(6) After subsection (7) insert—

"(8) The Treasury may by regulations make further provision as to when a club is "organised on an amateur basis" for the purposes of section 658.

(9) The provision that may be made by regulations under subsection (8) includes—

(a) provision as to the conditions which a club must meet in order to be "organised on an amateur basis" for the purposes of section 658;

(b) provision as to what are, or are not, to be regarded as "ordinary benefits of an amateur sports club" for the purposes of subsection (1);

(c) provision about persons who are, or are not, to be regarded as guests of a member of a club for the purposes of subsection (1).

(10) Regulations made under subsection (8) may amend this section or make other amendments to this Chapter.

(11) A statutory instrument that contains (whether alone or with other provisions) regulations under subsection (8) that amend this section or make other amendments to this Chapter may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

(7) After subsection (11) insert—

"(12) The provision that may be made by regulations under this section includes—

(a) different provision for different purposes, and

(b) provision having effect in relation to times before the regulations are made.

(13) Section 1171(4) (orders and regulations subject to negative resolution procedure) does not apply to any regulations made under this section if a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons."

Commencement Information

I40 Sch. 21 para. 3 in force at 1.4.2010 for the purposes of the amendments made by that paragraph so far as not already in force by S.I. 2015/674, **art. 2**

Clubs consisting mainly of social members

4 In section 658 (meaning of "community amateur sports club"), in subsection (1A)(c), for "section 661" substitute " sections 660A and 661 ".

Commencement Information

I41 Sch. 21 para. 4 in force at 1.4.2010 for the purposes of the amendments made by that paragraph so far as not already in force by S.I. 2015/674, **art. 2**

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5 After section 660 insert—

"**660A Clubs consisting mainly of social members**

(1) A club is not to be regarded as a club that has as its main purpose the provision of facilities for, and the promotion of participation in, one or more eligible sports if the percentage of its members who are social members exceeds the percentage specified for the purposes of this section in regulations made by the Treasury.

(2) A member is a "social member" for the purposes of this section if the member does not participate, or participates only occasionally, in the sporting activities of the club.

(3) The Treasury may by regulations make provision—

(a) as to activities that are, or are not, to be regarded as "sporting activities" of a club;

(b) as to the circumstances in which a member of a club is, or is not, to be regarded as participating in the sporting activities of the club;

(c) as to the circumstances in which a member of a club is, or is not, to be regarded as participating only occasionally in those activities.

(4) The provision that may be made by regulations under this section includes—

(a) different provision for different purposes, and

(b) provision having effect in relation to times before the regulations are made.

(5) Section 1171(4) (orders and regulations subject to negative resolution procedure) does not apply to any regulations made under this section if a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons."

Commencement Information

I42 Sch. 21 para. 5 in force at 1.4.2010 for the purposes of the amendments made by that paragraph so far as not already in force by S.I. 2015/674, **art. 2**

Exemptions

6 In section 662 (exemption from corporation tax for UK trading income), after subsection (5) insert—

"(5A) The Treasury may by order amend the figure for the time being specified as the relevant threshold in subsection (5)(a).

(5B) A statutory instrument containing an order under subsection (5A) that amends that figure so as to substitute a lower figure may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

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Commencement Information

I43 Sch. 21 para. 6 in force at 1.4.2010 for the purposes of the amendments made by that paragraph so far as not already in force by S.I. 2015/674, **art. 2**

7 In section 663 (exemption from corporation tax for UK property income), after subsection (5) insert—

"(5A) The Treasury may by order amend the figure for the time being specified as the relevant threshold in subsection (5)(a).

(5B) A statutory instrument containing an order under subsection (5A) that amends that figure so as to substitute a lower figure may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

Commencement Information

I44 Sch. 21 para. 7 in force at 1.4.2010 for the purposes of the amendments made by that paragraph so far as not already in force by S.I. 2015/674, **art. 2**

Power to specify income condition

8 (1) The Treasury may by regulations provide that a club is not entitled to be registered as a community amateur sports club under section 658 of CTA 2010 unless it meets one or more conditions relating to income received by the club.

(2) The provision that may be made by regulations under this paragraph includes, in particular—

(a) provision restricting the amount of income, or income of a specified description, that a community amateur sports club may receive for a period, and

(b) provision prohibiting such a club from receiving income of a specified description.

"Specified" means specified in the regulations.

(3) Regulations made under this paragraph may—

(a) amend Chapter 9 of Part 13 of CTA 2010,

(b) make different provision for different purposes, and

(c) contain provision having effect in relation to times before the regulations are made or this Act is passed.

(4) A statutory instrument that contains (whether alone or with other provisions) regulations under this paragraph may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

Commencement Information

I45 Sch. 21 para. 8 in force at 1.4.2010 for the purposes of the amendments made by that paragraph so far as not already in force by S.I. 2015/674, **art. 2**

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Commencement

9 (1) Any power conferred on the Treasury under or by virtue of this Schedule to make regulations or an order comes into force on the day on which this Act is passed (and may be exercised to make provision having effect in relation to times before this Act is passed).

(2) So far as not already brought into force by virtue of sub-paragraph (1), the amendments made by this Schedule come into force in accordance with provision contained in an order made by the Treasury.

(3) An order made under sub-paragraph (2) may—

(a) provide for such amendments to be treated as having come into force on a date not earlier than 1 April 2010;

(b) make transitional provision or savings.

10 (1) In a case where a club that was registered as a community amateur sports club before the day on which this Act is passed ceases to be entitled to be registered as such by virtue of this Schedule, an officer of Revenue and Customs may not cancel the club's registration with effect from a date earlier than that day.

(2) But sub-paragraph (1) does not prevent the cancellation of the club's registration if the officer is satisfied that—

(a) any information provided by a person ("P") at the time of registration was inaccurate, and

(b) the inaccuracy was careless (within the meaning of paragraph 3 of Schedule 24 to FA 2007) or deliberate on P's part.

SCHEDULE 22

Section 48

TRANSITIONAL PROVISION RELATING TO REDUCTION IN STANDARD LIFETIME ALLOWANCE ETC

PART 1

"FIXED PROTECTION 2014"

1 (1) This paragraph applies on or after 6 April 2014 in the case of an individual—

(a) who, on that date, has one or more arrangements under—

(i) a registered pension scheme, or

(ii) a relieved non-UK pension scheme of which the individual is a relieved member,

(b) in relation to whom paragraph 7 of Schedule 36 to FA 2004 (primary protection) does not make provision for a lifetime allowance enhancement factor,

(c) in relation to whom paragraph 12 of that Schedule (enhanced protection) does not apply on that date, and

(d) in whose case paragraph 14 of Schedule 18 to FA 2011 (transitional provision relating to new standard lifetime allowance for the tax year 2012-13) does not apply on that date,

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if notice of intention to rely on it is given to an officer of Revenue and Customs.

(2) Part 4 of FA 2004 has effect in relation to the individual as if the standard lifetime allowance were the greater of the standard lifetime allowance and £1,500,000.

(3) But this paragraph ceases to apply if **[**F106the notice under sub-paragraph (1) is given on or after 15 March 2023 and,**]** on or after 6 April 2014—

(a) there is benefit accrual in relation to the individual under an arrangement under a registered pension scheme,

(b) there is an impermissible transfer into any arrangement under a registered pension scheme relating to the individual,

(c) a transfer of sums or assets held for the purposes of, or representing accrued rights under, any such arrangement is made that is not a permitted transfer, or

(d) an arrangement relating to the individual is made under a registered pension scheme otherwise than in permitted circumstances.

(4) For the purposes of sub-paragraph (3)(a) there is benefit accrual in relation to the individual under an arrangement—

(a) in the case of a money purchase arrangement that is not a cash balance arrangement, if a relevant contribution is paid under the arrangement on or after 6 April 2014,

(b) in the case of a cash balance arrangement or a defined benefits arrangement, if there is an increase in the value of the individual's rights under the arrangement at any time on or after that date (but subject to sub-paragraph (11)), and

(c) in the case of a hybrid arrangement—

(i) where the benefits that may be provided to or in respect of the individual under the arrangement include money purchase benefits other than cash balance benefits, if a relevant contribution is paid under the arrangement on or after 6 April 2014, and

(ii) in any case, if there is an increase in the value of the individual's rights under the arrangement at any time on or after that date (but subject to sub-paragraph (11)).

(5) For the purposes of sub-paragraphs (4)(b) and (c)(ii) and (11) whether there is an increase in the value of the individual's rights under the arrangement (and its amount if there is) is to be determined—

(a) in the case of a cash balance arrangement (or a hybrid arrangement under which cash balance benefits may be provided to or in respect of the individual under the arrangement), by reference to whether there is an increase in the amount that would, on the valuation assumptions, be available for the provision of benefits to or in respect of the member (and, if there is, the amount of the increase), and

(b) in the case of a defined benefits arrangement (or a hybrid arrangement under which defined benefits may be provided to or in respect of the individual under the arrangement), by reference to whether there is an increase in the benefits amount.

(6) For the purposes of sub-paragraph (5)(b) "the benefits amount" is—

$$(P \times \mathrm{RVF}) + \mathrm{LS}$$

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where—

LS is the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension);

P is the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement;

RVF is the relevant valuation factor.

(7) Paragraph 17A of Schedule 36 to FA 2004 (impermissible transfers) applies for the purposes of sub-paragraph (3)(b) but as if the references to a relevant existing arrangement were to the arrangement and the reference in sub-paragraph (2) to 5 April 2006 were to 5 April 2014.

(8) Sub-paragraphs (7) to (8B) of paragraph 12 of Schedule 36 to FA 2004 (when there is a permitted transfer) apply for the purposes of sub-paragraph (3)(c); and where there is a permitted transfer—

(a) if it is a permitted transfer by virtue of sub-paragraph (8)(a) of paragraph 12, this paragraph applies in relation to the arrangement to which the transfer is made,

(b) if it is a permitted transfer by virtue of sub-paragraph (8)(b) of that paragraph, this paragraph applies in relation to the arrangement to which the transfer is made as if it were the same as that from which it is made, and

(c) if it is a permitted transfer by virtue of sub-paragraph (8)(c) of that paragraph, this paragraph applies in relation to the arrangement to which the transfer is made as if it were the same as that from which it is made and (if the employment is transferred) as if the employment with the transferee were the employment with the transferor.

(9) Sub-paragraphs (2A) to (2C) of paragraph 12 of Schedule 36 to FA 2004 ("permitted circumstances") apply for the purposes of sub-paragraph (3)(d).

(10) Paragraph 14 of Schedule 36 to FA 2004 (when a relevant contribution is paid under an arrangement) applies for the purposes of sub-paragraph (4)(a) and (c)(i).

(11) Increases in the value of the individual's rights under an arrangement are to be ignored for the purposes of sub-paragraph (4)(b) or (c)(ii) if in no tax year do they exceed the relevant percentage.

(12) The relevant percentage, in relation to a tax year, means—

(a) where the arrangement (or a predecessor arrangement) includes provision for the value of the rights of the individual to increase during the tax year at an annual rate specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 11 December 2012—

(i) that percentage (or, where more than one arrangement includes such provision, the higher or highest of the percentages specified), plus

(ii) the relevant statutory increase percentage;

(b) otherwise—

(i) the percentage by which the consumer prices index for the month of September in the previous tax year is higher than it was for the September before that (or nil per cent if it is not higher), or

(ii) if higher, the relevant statutory increase percentage.

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(13) In sub-paragraph (12)(a)—

"predecessor arrangement", in relation to an arrangement, means another arrangement (under the same or another registered pension scheme) from which some or all of the sums or assets held for the purposes of the arrangement directly or indirectly derive;

"predecessor registered pension scheme", in relation to a pension scheme, means another registered pension scheme from which some or all of the sums or assets held for the purposes of the arrangement under the pension scheme directly or indirectly derive.

(14) In sub-paragraph (12) "the relevant statutory increase percentage", in relation to a tax year, means the percentage increase in the value of the individual's rights under the arrangement during the tax year so far as it is attributable solely to one or more of the following—

(a) an increase in accordance with section 15 of the Pension Schemes Act 1993 or section 11 of the Pension Schemes (Northern Ireland) Act 1993 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed);

(b) a revaluation in accordance with section 16 of the Pension Schemes Act 1993 or section 12 of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of earnings factors);

(c) a revaluation in accordance with Chapter 2 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of accrued benefits);

(d) a revaluation in accordance with Chapter 3 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: protection of increases in guaranteed minimum pensions);

(e) the application of section 67 of the Equality Act 2010 (sex equality rule for occupational pension schemes).

(15) Sub-paragraph (16) applies in relation to a tax year if—

(a) the arrangement is a defined benefits arrangement which is under an annuity contract treated as a registered pension scheme under section 153(8) of FA 2004,

(b) the contract provides for the value of the rights of the individual to be increased during the tax year at an annual rate specified in the contract, and

(c) the contract limits the annual rate to the percentage increase in the retail prices index over a 12 month period specified in the contract.

(16) Sub-paragraph (12)(b)(i) applies as if it referred instead to the annual rate of the increase in the value of the rights during the tax year.

(17) For the purposes of sub-paragraph (15)(c) the 12 month period must end during the 12 month period preceding the month in which the increase in the value of the rights occurs.

(18) Subject to sub-paragraphs (19) to (21), sub-paragraph (3) applies in relation to an individual who is a relieved member of a relieved non-UK pension scheme as if the relieved non-UK pension scheme were a registered pension scheme; and the other sub-paragraphs of this paragraph apply accordingly.

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(19) Sub-paragraphs (20) and (21) apply for the purposes of sub-paragraph (3)(a)(instead of sub-paragraph (4)) in determining if there is benefit accrual in relation to an individual under an arrangement under a relieved non-UK pension scheme of which the individual is a relieved member.

(20) There is benefit accrual in relation to the individual under the arrangement if there is a pension input amount under sections 230 to 237 of FA 2004 (as applied by Schedule 34 to that Act) greater than nil in respect of the arrangement for a tax year; and, in such a case, the benefit accrual is treated as occurring at the end of the tax year.

(21) There is also benefit accrual in relation to the individual under the arrangement if—

(a) in a tax year there occurs a benefit crystallisation event in relation to the individual (whether in relation to the arrangement or to any other arrangement under any pension scheme or otherwise), and

(b) had the tax year ended immediately before the benefit crystallisation event, there would have been a pension input amount under sections 230 to 237 of FA 2004 greater than nil in respect of the arrangement for the tax year,

and, in such a case, the benefit accrual is treated as occurring immediately before the benefit crystallisation event.

(22) Expressions used in this paragraph and Part 4 of FA 2004 (pension schemes) have the same meaning in this paragraph as in that Part.

(23) In particular, references to a relieved non-UK pension scheme or a relieved member of such a scheme are to be read in accordance with paragraphs 13(3) and (4) and 18 of Schedule 34 to FA 2004 (application of lifetime allowance charge provisions to members of overseas pension schemes).

Textual Amendments

F106 Words in Sch. 22 para. 1(3) inserted (for the tax year 2023-24 and subsequent tax years) by Finance (No. 2) Act 2023 (c. 30), **s. 23(6)(8)**

2 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend paragraph 1.

(2) Regulations under this paragraph may (for example) add to the cases in which paragraph 1 is to apply or is to cease to apply.

(3) Regulations under this paragraph may include provision having effect in relation to a time before the regulations are made; but—

(a) the time must be no earlier than 6 April 2014, and

(b) the provision must not increase any person's liability to tax.

3 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision specifying how any notice required to be given to an officer of Revenue and Customs under paragraph 1 is to be given.

(2) In sub-paragraph (1) the reference to paragraph 1 is to that paragraph as amended from time to time by regulations under paragraph 2.

4 (1) Regulations under paragraph 2 or 3 may include supplementary or incidental provision.

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(2) The powers to make regulations under paragraphs 2 and 3 are exercisable by statutory instrument.

(3) A statutory instrument containing regulations under paragraph 2 or 3 is subject to annulment in pursuance of a resolution of the House of Commons.

PART 2

OTHER PROVISION

5 Part 4 of FA 2004 (pension schemes) is amended as follows.

6 (1) Section 218 (standard lifetime allowance etc) is amended as follows.

(2) After subsection (5B) insert—

"(5BA) Where the operation of a lifetime allowance enhancement factor is provided for by any of sections 220, 222, 223 and 224 and the time mentioned in the definition of SLA in the section concerned fell within the period consisting of the tax year 2012-13 and the tax year 2013-14, subsection (4) has effect as if the amount to be multiplied by LAEF were £1,500,000 if that is greater than SLA.

(5BB) Where more than one lifetime allowance enhancement factor operates, subsection (5BA) does not apply if subsection (5A) or (5B) applies."

(3) After subsection (5C) insert—

"(5D) Where benefit crystallisation event 7 occurs on or after 6 April 2014 by reason of the payment of a relevant lump sum death benefit in respect of the death of the individual during the period consisting of the tax year 2012-13 and the tax year 2013-14, the standard lifetime allowance at the time of the benefit crystallisation event is £1,500,000."

(4) The amendments made by this paragraph have effect for the tax year 2014-15 and subsequent tax years.

7 (1) In section 219 (availability of individual's lifetime allowance) after subsection (5) insert—

"(5A) If paragraph 7 of Schedule 36 (primary protection) makes provision for a lifetime allowance enhancement factor in relation to the individual, subsection (5) has effect as if CSLA were £1,500,000 if that is greater than CSLA."

(2) The amendment made by this paragraph has effect for cases in which the time of the current benefit crystallisation event falls on or after 6 April 2014.

8 (1) Part 1 of Schedule 29 (authorised lump sums: lump sum rule) is amended as follows.

(2) In paragraph 2 (which applies for the purpose of determining pension commencement lump sums) after sub-paragraph (8) insert—

"(9) Sub-paragraph (10) applies if the member is a protected individual (but not if this paragraph applies with the modifications set out in paragraph 27 or 28 of Schedule 36).

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(10) Sub-paragraphs (6) and (7) have effect as if CSLA were £1,500,000 if that is greater than CSLA.

(11) The member is a "protected individual" if—

(a) paragraph 7 of Schedule 36 (primary protection) makes provision for a lifetime allowance enhancement factor in relation to the member, or

(b) at the time the member becomes entitled to the lump sum, paragraph 12 of that Schedule (enhanced protection) applies in relation to the member."

(3) The amendment made by sub-paragraph (2) has effect for cases in which the member becomes entitled to the lump sum on or after 6 April 2014.

F107(4) . . . . . .

(5) The amendment made by sub-paragraph (4) has effect for cases in which the nominated date falls on or after 6 April 2014.

Textual Amendments

F107 Sch. 22 para. 8(4) omitted (with effect in accordance with s. 42(8) of the amending Act) by virtue of Finance Act 2014 (c. 26), **s. 42(4)**

SCHEDULE 23

Section 55

EMPLOYEE SHAREHOLDER SHARES

PART 1

INCOME TAX TREATMENT OF EMPLOYEE SHAREHOLDER SHARES

1 ITEPA 2003 is amended in accordance with paragraphs 2 to 15.

2 In section 19(2) (time of receipt of non-money earnings), at the appropriate place insert— " section 226A (amount treated as earnings: employee shareholder shares). "

Commencement Information

I46 Sch. 23 para. 2 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

3 In Chapter 12 of Part 3, after section 226 insert—

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"Shares of employee shareholders

226A Amount treated as earnings

(1) This section applies if shares having a market value of no less than £2000 are acquired by an employee in consideration of an employee shareholder agreement.

(2) An amount calculated in accordance with subsection (3) is to be treated as earnings from the employment, in respect of the acquisition of the shares, for the tax year in which they are acquired.

But this is subject to subsection (4).

(3) The amount is—

$$MV - P$$

where—

a MV is an amount equal to the market value of the shares;

b P is any payment the employee is treated as making for the shares under section 226B.

But if P exceeds MV, the amount is nil.

(4) If the shares are acquired pursuant to an employment-related securities option, subsection (2) does not apply.

(5) If subsection (2) applies, nothing else constitutes earnings under this Part from the employment in respect of the acquisition of the shares.

(6) For the purposes of this section and sections 226B to 226D—

shares are "acquired" by an employee if the employee becomes beneficially entitled to them (and they are acquired at the time when the employee becomes so entitled);

"employee shareholder agreement" means an agreement by virtue of which an employee is an employee shareholder (see section 205A(1)(a) to (d) of the Employment Rights Act 1996);

"employee shareholder share" means a share acquired by an employee in consideration of an employee shareholder agreement;

"employee" and "employer company", in relation to an employee shareholder agreement, mean the individual and the company which enter into the agreement;

"employment-related securities option" has the same meaning as in Chapter 5 of Part 7 (see section 471(5));

"market value" has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act; and the market value of shares is their market value on the day on which they are acquired (but see also subsection (7)).

(7) For the purposes of subsection (1), the market value of the shares is to be determined ignoring—

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(a) any election under section 431 (election for market value of restricted shares to be calculated as if not restricted), and

(b) section 437 (market value of convertible securities to be determined as if not convertible).

226B Deemed payment for employee shareholder shares

(1) This section applies if shares having a market value of no less than £2000 are acquired by an employee in consideration of an employee shareholder agreement.

(2) Where all the shares acquired in consideration of the agreement are acquired on the same day, the employee is to be treated, for the purposes of this Act, as having made on that day a payment of £2000 for those shares.

(3) Where—

(a) shares are acquired by the employee in consideration of the agreement on more than one day, and

(b) of those shares, shares having a market value of not less than £2000 are acquired on the first of those days,

the employee is to be treated for the purposes of this Act as having made, on the first of those days, a payment of £2000 for the shares acquired on that day.

(4) If the market value of the shares acquired by the employee on the day mentioned in subsection (2) or (3)(b) exceeds £2000, the amount of the payment under subsection (2) or (3) which the employee is to be treated as having made for each of the shares is an amount equal to the appropriate proportion of the market value of that share.

(5) The "appropriate proportion" is the following—

$$\frac{2000}{V}$$

where V is the total market value of the shares acquired by the employee on the day.

(6) This section is subject to—

(a) section 226C (only one payment deemed to be made under agreements with associated companies), and

(b) section 226D (no deemed payment if shareholder or a connected person has a material interest in the company).

(7) Except as provided by this section, for the purposes of this Act the employee is to be treated as having given no consideration for shares acquired in consideration of the agreement.

(8) Section 226A(7) applies for the purposes of this section as it applies for the purposes of section 226A(1).

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226C Only one payment deemed to be made under associated agreements

(1) An employee who is treated as having made a payment under section 226B for shares acquired in consideration of an employee shareholder agreement ("the relevant agreement") is not to be treated as having made a payment for any other qualifying shares.

(2) "Qualifying shares" means employee shareholder shares in—

(a) the employer company in relation to the relevant agreement, or

(b) an associated company of that company,

which are acquired by the employee in consideration of an agreement within subsection (3).

(3) An agreement is within this subsection if it is—

(a) another employee shareholder agreement with the same employer company, or

(b) an employee shareholder agreement with an associated company of that company.

(4) For the purposes of this section—

(a) a company is an "associated company" of another if—

(i) one of the two has control of the other, or

(ii) both are under the control of the same person or persons, and

(b) if a company controls another when an employee shareholder agreement is entered into with the employee, paragraph (a) applies as if that continued to be the case (in addition to any other circumstances) when any subsequent employee shareholder agreement is entered into with that employee.

(5) But subsection (4)(b) does not apply as between two companies if—

(a) one of the companies has been dissolved,

(b) the period of two years beginning with the date of the dissolution has passed, and

(c) the employee has not, at any time in that period, been engaged in any office or employment (including engagement under a contract for services) with any company which is an associated company of the dissolved company.

(6) In this section "control" is to be read in accordance with sections 450 and 451 of CTA 2010.

226D Shareholder or connected person having material interest in company

(1) No payment is treated as made under section 226B in respect of any shares if, on the date on which the shares are acquired—

(a) the employee has a material interest in the employer company or a relevant parent undertaking, or

(b) the employee is connected with an individual who has a material interest in the employer company or a relevant parent undertaking.

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(2) No payment is treated as made under section 226B in respect of any shares if—

(a) at any time in the period of one year ending with the date on which the shares are acquired, the employee had a material interest in the employer company or a relevant parent undertaking, or

(b) on the date on which the shares are acquired, the employee is connected with an individual who, at any time in the period of one year ending with that date, had a material interest in the employer company or a relevant parent undertaking.

(3) Subsections (4) and (5) define "material interest" for the purposes of this section.

Those subsections must be read together with subsections (6) to (8).

(4) An individual ("A") has a material interest in a company if at least 25% of the voting rights in the company are exercisable—

(a) by A,

(b) by persons connected with A, or

(c) by A and persons connected with A together.

(5) If a company is a close company, an individual ("A") has a material interest in it if—

(a) A,

(b) persons connected with A, or

(c) A and persons connected with A together,

possess such rights as would, in the event of the winding up of the company or in any other circumstances, give an entitlement to receive at least 25% of the assets that would then be available for distribution among the participators.

(6) For the purposes of subsection (1), A is to be treated as having a material interest in a company at any time if either of the following conditions is met.

(7) The first condition is that—

(a) A,

(b) persons connected with A, or

(c) A and persons connected with A together,

have an entitlement to acquire such rights as would (together with any existing rights) give A a material interest in the company.

(8) The second condition is that there are arrangements in place between—

(a) the employer company or a relevant parent undertaking, and

(b) A, or persons connected with A, or A and persons connected with A together,

which enable A or those persons to acquire such rights as would (together with any existing rights) give A a material interest in the company.

(9) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

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"close company" includes a company that would be a close company but for—

(a) section 442(a) of CTA 2010 (exclusion of companies not resident in the United Kingdom), or

(b) sections 446 and 447 of CTA 2010 (exclusion of certain quoted companies);

"relevant parent undertaking" means any parent undertaking of the employer company and for this purpose "parent undertaking" is to be read in accordance with section 1162 of the Companies Act 2006."

Commencement Information

I47 Sch. 23 para. 3 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

4 In consequence of the amendment made by paragraph 3—

(a) in the heading to Chapter 12 of Part 3, for "PAYMENTS" substitute " OTHER AMOUNTS ", and

(b) before section 221 insert the heading "*Payments"*.

Commencement Information

I48 Sch. 23 para. 4 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

5 In section 428 (restricted securities: amount of charge on occurrence of chargeable event), in subsection (7), after paragraph (b) insert—

"(ba) any amount treated as earnings from the employee's employment under section 226A (employee shareholder shares: amount treated as earnings) in respect of the acquisition of the employment-related securities (other than an amount of exempt income),".

Commencement Information

I49 Sch. 23 para. 5 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

6 In section 431 (election for full or partial disapplication of Chapter 2 (restricted securities)), in subsection (3), after paragraph (a) insert—

"(aa) determining any amount that is to be treated as earnings from the employment where section 226A applies (employee shareholder shares: amount treated as earnings),".

Commencement Information

I50 Sch. 23 para. 6 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

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7 In section 437 (convertible securities: adjustment of charge), in subsection (1)(a), after "charge)" insert " , section 226A (employee shareholder shares: amount treated as earnings) ".

Commencement Information

I51 Sch. 23 para. 7 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

8 In section 446B (charge on acquisition of securities with artificially depressed market value), in subsection (4), after paragraph (b) insert—

"(ba) section 226A (employee shareholder shares: amount treated as earnings),".

Commencement Information

I52 Sch. 23 para. 8 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

9 In section 446T (securities acquired for less than market value: amount of notional loan), in subsection (3), after paragraph (b) insert—

"(ba) any amount treated as earnings from the employee's employment under section 226A (employee shareholder shares: amount treated as earnings) in respect of the acquisition of the employment-related securities (other than an amount of exempt income),".

Commencement Information

I53 Sch. 23 para. 9 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

10 In section 446V (Chapter 3C to be additional to other income tax charges), after paragraph (b) insert—

"(ba) section 226A (employee shareholder shares: amount treated as earnings),".

Commencement Information

I54 Sch. 23 para. 10 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

11 In section 452 (shares in research institution spin-out companies: market value on acquisition), in subsection (2), after paragraph (a) insert—

"(aa) determining any amount that is to be treated as earnings from the employment under section 226A (employee shareholder shares: amount treated as earnings),".

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Commencement Information

I55 Sch. 23 para. 11 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

12 In section 479 (securities options: amount of gain realised on chargeable event), after subsection (3) insert—

"(3A) Sections 226B to 226D (deemed payment for acquisition of employee shareholder shares) provide for the determination of the amount of consideration, if any, which is given for employee shareholder shares (within the meaning of section 226A(6))."

Commencement Information

I56 Sch. 23 para. 12 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

13 In section 531 (enterprise management incentives: limitation of charge where shares acquired below market value), after subsection (3) insert—

"(3A) Sections 226B to 226D (deemed payment for acquisition of employee shareholder shares) provide for the determination of the amount, if any, for which employee shareholder shares (within the meaning of section 226A(6)) are acquired."

Commencement Information

I57 Sch. 23 para. 13 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

14 (1) Section 532 (enterprise management incentives: consequences after disqualifying events) is amended as follows.

(2) After subsection (4) insert—

"(4A) Sections 226B to 226D (deemed payment for acquisition of employee shareholder shares) provide for the determination of the amount, if any, for which employee shareholder shares (within the meaning of section 226A(6)) are acquired."

(3) In subsection (5), for "those subsections" substitute " subsections (2) and (3) ".

Commencement Information

I58 Sch. 23 para. 14 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

15 In section 554N (exclusions: other cases involving employment-related securities etc), in subsection (7)(b), after "Part 3" insert " , or an amount treated under section 226A as earnings of A, ".

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Commencement Information

I59 Sch. 23 para. 15 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

16 In Chapter 3 of Part 4 of ITTOIA 2005 (tax on dividends etc from UK companies), after section 385 insert—

"Purchase by company of exempt employee shareholder shares

385A No charge to tax on purchase by company of exempt employee shareholder shares

(1) No tax is charged under this Chapter on the amount or value of a payment made by a company on the purchase of shares from an individual if—

(a) the payment is made in respect of shares in the company,

(b) the shares are exempt employee shareholder shares, and

(c) at the time of the disposal, the individual is not an employee of, or an office-holder in, the employer company or an associated company of that company.

(2) In this section—

"exempt employee shareholder share", "employer company" and "associated company" have the same meaning as in sections 236B to 236D of TCGA 1992 (capital gains tax treatment of employee shareholder shares);

"in respect of shares in the company" has the same meaning as in Part 23 of CTA 2010 (company distributions) (see section 1113 of that Act)."

Commencement Information

I60 Sch. 23 para. 16 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

PART 2

CAPITAL GAINS TAX EXEMPTION FOR EMPLOYEE SHAREHOLDER SHARES

17 TCGA 1992 is amended as follows.

18 In section 58(2) (spouses and civil partners: disposals excepted from the usual rule)—

(a) omit "or" at the end of paragraph (a), and

(b) after paragraph (b) insert ", or

(c) if the disposal is of exempt employee shareholder shares (see sections 236B to 236D),".

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Commencement Information

I61 Sch. 23 para. 18 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

19 (1) Section 149AA (restricted and convertible employment-related securities) is amended as follows.

(2) In subsection (1) for "Where" substitute " Subject to subsection (1A), where ".

(3) After that subsection insert—

"(1A) Where an individual has acquired an asset consisting of shares which, on acquisition, became employee shareholder shares—

(a) the consideration for the acquisition is (subject to section 119A) to be taken to be equal to any amount that constituted earnings under Chapter 1 of Part 3 of ITEPA 2003 (earnings) or section 226A of that Act (employee shareholder shares), and

(b) no other consideration is to be treated as having been given for the acquisition of the shares."

(4) In subsection (2)—

(a) for "Subsection (1) above applies" substitute " Subsections (1) and (1A) apply ", and

(b) for "is" substitute " are ".

(5) After subsection (6) insert—

"(6A) For the purposes of subsection (1A)—

"employee shareholder share" has the meaning given in section 236B(3) (exemption for employee shareholder shares), and

shares are "acquired" by an individual if the individual becomes beneficially entitled to them (and they are so acquired at the time when the individual becomes so entitled)."

(6) In subsection (7)—

(a) for "In subsection (1) the" substitute " In subsections (1) and (1A) a ", and

(b) after "ITEPA 2003" insert " or was treated as earnings under section 226A of that Act ".

(7) Accordingly, in the heading for that section, after "**securities**" insert " **and employee shareholder shares** ".

Commencement Information

I62 Sch. 23 para. 19 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

20 After section 236A insert—

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"Employee shareholders

236B Exemption for employee shareholder shares

(1) A gain which accrues on the first disposal of an exempt employee shareholder share is not a chargeable gain.

(2) A share is an exempt employee shareholder share if it is—

(a) an employee shareholder share, and

(b) exempt in accordance with sections 236C and 236D.

(3) In this section and sections 236C to 236G—

shares are "acquired" by an employee if the employee becomes beneficially entitled to them (and they are acquired at the time when the employee becomes so entitled);

"employee shareholder share" means a share acquired in consideration of an employee shareholder agreement and held by the employee;

"employee shareholder agreement" means an agreement by virtue of which an employee is an employee shareholder (see section 205A(1)(a) to (d) of the Employment Rights Act 1996);

"employee" and "employer company", in relation to an employee shareholder agreement, mean the individual and the company which enter into the agreement.

236C Only first £50,000 of shares under associated agreements to be exempt

(1) An employee shareholder share acquired in consideration of an employee shareholder agreement ("the relevant agreement") is exempt for the purposes of section 236B only if, immediately after its acquisition, the total value of qualifying shares which have been acquired by the employee does not exceed £50,000.

(2) "Qualifying share" means an employee shareholder share in—

(a) the employer company in relation to the relevant agreement, or

(b) an associated company of that company,

which is acquired by the employee in consideration of an agreement within subsection (3).

(3) An agreement is within this subsection if it is—

(a) the relevant agreement,

(b) another employee shareholder agreement with the same employer company, or

(c) an employee shareholder agreement with an associated company of that company.

(4) For the purposes of this section—

(a) a company is an "associated company" of another if—

(i) one of the two has control of the other, or

(ii) both are under the control of the same person or persons, and

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(b) if a company controls another when an employee shareholder agreement is entered into with the employee, paragraph (a) applies as if that continued to be the case (in addition to any other circumstances) when any subsequent employee shareholder agreement is entered into with that employee.

(5) But subsection (4)(b) does not apply as between two companies if—

(a) one of the companies has been dissolved,

(b) the period of two years beginning with the date of the dissolution has passed, and

(c) the employee has not, at any time in that period, been engaged in any office or employment (including engagement under a contract for services) with any company which is an associated company of the dissolved company.

(6) If a number of qualifying shares are acquired by an employee on a day and—

(a) before that day, the value of qualifying shares that have been acquired by the employee does not exceed £50,000, and

(b) at the end of that day, that value does exceed that sum,

the appropriate proportion of the shares (rounded down, if necessary, to the nearest share) is to be treated for the purposes of subsection (1) as having been acquired separately and before the others.

(7) The "appropriate proportion" is the following—

$$\frac{50000 - B}{T}$$

where—

B is the value of qualifying shares acquired before the day;

T is the total value of qualifying shares acquired on the day.

(8) For the purposes of this section, the value of a share (at any time) is its unrestricted market value at the time when it was acquired by the employee.

(9) The unrestricted market value of a share when it is acquired by an employee is what the market value of the share would be immediately after the acquisition, but for any restriction.

For this purpose "restriction" has the meaning given by section 432(8) of ITEPA 2003 (restricted securities for the purposes of Chapter 2 of Part 7 of that Act).

236D Shares not exempt if shareholder or connected person has material interest in company

(1) An employee shareholder share is not exempt for the purposes of section 236B if, on the date on which the share is acquired—

(a) the employee has a material interest in the employer company or a relevant parent undertaking, or

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(b) the employee is connected with an individual who has a material interest in the employer company or a relevant parent undertaking.

(2) An employee shareholder share is not exempt for the purposes of section 236B if—

(a) at any time in the period of one year ending with the date on which the share is acquired, the employee had a material interest in the employer company or a relevant parent undertaking, or

(b) on the date on which the share is acquired, the employee is connected with an individual who, at any time in the period of one year ending with that date, had a material interest in the employer company or a relevant parent undertaking.

(3) Subsections (4) and (5) define "material interest" for the purposes of this section.

Those subsections must be read together with subsections (6) to (8).

(4) An individual ("A") has a material interest in a company if at least 25% of the voting rights in the company are exercisable—

(a) by A,

(b) by persons connected with A, or

(c) by A and persons connected with A together.

(5) If a company is a close company, an individual ("A") has a material interest in it if—

(a) A,

(b) persons connected with A, or

(c) A and persons connected with A together,

possess such rights as would, in the event of the winding up of the company or in any other circumstances, give an entitlement to receive at least 25% of the assets that would then be available for distribution among the participators.

(6) For the purposes of subsection (1), A is to be treated as having a material interest in a company at any time if either of the following conditions is met.

(7) The first condition is that—

(a) A,

(b) persons connected with A, or

(c) A and persons connected with A together,

have an entitlement to acquire such rights as would (together with any existing rights) give A a material interest in the company.

(8) The second condition is that there are arrangements in place between—

(a) the employer company or a relevant parent undertaking, and

(b) A, or persons connected with A, or A and persons connected with A together,

which enable A or those persons to acquire such rights as would (together with any existing rights) give A a material interest in the company.

(9) In this section—

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"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"close company" includes a company that would be a close company but for—

(a) section 442(a) of CTA 2010 (exclusion of companies not resident in the United Kingdom), or

(b) sections 446 and 447 of CTA 2010 (exclusion of certain quoted companies);

"relevant parent undertaking" means any parent undertaking of the employer company and for this purpose "parent undertaking" is to be read in accordance with section 1162 of the Companies Act 2006.

236E Identification of exempt employee shareholder shares

(1) Sections 104 (share pooling), 105 (disposal on or before acquisition) and 106A (identification of securities) do not apply to exempt employee shareholder shares.

(2) Subsection (3) applies where—

(a) an employee holds shares of the same class in a company,

(b) some, but not all, of the shares are exempt employee shareholder shares, and

(c) the employee disposes of some, but not all, of the shares in that holding.

(3) Where this subsection applies—

(a) the employee may determine what proportion of the shares disposed of are to be treated as exempt employee shareholder shares (up to the number of such shares which the employee holds), and

(b) the consideration received for the shares disposed of is to be apportioned accordingly.

(4) For the purposes of this section shares in a company are not to be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.

236F Reorganisation of share capital involving employee shareholder shares

(1) Section 127 (equation of original shares and new holding on reorganisation) does not apply to exempt employee shareholder shares.

(2) The reference in subsection (1) to section 127 includes that section as applied by sections 135 and 136 (other company reconstructions).

236G Relinquishment of employment rights is not disposal of an asset

(1) This section applies where an individual has acquired shares in consideration of entering into an employee shareholder agreement.

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(2) The individual is not to be regarded as disposing of an asset by reason of the individual ceasing to have, or not acquiring, the rights mentioned in section 205A of the Employment Rights Act 1996 (rights which an employee shareholder does not have) in consequence of entering into the agreement."

Commencement Information

I63 Sch. 23 para. 20 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

PART 3

CORPORATION TAX

21 CTA 2009 is amended as follows.

22 In section 1005 (definitions), at the appropriate place insert—

""employee shareholder share" has the meaning given by section 226A(6) of ITEPA 2003,".

Commencement Information

I64 Sch. 23 para. 22 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

23 (1) Section 1009 (relief for employee share acquisitions: employee's tax position) is amended as follows.

(2) In subsection (2)(a), for "earnings within Chapter 1 of Part 3 of ITEPA 2003" substitute " relevant earnings ".

(3) After subsection (2) insert—

"(2A) Relevant earnings" means—

(a) earnings within Chapter 1 of Part 3 of ITEPA 2003, and

(b) any amount that is treated as earnings by virtue of section 226A of that Act (employee shareholder shares)."

(4) After subsection (5) insert—

"(6) Where the shares are employee shareholder shares, this section is subject to section 1038B."

Commencement Information

I65 Sch. 23 para. 23 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

24 In section 1010(1) (acquisition of shares: relief if shares neither restricted nor convertible), after "section 1012" insert " and, in the case of employee shareholder shares, section 1038B ".

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Commencement Information

I66 Sch. 23 para. 24 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

25 (1) Section 1011 (acquisition of shares: relief if shares are restricted or convertible) is amended as follows.

(2) In subsections (2) and (3), for "earnings of the employee within Chapter 1 of Part 3 of ITEPA 2003" substitute " relevant earnings of the employee ".

(3) For subsection (4) substitute—

"(4) For the purposes of subsections (2) and (3) "relevant earnings" means—

(a) earnings within Chapter 1 of Part 3 of ITEPA 2003, and

(b) any amount that is treated as earnings by virtue of section 226A of that Act (employee shareholder shares) (but see also section 1038B of this Act),

except that it does not include any amount of exempt income (within the meaning of section 8 of ITEPA 2003)."

Commencement Information

I67 Sch. 23 para. 25 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

26 In section 1018(1) (acquisition of shares pursuant to option: relief if shares neither restricted nor convertible), after "section 1020" insert " and, in the case of employee shareholder shares, section 1038B ".

Commencement Information

I68 Sch. 23 para. 26 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

27 In section 1019(1) (acquisition of shares pursuant to option: relief if shares are restricted or convertible), after "section 1020" insert " and, in the case of employee shareholder shares, section 1038B ".

Commencement Information

I69 Sch. 23 para. 27 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

28 In section 1022 (takeover of company whose shares are subject to option), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

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Commencement Information

I70 Sch. 23 para. 28 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

29 In section 1026 (restricted shares: relief available on chargeable event), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

Commencement Information

I71 Sch. 23 para. 29 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

30 In section 1027 (restricted shares: relief available on death of employee), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

Commencement Information

I72 Sch. 23 para. 30 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

31 In section 1033 (convertible securities: relief available on chargeable event), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

Commencement Information

I73 Sch. 23 para. 31 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

32 In section 1034 (convertible securities: relief available following death of employee), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

Commencement Information

I74 Sch. 23 para. 32 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

33 (1) At the end of Chapter 6 of Part 12 insert—

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Employee shareholder shares

"1038B For the purposes of this Part, any payment treated as made under section 226B of ITEPA 2003 (employee treated as paying £2000 for employee shareholder shares) in respect of the acquisition of shares is to be ignored when determining—

(a) whether a person is subject to a charge to tax under that Act,

(b) the amount that counts (or would have counted) as employment income under that Act, or

(c) the consideration given by a person in relation to the acquisition of the shares."

(2) Accordingly, in the heading for that Chapter, at the end insert " ETC ".

Commencement Information

I75 Sch. 23 para. 33 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

34 In section 1292 (provision of qualifying benefits), after subsection (6) insert—

"(6ZA) In determining whether condition A or B is met, any payment treated as made under section 226B of ITEPA 2003 (deemed payment for employee shareholder shares) is to be ignored."

Commencement Information

I76 Sch. 23 para. 34 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

35 In section 1293 (timing and amount of certain qualifying benefits), after subsection (5) insert—

"(5A) In determining for the purposes of subsections (3) and (5) the amount that is, or would be, charged to tax under ITEPA 2003, any payment treated as made under section 226B of that Act (deemed payment for employee shareholder shares) is to be ignored."

Commencement Information

I77 Sch. 23 para. 35 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

36 In Schedule 4 (index of definitions), at the appropriate place insert—

"employee shareholder share (in Part 12)	section 226A(6) of ITEPA 2003 (see section 1005 of this Act)".

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Commencement Information

I78 Sch. 23 para. 36 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

PART 4

EMPLOYMENT INCOME EXEMPTION

37 In Chapter 11 of Part 4 of ITEPA (employment income: miscellaneous exemptions), after section 326A insert—

"Employee shareholder agreements

326B Advice relating to proposed employee shareholder agreements

(1) No liability to income tax arises by virtue of—

(a) the provision of relevant advice by a relevant independent adviser, or

(b) the payment or reimbursement, in accordance with section 205A(7) of the Employment Rights Act 1996, of any reasonable costs incurred in obtaining relevant advice.

(2) "Relevant advice" means—

(a) advice, other than tax advice, which is provided for the purposes of section 205A(6)(a) of that Act (advice as to terms and effect of employee shareholder agreement), and

(b) tax advice which is so provided and consists only of an explanation of the tax effects of employee shareholder agreements generally.

(3) In this section—

"employee shareholder agreement" means an agreement by virtue of which an employee is an employee shareholder (see section 205A(1)(a) to (d) of that Act);

"relevant independent adviser" has the meaning that it has for the purposes of section 203(3)(c) of that Act."

Commencement Information

I79 Sch. 23 para. 37 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

PART 5

COMMENCEMENT

38 The amendments made by this Schedule come into force in accordance with provision made by the Treasury by order made by statutory instrument.

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SCHEDULE 24

Section 64

EMI OPTIONS AND ENTREPRENEURS' RELIEF ETC

Entrepreneurs' relief to apply to shares acquired under EMI option

1 (1) In Chapter 3 of Part 5 of TCGA 1992 (entrepreneurs' relief) section 169I (material disposal of business assets) is amended as follows.

(2) In subsection (5) for "or B" substitute " , B, C or D ".

(3) After subsection (7) insert—

"(7A) Condition C is that—

(a) the assets disposed of are relevant EMI shares,

(b) the option grant date is, or is before, the first date of the period of 1 year ending with the date of the disposal, and

(c) throughout that period of 1 year—

(i) the company is either a trading company or the holding company of a trading group, and

(ii) the individual is an officer or employee of the company or (if the company is a member of a trading group) of one or more companies which are members of the trading group.

(7B) Condition D is that—

(a) the assets disposed of are relevant EMI shares acquired by the individual before the cessation date,

(b) the option grant date is, or is before, the first date of the period of 1 year ending with the cessation date,

(c) the conditions in paragraph (c) of subsection (7A) are met throughout that period of 1 year, and

(d) the cessation date is within the period of 3 years ending with the date of the disposal.

(7C) In this section "relevant EMI shares" means—

(a) shares of a company acquired by an individual to which subsection (7D) applies, or

(b) shares of a company to which subsection (7F) applies.

(7D) This subsection applies to shares of a company acquired by an individual if the individual—

(a) acquires them on or after 6 April 2013, and

(b) acquires them as a result of the exercise of a qualifying option within the meaning given by section 527(4) of ITEPA 2003 (enterprise management incentives) where the option is exercised on or before the tenth anniversary of the date mentioned in section 529(2) of that Act.

(7E) Subsection (7D) does not apply to shares acquired as a result of the exercise of a qualifying option if—

(a) a disqualifying event (see section 533 of ITEPA 2003) occurs in relation to the option before its exercise, and

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(b) it is exercised later than the period mentioned in section 532(1)(b) of ITEPA 2003.

(7F) This subsection applies to shares of a company if—

(a) the shares are the new holding in a case in which section 127 applies in relation to an individual,

(b) the original shares in that case are relevant EMI shares (whether by virtue of subsection (7D) or this subsection), and

(c) that case is one in which section 127 applies by virtue only of—

(i) section 126, or

(ii) subject to subsection (7G), section 135(3).

(7G) Subsection (7F)(c)(ii) applies only if—

(a) the exchange of shares in question is a qualifying exchange of shares as defined in paragraph 40 of Schedule 5 to ITEPA 2003, and

(b) when the exchange occurs, the independence requirement (see paragraph 9 of Schedule 5 to ITEPA 2003) and the trading activities requirement (see paragraphs 13 and 14 of that Schedule) are met in relation to the new company (see paragraph 40(1)(a) of that Schedule).

(7H) In this section "the original relevant EMI shares", in relation to shares which are relevant EMI shares by virtue of subsection (7F), means the shares originally acquired by the individual to which subsection (7D) applied.

(7I) If the shares disposed of are relevant EMI shares by virtue of subsection (7F), in relation to times before the reorganisation mentioned in section 127, in subsection (7A)(c) references to the company are to be read as references to (if different)—

(a) the company whose shares are the original relevant EMI shares, or

(b) if there has been more than one reorganisation since the original relevant EMI shares were acquired—

(i) the company whose shares are the original relevant EMI shares, or

(ii) if at the time in question the individual is holding relevant EMI shares which are shares of another company, that other company.

This subsection is subject to subsection (7N).

(7J) If the shares disposed of are relevant EMI shares by virtue of subsection (7F), the question of whether the requirement of subsection (7B)(a) is met is to be determined by reference to the date of the acquisition of the original relevant EMI shares.

(7K) Subject to what follows, in subsections (7A)(b) and (7B)(b) "the option grant date" means the date on which the qualifying option in question was granted.

(7L) Subsections (7M) and (7N) apply if the qualifying option is a replacement option for the purposes of the EMI code (see paragraph 41 of Schedule 5 to ITEPA 2003).

(7M) In subsections (7A)(b) and (7B)(b) "the option grant date" means—

(a) the date on which the old option was granted, or

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(b) if the old option was also a replacement option, the date on which the earlier old option was granted,

and so on.

(7N) In relation to any time during the currency of an old option taken into account under subsection (7M), in subsection (7A)(c) references to the company are to be read as references to the company whose shares were the subject of the old option.

(7O) In subsection (7B) "the cessation date" means the date on which the company—

(a) ceases to be a trading company without continuing to be or becoming a member of a trading group, or

(b) ceases to be a member of a trading group without continuing to be or becoming a trading company.

(7P) Subsections (7Q) and (7R) apply in relation to a disposal of relevant EMI shares if—

(a) the shares were acquired as a result of the exercise of a qualifying option where—

(i) a disqualifying event (see section 533 of ITEPA 2003) occurs in relation to the option before its exercise, but

(ii) it is exercised within the period mentioned in section 532(1)(b) of ITEPA 2003, or

(b) if the shares are relevant EMI shares by virtue of subsection (7F), the original relevant EMI shares were acquired as mentioned in paragraph (a).

(7Q) Subsection (7A)(b) has effect as if the reference to the date of the disposal were a reference to the date of the disqualifying event.

(7R) If the disqualifying event is within section 534(1)(c) of ITEPA 2003, subsection (7B)(a) has effect as if the reference to the cessation date were a reference to the first day after the period mentioned in section 532(1)(b) of that Act if that day is later than the cessation date."

Identification of shares acquired under EMI option

2 Chapter 1 of Part 4 of TCGA 1992 (general provision relating to shares etc) is amended as follows.

3 In section 105 (disposal on or before day of acquisition of shares etc) after subsection (3) insert—

"(4) Subsection (5) applies if an individual—

(a) acquires shares ("the relevant shares") of the same class, on the same day and in the same capacity, and

(b) some of the relevant shares are relevant EMI shares (as defined by section 169I(7C) to (7G)).

(5) This section has effect as if—

(a) paragraph (a) of subsection (1) required the relevant EMI shares to be treated as acquired by the individual by a single transaction separate from the remainder of the relevant shares (which are also to

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be treated by virtue of that paragraph as acquired by the individual by a single transaction), and

(b) subsection (1) required the relevant EMI shares to be treated as disposed of after the remainder of the relevant shares."

4 (1) Section 106A (identification of securities for capital gains tax purposes) is amended as follows.

(2) In subsection (5)—

(a) omit the "and" after paragraph (a),

(b) after paragraph (a) insert—

"(aa) with securities acquired by him within that period which are not relevant EMI shares, rather than with securities acquired by him within that period which are relevant EMI shares; and", and

(c) at the beginning of paragraph (b) insert " subject to paragraph (aa), ".

(3) After subsection (6) insert—

"(6A) Subject to subsections (4) and (5) above, a company's shares which are disposed of shall be identified—

(a) with relevant EMI shares, rather than with other shares, and

(b) with relevant EMI shares acquired at an earlier time rather than with relevant EMI shares acquired at a later time.

(6B) No shares identified with relevant EMI shares by virtue of subsection (6A)(a) or (b) above shall be regarded as forming part of an existing section 104 holding or as constituting a section 104 holding."

(4) In subsection (10), before the definition of "securities", insert—

"relevant EMI shares" has the meaning given by section 169I(7C) to (7G),".

Commencement and transitional provision

5 (1) The amendments made by paragraphs 1 to 4 above have effect in relation to disposals of shares on or after 6 April 2013.

(2) In the case of the amendments made by paragraphs 2 to 4 above, sub-paragraph (1) is subject to paragraph 6(4) below.

6 (1) This paragraph applies if, during the tax year 2012-13, an individual acquires shares of a class in a company ("the relevant shares") which would be relevant EMI shares were the reference to 6 April 2013 in section 169I(7D)(a) of TCGA 1992 (as inserted by paragraph 1 above) a reference to 6 April 2012 instead.

(2) If the individual makes no disposals of shares of that class in that company during that tax year, the relevant shares are to be treated as if they were relevant EMI shares.

(3) If the individual disposes of shares of that class in that company during that tax year, the individual may elect for the relevant shares to be treated as if they were relevant EMI shares.

(4) If the individual makes an election under sub-paragraph (3)—

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(a) the amendments made by paragraphs 2 to 4 above also have effect, in the case of the individual, in relation to disposals of shares of that class in that company during that tax year, but

(b) for this purpose, the amendment made by sub-paragraph (5) has effect instead of the amendment made by paragraph 4(3) above.

(5) In section 106A of TCGA 1992 after subsection (6) insert—

"(6A) Subject to subsections (4) and (5) above, a company's shares which are disposed of shall be identified—

(a) with shares which are not relevant EMI shares, rather than with relevant EMI shares, and

(b) with relevant EMI shares acquired at a later time rather than with relevant EMI shares acquired at an earlier time.

(6B) No shares identified with relevant EMI shares by virtue of subsection (6A)(b) above shall be regarded as forming part of an existing section 104 holding or as constituting a section 104 holding."

(6) An election under sub-paragraph (3) may not be made or revoked after 31 January 2014 (and paragraph 3(1)(b) of Schedule 1A to TMA 1970 does not apply in relation to such an election).

(7) For the purposes of this paragraph shares in a company are not to be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.

(8) "Recognised stock exchange" has the meaning given by section 1005 of ITA 2007.

SCHEDULE 25

Section 65

CHARGE ON CERTAIN HIGH VALUE DISPOSALS BY COMPANIES ETC

PART 1

TAXATION OF CHARGEABLE GAINS ACT 1992

1 TCGA 1992 is amended as follows.

2 (1) Section 1 (the charge to tax) is amended as follows.

(2) In subsection (2), after "Acts" insert " , subject to the exception in subsection (2A) ".

(3) After subsection (2) insert—

"(2A) But companies are chargeable to capital gains tax, and not corporation tax, in respect of chargeable gains accruing to them to the extent that those gains are ATED-related gains in respect of which the companies are chargeable to capital gains tax under section 2B."

(4) In subsection (3) for "subsection (2)" substitute " subsections (2) and (2A) ".

3 In section 2 (persons and gains chargeable to capital gains tax, and allowable losses), after subsection (7) insert—

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"(7A) Nothing in this section applies in relation to an ATED-related gain chargeable to, or an ATED-related loss allowable for the purposes of, capital gains tax by virtue of section 2B."

4 After section 2 insert—

"**2B Persons chargeable to capital gains tax on ATED-related gains**

(1) A person (other than an excluded person) ("P") is chargeable to capital gains tax in respect of any ATED-related chargeable gain accruing to P in a tax year on a relevant high value disposal.

(2) A person is "excluded" if the person is an individual, the trustees of a settlement or the personal representatives of a deceased person and—

(a) the gain accrues on a disposal of any partnership assets and the person is a member of the partnership, or

(b) the gain accrues on a disposal of any property held for the purposes of a relevant collective investment scheme and the person is a participant in relation to the scheme.

(3) Capital gains tax is charged on the total amount of ATED-related chargeable gains accruing to P in the tax year on relevant high value disposals, after deducting ring-fenced ATED-related allowable losses in relation to that year.

(4) Subsections (5) to (7) apply in relation to an ATED-related allowable loss accruing to P in a tax year on a relevant high value disposal.

(5) The loss is not allowable as a deduction from ATED-related chargeable gains accruing in any earlier tax year on relevant high value disposals.

(6) Relief is not to be given under this Act more than once in respect of the loss or any part of the loss.

(7) Relief is not to be given under this Act in respect of the loss if, and so far as, relief has been or may be given in respect of it under the Tax Acts.

(8) The only deductions which can be made from ATED-related chargeable gains are those permitted by this section.

(9) See section 57A and Schedule 4ZZA for how to compute—

(a) the ATED-related gain or loss accruing on a relevant high value disposal, and

(b) the gain or loss accruing on a relevant high value disposal which is not ATED-related.

(10) In this section—

"participant", in relation to a relevant collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000;

"relevant collective investment scheme" means a collective investment scheme within the meaning of Part 17 of that Act (see section 235 of that Act) other than—

(a) a unit trust scheme within the meaning of that Part (see section 237(1) of that Act), or

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(b) an open-ended investment company within the meaning of that Part (see section 236(1) of that Act);

"ring-fenced ATED-related allowable losses", in relation to a tax year, means—

(a) any ATED-related allowable losses accruing to P in the tax year on relevant high value disposals, and

(b) so far as they have not been allowed as a deduction from ATED-related chargeable gains accruing in any previous tax year on relevant high value disposals, any ATED-related allowable losses accruing to P in any previous tax year (not earlier than the tax year 2013-14) on such disposals.

2C "Relevant high value disposal"

(1) A disposal on which a gain or loss accrues to P is a "relevant high value disposal" if conditions A to D are met.

(2) Condition A is that the disposal is of the whole or part of a chargeable interest ("the disposed of interest").

(3) Condition B is that the disposed of interest has, at any time during the relevant ownership period, been or formed part of a single-dwelling interest.

(4) Condition C is that—

(a) P, or

(b) if the disposed of interest is a partnership asset, the responsible partners, or

(c) if the disposed of interest is held for the purposes of a relevant collective investment scheme, the person who has day-to-day control over the management of the property subject to the scheme,

has or have been within the charge to annual tax on enveloped dwellings with respect to that single-dwelling interest on one or more days in the relevant ownership period which are not relievable days in relation to the interest.

(5) Condition D is that the amount or value of the consideration for the disposal exceeds the threshold amount (see section 2D).

(6) In this section and section 2D—

"chargeable interest" has the same meaning as in Part 3 of the Finance Act 2013 (annual tax on enveloped dwellings) (see section 107 of that Act (chargeable interest));

"dwelling" has the same meaning as in that Part (see section 112 of that Act);

"relevant collective investment scheme" has the same meaning as in section 2B;

"the relevant ownership period" means the period which begins—

(a) if an election has been made under paragraph 5 of Schedule 4ZZA, with the day on which P acquired the chargeable interest or, if later, 31 March 1982, and

(b) in any other case, with the day on which P acquired the chargeable interest or, if later, 6 April 2013,

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and ends with the day before the day on which the disposal occurs;

"relievable day" means a day which is "relievable" by virtue of any of the provisions mentioned in section 132 of the Finance Act 2013 (ATED: effect of reliefs) and in respect of which a claim has been made under section 106(3) of that Act;

"the responsible partners" has the same meaning as in section 96 of that Act;

"single-dwelling interest" has the same meaning as in Part 3 of that Act;

and a reference to being "within the charge" to annual tax on enveloped dwellings with respect to a single-dwelling interest is to be read in accordance with section 170(2) of that Act.

(7) For the purposes of Condition C—

(a) Part 3 of the Finance Act 2013 applies, in relation to any part of the relevant ownership period falling before 1 April 2013, as if section 94(8)(a) of that Act (first chargeable period for ATED) read "the period beginning with 31 March 1982 and ending with 31 March 1983", and

(b) when determining whether any day falling before 1 April 2013 is a relievable day, the definition of "relievable day" in subsection (6) above is to read as if the words "and in respect of which a claim has been made under section 106(3) of that Act" were omitted.

2D "The threshold amount"

(1) This section applies to determine "the threshold amount" in relation to a disposal which meets Conditions A to C in section 2C ("the current disposal").

(2) If—

(a) the current disposal is not a part disposal of an asset, and

(b) P has not made any relevant related disposals,

the threshold amount is £2 million, subject to subsection (5) (joint interests).

(3) If paragraphs (a) and (b) of subsection (2) do not both apply, the threshold amount is the relevant fraction of £2 million, subject to subsection (5) (joint interests).

(4) "The relevant fraction" is—

$$\frac{C}{\text{TMV}}$$

where—

"C" is the amount or value of the consideration for the current disposal;

"TMV" is what would be the market value, at the time of the current disposal, of a notional asset comprising—

(a) the disposed of interest (see section 2C(2)),

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(b) if the current disposal is a part disposal, any part of the chargeable interest held by P that remains undisposed of immediately following that part disposal,

(c) any chargeable interest (or part of a chargeable interest) which was the subject of a relevant related disposal, and

(d) any chargeable interest (or part of a chargeable interest) held by P at the time of the current disposal which, if P had disposed of it at that time, would have been the subject of a relevant related disposal.

(5) If the disposed of interest is a share of the whole of—

(a) a chargeable interest, or

(b) a part of a chargeable interest,

subsections (2) and (3) have effect as if the references to "£2 million" were to the joint share fraction of that amount.

(6) The joint share fraction is the fraction of the whole of the chargeable interest or part represented by the disposed of interest.

(7) "Relevant related disposal", in relation to the current disposal, means any disposal by P which—

(a) meets Conditions A to C in section 2C in circumstances where the single-dwelling interest referred to in Condition C is—

(i) the single-dwelling interest by virtue of which Condition C is met in relation to the current disposal, or

(ii) another single-dwelling interest in the same dwelling as that interest, and

(b) was made in the period of 6 years ending with the day on which the current disposal occurs, but not before 6 April 2013.

2E Restriction of losses

(1) This section applies where (ignoring this section)—

(a) a disposal would be a relevant high value disposal, but for a failure to meet condition D in section 2C,

(b) if it were a relevant high value disposal, an ATED-related loss would accrue to a person (other than an excluded person) in a tax year on the disposal, and

(c) the total of the sums allowable as a deduction under section 38 in relation to the disposal exceeds the threshold amount in relation to the disposal.

(2) For the purposes of this Act—

(a) the disposal is to be treated as a relevant high value disposal (and section 57A and Schedule 4ZZA apply accordingly), and

(b) the ATED-related loss which accrues on the disposal is to be restricted to the amount which would have been that loss had the consideration for the disposal been £1 greater than the threshold amount in relation to the disposal.

(3) In a case where paragraph 2 of Schedule 4ZZA applies (calculation of gains or losses on disposals of assets held on 5 April 2013), the reference in subsection (1)(c) to the disposal is to be read as a reference to the notional

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disposal referred to in paragraph 3(2) of that Schedule (disposal on which notional post-April 2013 gain or loss accrues).

(4) Nothing in subsection (2)(b) restricts any loss which is not ATED-related, or affects any gain (whether or not ATED-related), accruing on the relevant high value disposal.

(5) In this section—

"excluded" has the meaning given by section 2B(2);

"the threshold amount" has the meaning given by section 2D.

2F Tapering relief for gains

(1) This section applies to an ATED-related gain which accrues on a relevant high value disposal and is chargeable to capital gains tax by virtue of section 2B.

(2) There is excluded from the gain so much of it as exceeds five-thirds of the difference between—

(a) the amount or value of the consideration, and

(b) the threshold amount (within the meaning of section 2D) in relation to the disposal.

(3) But where the relevant fraction is less than 1, subsection (2) has effect as if the amount determined under that subsection were the relevant fraction of that amount.

(4) "The relevant fraction"—

(a) in a case where the ATED-related gain is determined in accordance with paragraph 3 of Schedule 4ZZA, has the meaning given by paragraph 3(4) of that Schedule, and

(b) in a case where the ATED-related gain is determined in accordance with paragraph 6 of that Schedule, has the same meaning as in paragraph 6(5)(a) of that Schedule.

(5) Nothing in this section restricts any gain which is not ATED-related, or affects any loss (whether or not ATED-related), accruing on the relevant high value disposal."

5 In section 4 (rates of capital gains tax), after subsection (3) insert—

"(3A) The rate of capital gains tax in respect of gains chargeable under section 2B accruing to a person in a tax year is 28%."

6 In section 8 (company's total profits to include chargeable gains), after subsection (4) insert—

"(4A) Nothing in this section applies in relation to an ATED-related gain chargeable to, or an ATED-related loss allowable for the purposes of, capital gains tax by virtue of section 2B."

7 In section 13 (attribution of gains to members of non-resident companies), after subsection (1) insert—

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"(1A) But this section does not apply if the gain is an ATED-related gain chargeable to capital gains tax by virtue of section 2B (capital gains tax on ATED-related gains)."

8 In section 16 (computation of losses), in subsection (3) after "section" insert " 2B, ".

9 In Part 2, after Chapter 4 insert—

"CHAPTER 5

COMPUTATION OF GAINS AND LOSSES: RELEVANT HIGH VALUE DISPOSALS

Gains and losses on relevant high value disposals

57A (1) Schedule 4ZZA makes provision about the computation of gains and losses on relevant high value disposals, including provision about whether a gain or loss is ATED-related or not.

(2) But if the effect of Schedule 4ZZA applying in relation to a disposal would be that no ATED-related gain or loss accrues on the disposal, for the purposes of this Act the gain or loss on the disposal is to be computed ignoring that Schedule (and is not ATED-related)."

10 After section 100 insert—

"100A Exemption for certain EEA UCITS

(1) ATED-related gains accruing on relevant high value disposals made by an EEA UCITS which is not an open-ended investment company or a unit trust scheme are not chargeable gains under section 2B.

(2) In this section—

"EEAUCITS" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 237 of that Act);

"unit trust scheme" has same meaning as in that Part (see section 237(1) of that Act);

"open-ended investment company" has the same meaning as in that Part (see section 236(1) of that Act)."

11 (1) Section 161 (appropriations to and from stock) is amended as follows.

(2) In subsection (1) for "subsection (3)" substitute " subsections (3) to (3ZB) ".

(3) After subsection (3) insert—

"(3ZA) But if the person—

(a) meets the requirement of paragraph (a) or (b) of subsection (3), and

(b) (ignoring any election under this section) would be treated under subsection (1) as making a relevant high value disposal on which an ATED-related gain chargeable to, or loss allowable for the purposes of, capital gains tax under section 2B would accrue,

the person may not elect under subsection (3) but may elect for subsection (3ZB) to apply.

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(3ZB) Subject to subsection (4), where an election is made for this subsection to apply—

(a) a gain or loss accruing on the disposal under subsection (1) which is not ATED-related is not a chargeable gain or an allowable loss,

(b) the market value of the asset at the time of the appropriation is, for the purposes of computing the profits of the trade for the purposes of tax, to be treated as reduced by the amount of any gain, or increased by the amount of any loss, which would be a chargeable gain or allowable loss but for paragraph (a), and

(c) the chargeable gain or allowable loss which accrues on that disposal and is ATED-related is unaffected by the election."

(4) In subsection (3A), after "subsection (3)" insert " or (3ZA) ".

(5) In subsection (4), after "subsection (3)" insert " or (3ZA) ".

12 In section 171 (transfers within a group: general provisions), in subsection (2), after paragraph (b) insert—

"(ba) a relevant high value disposal on which (ignoring subsection (1)) there accrues to company A an ATED-related gain chargeable to, or an ATED-related loss allowable for the purposes of, capital gains tax by virtue of section 2B; or".

13 After section 187 insert—

"**187A Deemed disposal under section 185: ATED-related gains and losses**

(1) This section applies if—

(a) (ignoring subsections (2) and (3)) a gain or loss would accrue to a company on a disposal of an asset deemed to have been made by virtue of section 185(2), and

(b) that gain or loss is an ATED-related gain chargeable to, or an ATED-related loss allowable for the purposes of, capital gains tax under section 2B.

(2) That gain or loss does not accrue to the company on that disposal.

(3) But, on a subsequent disposal of the whole or part of the asset, the whole or a corresponding part of the gain or loss—

(a) is deemed to accrue to the company (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an ATED-related gain or loss accruing on a relevant high value disposal.

(4) Nothing in this section affects the treatment, for the purposes of this Act, of any gain or loss which is not ATED-related and accrues on the disposal of the asset deemed to have been made by virtue of section 185(2)."

14 In section 271 (miscellaneous exemptions)—

(a) in subsection (1A), after "registered pension scheme" insert " or an overseas pension scheme ", and

(b) in subsection (10), for the words after "above" substitute "—

"investments" includes futures contracts and options contracts;

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"overseas pension scheme" has the same meaning as in Part 4 of the Finance Act 2004 (see section 150(7) of that Act)."

15 In section 288 (interpretation), in subsection (1), at the appropriate places insert—

""ATED-related", in relation to a gain or loss, is to be construed in accordance with section 57A and Schedule 4ZZA;";

""relevant high value disposal" has the meaning given by section 2C;".

16 After Schedule 4 insert—

"SCHEDULE
4ZZA

RELEVANT HIGH VALUE DISPOSALS: GAINS AND LOSSES

Introductory

1 This Schedule applies for the purposes of determining in relation to a relevant high value disposal made by a person ("P")—

(a) whether a gain or loss which is ATED-related accrues to P on the disposal, and

(b) whether a gain or loss which is not ATED-related accrues to P on the disposal.

Assets held on 5 April 2013: no paragraph 5 election

2 If the interest disposed of was held by P on 5 April 2013—

(a) paragraph 3 applies for the purposes of computing the gain or loss accruing to P which is ATED-related, and

(b) paragraph 4 applies for the purposes of computing the gain or loss accruing to P which is not ATED-related.

3 (1) An amount equal to the relevant fraction of the notional post-April 2013 gain or loss is the ATED-related gain or loss (as the case may be).

(2) "Notional post-April 2013 gain or loss" means the gain or loss which (in the absence of section 2B and this Schedule) would have accrued on the relevant high value disposal had P acquired the interest on 5 April 2013 for a consideration equal to its market value on that date.

(3) For the purposes of sub-paragraph (2), the amount of the gain or loss accruing to P is to be computed (whether or not that would otherwise be the case) as if P were within the charge to capital gains tax (but not within the charge to corporation tax on chargeable gains).

(4) "The relevant fraction" is—

$$\frac{CD}{TD}$$

where—

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"CD" is the number of days in the relevant ownership period which are ATED chargeable days;

"TD" is the total number of days in the relevant ownership period.

(5) "The relevant ownership period" means the period beginning with 6 April 2013 and ending with the day before the day on which the relevant high value disposal occurs.

(6) "ATED chargeable day" means any day by virtue of which condition C in section 2C(4) is met in relation to the relevant high value disposal.

4 (1) The gain or loss accruing on the relevant high value disposal which is not ATED-related is computed as follows.

Step 1 Determine the amount of the notional pre-April 2013 gain or loss.

Step 2 In a case where there is a notional post-April 2013 gain—

(a) determine the amount of that gain remaining after the deduction of the ATED-related gain determined under paragraph 3, and

(b) adjust that remaining gain by reducing it by the notional indexation allowance.

Step 3 In a case where there is a notional post-April 2013 loss, determine the amount of that loss remaining after deduction of the ATED-related loss determined under paragraph 3.

Step 4 Add—

(a) the amount of any gain or loss determined under Step 1, and

(b) the amount of any adjusted gain determined under Step 2 or (as the case may be) any loss determined under Step 3,

(treating any amount which is a loss as a negative amount).

If the result is a positive amount, that amount is the gain on the relevant high value disposal which is not ATED-related.

If the result is a negative amount, that amount (expressed as a positive number) is the loss on the relevant high value disposal which is not ATED-related.

(2) "The notional pre-April 2013 gain or loss" means the gain or loss which would have accrued on 5 April 2013 had the interest been disposed of for a consideration equal to its market value on that date.

(3) For the purposes of sub-paragraph (2), the amount of the gain or loss accruing to P is to be computed (whether or not that would otherwise be the case) as if P were within the charge to corporation tax on chargeable gains (but not within the charge to capital gains tax).

(4) Paragraph 3(2) and (3) (meaning of "notional post-April 2013 gain or loss") also applies for the purposes of this paragraph.

(5) "Notional indexation allowance" means the relevant fraction of an amount equal to the difference between—

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(a) the indexation allowance which (in the absence of section 2B and this Schedule) would be made under Chapter 4 of Part 2 in determining the gain accruing on the relevant high value disposal were that gain being computed for corporation tax purposes, and

(b) the indexation allowance which is made under Chapter 4 of Part 2 in determining the notional pre-April 2013 gain.

(6) "The relevant fraction" is—

$$\frac{TD - CD}{TD}$$

where "CD" and "TD" have the same meaning as in paragraph 3(4).

Election for paragraph 2 to 4 not to apply to a chargeable interest

5 (1) A person may make an election under this paragraph for paragraphs 2 to 4 not to apply in relation to a chargeable interest held by (or any part of which is held by) the person on 5 April 2013.

(2) An election is irrevocable.

(3) An election must be made by being included in a tax return under the Management Act for the tax year in which the first relevant high value disposal by the person of the chargeable interest (or any part of it) on or after 6 April 2013 occurs.

(4) The reference in sub-paragraph (3) to an election being included in a return includes an election being included by virtue of an amendment of the return.

(5) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election.

(6) In this paragraph "chargeable interest" has the same meaning as in Part 3 of the Finance Act 2013 (annual tax on enveloped dwellings) (see section 107 of that Act).

Cases where election made or assets acquired after 5 April 2013

6 (1) This paragraph applies if—

(a) an election is made by P under paragraph 5 in respect of the chargeable interest which (or a part of which) is the subject of the relevant high value disposal, or

(b) the chargeable interest (or part) disposed of by the relevant high value disposal was not held by P throughout the period beginning with 5 April 2013 and ending with the disposal.

(2) The ATED-related gain or loss accruing on the relevant high value disposal is computed as follows.

Step 1 Determine the amount of the gain or loss which would accrue to P, ignoring section 2B and this Schedule (but not the remainder of this Step). For this purpose, the amount of the gain or loss is to be computed

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(whether or not that would otherwise be the case) as if P were within the charge to capital gains tax (but not within the charge to corporation tax on chargeable gains).

Step 2 An amount equal to the relevant fraction of that gain or loss is the ATED-related gain or loss accruing on the relevant high value disposal.

(3) The gain or loss accruing on the relevant high value disposal which is not ATED-related is to be computed as follows.

Step 1 In a case where there is a gain under Step 1 of sub-paragraph (2) —

(a) determine the amount of the gain remaining after the deduction of the ATED-related gain, and

(b) adjust the remaining gain by reducing it by an amount equal to the notional indexation allowance.

That adjusted gain is the gain accruing on the relevant high value disposal which is not ATED-related.

Step 2 In a case where there is a loss under Step 1 of sub-paragraph (2), determine the amount of the loss remaining after deduction of the ATED-related loss. That remaining loss is the loss accruing on the relevant high value disposal which is not ATED-related.

(4) "Notional indexation allowance" means the relevant fraction of the indexation allowance which would be made under Chapter 4 of Part 2 in determining the gain under Step 1 in sub-paragraph (2) were that gain being computed for corporation tax purposes.

(5) Subject to sub-paragraph (6), "the relevant fraction"—

(a) in sub-paragraph (2) has the same meaning as in paragraph 3(4), and

(b) in sub-paragraph (4) has the same meaning as in paragraph 4(6).

(6) For the purpose of determining the relevant fraction under sub-paragraph (5), paragraph 3(5) has effect as if the relevant ownership period began on the day on which P acquired the interest or, if later, 31 March 1982.

Adjustments of ATED chargeable days

7 (1) This paragraph applies where, as a result of a claim under section 106(3) of the Finance Act 2013 (adjustment of chargeable amount), or an amendment of or adjustment to such a claim, there is an alteration in the number of ATED chargeable days.

(2) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to any change in liability to tax as a result of that alteration."

17 In Schedule 7A (restriction on set-off of pre-entry losses), after paragraph 10 insert—

"10A Section 161(3ZB)(a) and (b) does not apply to a loss if, in the absence of an election under section 161(3ZA), the loss would have been a pre-entry loss."

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PART 2

OTHER AMENDMENTS

Corporation Tax Act 2009

18 In section 2 of CTA 2009 (charge to corporation tax), after subsection (2) insert—

"(2A) But in subsection (2) "chargeable gains" does not include gains chargeable to capital gains tax under section 2B of TCGA 1992 (companies etc chargeable to capital gains tax on ATED-related gains on relevant high value disposals)."

Corporation Tax Act 2010

F108 19 . . . . . .

Textual Amendments

F108 Sch. 25 para. 19 omitted (with effect in accordance with Sch. 1 para. 22 of the amending Act) by virtue of Finance Act 2014 (c. 26), **Sch. 1 para. 20**

PART 3

COMMENCEMENT

20 The amendments made by this Schedule have effect in relation to disposals occurring on or after 6 April 2013.

SCHEDULE 26

Section 71

RESTRICTIONS ON BUYING CAPITAL ALLOWANCES

Introductory

1 Chapter 16A of Part 2 of CAA 2001 (avoidance involving allowance buying) is amended as follows.

Restrictions where certain conditions met

2 (1) Section 212B (circumstances where Chapter 16A applies) is amended as follows.

(2) For subsection (1)(d) substitute—

"(d) the qualifying change meets one of the limiting conditions."

(3) For subsection (4) substitute—

"(4) Sections 212LA and 212M set out the limiting conditions and specify when those conditions are met."

3 After section 212L insert—

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"Limiting conditions

212LA Limiting conditions

(1) The qualifying change meets one of the limiting conditions if condition A, B, C or D is met.

(2) Condition A is that the amount of the relevant excess of allowances is £50 million or more.

(3) Condition B is that the amount of the relevant excess of allowances—

(a) is £2 million or more but less than £50 million, and

(b) is not insignificant as a proportion of the total amount or value of the benefits derived by any relevant person by virtue of the qualifying change or change arrangements.

(4) "Relevant person" means a person who, at the end of the relevant day, is—

(a) a principal company of C,

(b) a person carrying on the relevant activity in partnership, or

(c) a person who is connected to a person within paragraph (a) or (b) (within the meaning of section 1122 of CTA 2010).

(5) Condition C is that—

(a) the amount of the relevant excess of allowances is less than £2 million, and

(b) the qualifying change has an unallowable purpose.

See section 212M for the meaning of "unallowable purpose".

(6) Condition D is that the main purpose, or one of the main purposes, of any arrangements is to procure that condition A or B or paragraph (a) of condition C is not met.

(7) In this section—

the amount of the relevant excess of allowances is the difference between RTWDV and BSV (see sections 212K and 212L);

"change arrangements" and "arrangements" have the same meaning as in section 212M."

4 In consequence of the amendments made by paragraphs 2 and 3, the heading to Chapter 16A becomes " RESTRICTIONS ON ALLOWANCE BUYING ".

Extension of restrictions to other qualifying activities

5 (1) Section 212B (circumstances where Chapter 16A applies) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "a trade ("the relevant trade")" substitute " a qualifying activity ("the relevant activity") ", and

(b) in paragraph (c), for "trade" (in both places) substitute " activity ".

(3) In subsection (3) for "trade" substitute " activity ".

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6 (1) Section 212C (when there is a a qualifying change in relation to C) is amended as follows.

(2) In subsection (4)—

(a) after "Condition C is that" insert " the relevant activity is a trade (within the meaning of this Part) and ", and

(b) for "trade", where it appears after "the relevant" (in both places), substitute " activity ".

(3) In subsection (5) for "trade" (in both places) substitute " activity ".

7 (1) Section 212I (relevant percentage share) is amended as follows.

(2) In subsections (1) and (3) for "trade" substitute " activity ".

(3) In subsection (2) for "a trade" substitute " an activity ".

8 In section 212J(1) (relevant excess of allowances) for "trade" substitute " activity ".

9 In section 212K(2), (3), (4) and (5) (relevant tax written-down value) for "trade" substitute " activity ".

10 In section 212N(2), (3) and (4) (old and new accounting periods) for "trade" substitute " activity ".

11 (1) Section 212P (effect of excess on pools) is amended as follows.

(2) In subsection (3)—

(a) for "a trade (or part of a trade)" substitute " a qualifying activity (or part of a qualifying activity) ",

(b) for "the activities of that trade (or part of a trade)" substitute " that activity (or that part of an activity) ",

(c) after "its trade" insert " or business ",

(d) for "those activities" substitute " that activity (or that part) ", and

(e) after "separate trade" insert " or business ".

(3) In subsection (4)—

(a) after "section 37" insert " , 62 or 66 ",

(b) omit "trade",

(c) for "earlier" substitute " other ", and

(d) after "period)" insert " or section 259 or 260(3) of this Act (special leasing) ".

12 (1) Section 212Q (when there are postponed capital allowances) is amended as follows.

(2) In subsection (3)—

(a) for "a trade (or part of a trade)" substitute " a qualifying activity (or part of a qualifying activity) ",

(b) for "the activities of that trade (or part of a trade)" substitute " that activity (or that part of an activity) ",

(c) after "its trade" insert " or business ",

(d) for "those activities" substitute " that activity (or that part) ", and

(e) after "separate trade" insert " or business ".

(3) In subsection (4)—

(a) after "section 37" insert " , 62 or 66 ", and

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(b) after "CTA 2010" insert " or section 259 or 260(3) of this Act ".

Commencement

13 (1) The amendments made by this Schedule have effect in relation to a qualifying change if the relevant day (within the meaning of Chapter 16A of Part 2 of CAA 2001) is on or after 20 March 2013.

(2) But those amendments do not have effect if before that date—

(a) the arrangements made to bring about the qualifying change were entered into, or

(b) there was an agreement, or common understanding, between the parties to those arrangements as to the principal terms on which the qualifying change would be brought about.

SCHEDULE 27

Section 74

COMMUNITY INVESTMENT TAX RELIEF

Income tax: carry forward of relief

1 Part 7 of ITA 2007 (community investment tax relief) is amended as follows.

2 In section 335 (form and amount of CITR) in subsection (3) for "this purpose" substitute " the purposes of this section and section 335A ".

3 After section 335 insert—

"**335A Carry forward of CITR**

(1) This section applies if—

(a) the investor is entitled to a tax reduction for a relevant tax year under section 335 in respect of the investment, but

(b) the amount of the tax reduction is not fully deducted at Step 6 for that relevant tax year.

(2) The amount ("the excess amount") not deducted is treated as follows.

(3) For each subsequent relevant tax year for which the investor—

(a) is entitled to a tax reduction under section 335 in respect of the investment, and

(b) makes a claim under this subsection,

the investor is also entitled to a tax reduction under this subsection which is given effect at Step 6.

(4) The amount of the tax reduction under subsection (3) for any relevant tax year is the excess amount so far as it has not been deducted at Step 6 for any earlier relevant tax year by virtue of that subsection.

(5) In this section "Step 6" means Step 6 of the calculation in section 23."

4 In section 357 (attribution of CITR) after subsection (4) insert—

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"(4A) In the case of CITR under section 335A, in subsection (4)(a) the reference to the year is to be read as a reference to the year mentioned in section 335A(1)(a)."

5 (1) Section 361 (disposal of securities or shares during 5 year period) is amended as follows.

(2) For subsection (3) substitute—

"(3) Subsections (3A) to (3H) apply if—

(a) the disposal is a qualifying disposal, and

(b) the investor has made a claim under section 335 in respect of the former investment for a tax year ("tax year X").

(3A) Subsection (3B) applies if the total of the following CITR does not exceed A—

(a) any CITR attributable to the former investment in respect of tax year X given under section 335, and

(b) any CITR attributable to the former investment in respect of later tax years given under section 335A where tax year X is the tax year mentioned in section 335A(1)(a).

(3B) All CITR falling within subsection (3A)(a) or (b) must be withdrawn.

(3C) If the total of the CITR falling within subsection (3A)(a) or (b) exceeds A, that total must be reduced by A.

(3D) For the purposes of subsection (3C) CITR given in a later tax year must be reduced before CITR given in an earlier tax year.

(3E) For the purposes of subsections (3A) and (3C) "A" is an amount equal to 5% of the amount or value of the consideration (if any) which the investor receives for the former investment.

(3F) If—

(a) the total of the CITR falling within subsection (3A)(a) or (b)("B") is less than

(b) the amount ("C") which is equal to 5% of the invested amount in respect of the former investment for tax year X,

"A" is to be reduced by multiplying it by the fraction—

$$\frac{B}{C}$$

(3G) If the amount of CITR attributable to the former investment in respect of a tax year has been reduced before the CITR is obtained, the amount referred to in subsection (3F) as B is to be treated for the purposes of that subsection as the amount it would have been without the reduction.

(3H) Subsection (3G) does not apply to a reduction by virtue of section 358 (attribution: bonus shares)."

(3) Omit subsections (5) to (7).

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6 The amendments made by paragraphs 1 to 5 above have effect in relation to investments made on or after 6 April 2013.

Corporation tax: carry forward of relief

7 Part 7 of CTA 2010 (community investment tax relief) is amended as follows.

8 (1) Section 220 (form and amount of CITR) is amended as follows.

(2) For subsection (3) substitute—

"(3) The amount of that reduction for the relevant accounting period is 5% of the invested amount in respect of the investment for the period."

(3) In subsection (4) for "this purpose" substitute " the purposes of this section and section 220A ".

9 After section 220 insert—

"**220A Carry forward of CITR**

(1) This section applies if—

(a) the investor is entitled to a reduction in its liability for corporation tax for a relevant accounting period under section 220 in respect of the investment, but

(b) the amount of the reduction is not fully deducted at Step 2 for that relevant accounting period.

(2) The amount ("the excess amount") not deducted is treated as follows.

(3) For each subsequent relevant accounting period for which the investor—

(a) is entitled to a reduction in its liability for corporation tax under section 220 in respect of the investment, and

(b) makes a claim under this subsection,

the investor is also entitled to a reduction in its liability for corporation tax under this subsection.

(4) The amount of the reduction under subsection (3) for any relevant accounting period is the excess amount so far as it has not been deducted at Step 2 for any earlier relevant accounting period by virtue of that subsection.

(5) In this section "Step 2" means the second step in paragraph 8(1) of Schedule 18 to FA 1998 (calculation of tax payable)."

10 In section 240 (attribution of CITR) after subsection (4) insert—

"(4A) In the case of CITR under section 220A, in subsection (4)(a) the reference to the period is to be read as a reference to the period mentioned in section 220A(1)(a)."

11 (1) Section 244 (disposal of securities or shares during 5 year period) is amended as follows.

(2) For subsection (3) substitute—

"(3) Subsections (3A) to (3H) apply if—

(a) the disposal is a qualifying disposal, and

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(b) the investor has made a claim under section 220 in respect of the former investment for an accounting period ("period X").

(3A) Subsection (3B) applies if the total of the following CITR does not exceed A—

(a) any CITR attributable to the former investment in respect of period X given under section 220, and

(b) any CITR attributable to the former investment in respect of later accounting periods given under section 220A where period X is the accounting period mentioned in section 220A(1)(a).

(3B) All CITR falling within subsection (3A)(a) or (b) must be withdrawn.

(3C) If the total of the CITR falling within subsection (3A)(a) or (b) exceeds A, that total must be reduced by A.

(3D) For the purposes of subsection (3C) CITR given in a later accounting period must be reduced before CITR given in an earlier accounting period.

(3E) For the purposes of subsections (3A) and (3C) "A" is an amount equal to 5% of the amount or value of the consideration (if any) which the investor receives for the former investment.

(3F) If—

(a) the total of the CITR falling within subsection (3A)(a) or (b)("B") is less than

(b) the amount ("C") which is equal to 5% of the invested amount in respect of the former investment for period X,

"A" is to be reduced by multiplying it by the fraction—

$$\frac{B}{C}$$

(3G) If the amount of CITR attributable to the former investment in respect of an accounting period has been reduced before the CITR is obtained, the amount referred to in subsection (3F) as B is to be treated for the purposes of that subsection as the amount it would have been without the reduction.

(3H) Subsection (3G) does not apply to a reduction by virtue of section 241 (attribution: bonus shares)."

(3) Omit subsections (5) to (7).

12 The amendments made by paragraphs 7 to 11 above have effect in relation to investments made in accounting periods beginning on or after 1 April 2013.

Corporation tax: limit on State aid

13 (1) In Part 7 of CTA 2010 (community investment tax relief) after section 220A (as inserted by paragraph 9 above) insert—

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"**220B Limit on State aid**

(1) The reductions that may be made in the amount of the investor's liability for corporation tax under section 220 or 220A for an accounting period ("the current accounting period") are limited as follows.

(2) The sum of the following amounts must not exceed [euro]200,000—

(a) so far as it represents aid granted to the investor, the total amount of reductions made in the amount of the investor's liability for corporation tax under section 220 or 220A—

(i) for the current accounting period, or

(ii) any earlier accounting period which ends during the relevant 3-year period, and

(b) the total of any de minimis aid granted to the investor during the relevant 3-year period which does not fall within paragraph (a).

(3) In subsection (2) "the relevant 3-year period" means the period of 3 years ending at the end of the current accounting period.

(4) Subsection (2) is to be read as if it were contained in Article 2 of Commission Regulation (EC) No. 1998/2006 (de minimis aid)."

(2) The amendment made by this paragraph has effect for the purpose of limiting CITR in respect of investments made on or after 1 April 2013.

(3) CITR in respect of investments made before that date is to be ignored for the purposes of section 220B(2) of CTA 2010.

SCHEDULE 28

Section 75

LEASE PREMIUM RELIEF

Income tax

1 ITTOIA 2005 is amended as follows.

2 In section 61 (tenants occupying land for purposes of trade treated as incurring expenses) after subsection (5) insert—

"(5A) No expense is to be determined under this section by reference to the taxed receipt if section 292(4B) or (4C) applies."

3 In section 292 (tenants under taxed leases treated as incurring expenses) after subsection (4) insert—

"(4A) No expense is to be determined under this section by reference to the taxed receipt if subsection (4B) or (4C) applies.

(4B) This subsection applies if there would have been no taxed receipt but for the application of Rule 1 in section 303 in determining the effective duration of the lease.

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(4C) This subsection applies if there would have been no taxed receipt but for the application of Rule 1 in section 243 of CTA 2009 in determining the effective duration of the lease for the purposes of Chapter 4 of Part 4 of that Act."

4 The amendments made by paragraphs 2 and 3 above have effect in relation to leases granted on or after 6 April 2013.

Corporation tax

5 CTA 2009 is amended as follows.

6 In section 63 (tenants occupying land for purposes of trade treated as incurring expenses) after subsection (5) insert—

"(5A) No expense is to be determined under this section by reference to the taxed receipt if section 232(4B) or (4C) applies."

7 In section 232 (tenants under taxed leases treated as incurring expenses) after subsection (4) insert—

"(4A) No expense is to be determined under this section by reference to the taxed receipt if subsection (4B) or (4C) applies.

(4B) This subsection applies if there would have been no taxed receipt but for the application of Rule 1 in section 243 in determining the effective duration of the lease.

(4C) This subsection applies if there would have been no taxed receipt but for the application of Rule 1 in section 303 of ITTOIA 2005 in determining the effective duration of the lease for the purposes of Chapter 4 of Part 3 of that Act."

8 The amendments made by paragraphs 6 and 7 above have effect in relation to leases granted on or after 1 April 2013.

SCHEDULE 29

Section 77

MANUFACTURED PAYMENTS

PART 1

INCOME TAX

1 Before Part 11A of ITA 2007 insert—

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"**PART 11ZA**

MANUFACTURED PAYMENTS

Overview of Part

614ZA This Part deals with the application of the Income Tax Acts to manufactured payment relationships and payments representative of dividends or interest.

Key definitions

614ZB (1) For the purposes of the Income Tax Acts a person has a manufactured payment relationship if conditions A to C are met.

(2) Condition A is that under any arrangements—

(a) an amount is payable by or to the person, or

(b) any other benefit is given by or to the person (including the release of the whole or part of any liability to pay an amount).

(3) Condition B is that the arrangements relate to the transfer of securities.

(4) Condition C is that the amount or value of the other benefit—

(a) is representative of a dividend or interest on the securities, or

(b) will fall to be treated as representative of such a dividend or interest when it is paid or given.

(5) In subsection (2) the reference to an amount being payable, or other benefit being given, by the person includes a reference to an amount being payable, or other benefit being given, by another person on behalf of the person in question.

(6) In this Part—

"manufactured payment", in relation to a manufactured payment relationship, means an amount, or the value of a benefit, within subsection (2), and

"securities" means—

(a) shares in a company, and

(b) loan stock or any similar security (whether the security is of the government of the United Kingdom, any other government, any public or local authority in the United Kingdom or elsewhere, or any other company or body).

Treatment of payer of manufactured payment

614ZC (1) This section applies where a person has a manufactured payment relationship under which a manufactured payment is paid by or on behalf of the person.

(2) No deduction is allowed in respect of the manufactured payment in calculating any profits or other income of the person for income tax purposes (subject to subsection (3)).

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(3) Subsection (2) does not apply in relation to the person so far as the manufactured payment is brought into account under Part 2 of ITTOIA 2005 in calculating the profits of a trade carried on by the person.

(4) But nothing in subsection (3) affects the question whether (apart from that provision) a deduction in calculating the profits of a trade carried on by the person is allowed.

Treatment of recipient of manufactured payment

614ZD1 (1) Subsection (2) applies if a person has a manufactured payment relationship under which a manufactured payment is payable to the person.

(2) For the purposes of the charge to income tax on the person's income, the Income Tax Acts apply to the person as if the manufactured payment were a dividend or interest on the securities (as the case may require).

(3) Subsection (2) is subject to subsections (4) to (6).

(4) Subsection (2) does not apply in relation to the person so far as the manufactured payment is brought into account under Part 2 of ITTOIA 2005 in calculating the profits of a trade carried on by the person.

(5) Subsection (2) does not apply in relation to the person for the purposes of determining entitlement to double taxation relief in respect of any dividend or interest.

(6) In a case in which the manufactured payment is treated as a dividend by virtue of subsection (2), the person is not entitled to a tax credit under Chapter 3 of Part 4 of ITTOIA 2005 (tax credits for certain recipients of distributions) in respect of the dividend.

(7) For the purposes of this section "double taxation relief" means any relief given under or as a result of Part 2 of TIOPA 2010."

PART 2

CORPORATION TAX

2 Before Part 18 of CTA 2010 insert—

"**PART 17A**

MANUFACTURED DIVIDENDS

Overview of Part

814A This Part deals with the application of the Corporation Tax Acts to manufactured dividend relationships and payments representative of dividends.

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Key definitions

814B (1) For the purposes of the Corporation Tax Acts a company has a manufactured dividend relationship if conditions A to C are met.

(2) Condition A is that under any arrangements—

(a) an amount is payable by or to the company, or

(b) any other benefit is given by or to the company (including the release of the whole or part of any liability to pay an amount).

(3) Condition B is that the arrangements relate to the transfer of shares in a company.

(4) Condition C is that the amount or value of the other benefit—

(a) is representative of a dividend on the shares, or

(b) will fall to be treated as representative of such a dividend when it is paid or given.

(5) In subsection (2) the reference to an amount being payable, or other benefit being given, by the company includes a reference to an amount being payable, or other benefit being given, by another person on behalf of the company.

(6) In this Part—

"manufactured dividend", in relation to a manufactured dividend relationship, means an amount, or the value of a benefit, within subsection (2), and

"the real dividend" means the dividend mentioned in subsection (4)(a).

Treatment of payer of manufactured dividend

814C (1) This section applies where a company has a manufactured dividend relationship under which a manufactured dividend is paid by or on behalf of the company.

(2) No deduction in calculating income for corporation tax purposes is allowed in respect of the manufactured dividend (subject to subsections (3) to (7)).

(3) Subsection (2) does not apply in relation to the company so far as the manufactured dividend is brought into account under Part 3 of CTA 2009 in calculating the profits of a trade carried on by the company.

(4) Subsection (5) applies if—

(a) the manufactured dividend relates to investment business which the company has,

(b) the company received the real dividend in the accounting period, and

(c) the real dividend is taxed by virtue of section 548(5) (recipients of distributions from REITs).

(5) The manufactured dividend is to be treated as expenses of management of the company's investment business for the accounting period for the purposes of Chapter 2 of Part 16 of CTA 2009.

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(6) Subsection (7) applies if—

(a) the manufactured dividend is referable to basic life assurance and general annuity business which the company has,

(b) the company received the real dividend in the accounting period, and

(c) the real dividend is taxed by virtue of section 548(5) (recipients of distributions from REITs).

(7) So far as the manufactured dividend is referable as mentioned in subsection (6)(a), the manufactured dividend is to be treated for the purposes of section 76 of FA 2012 as a deemed BLAGAB management expense for the accounting period.

(8) Nothing in subsection (3) affects the question whether (apart from that provision) a deduction in calculating the profits of a trade carried on by the company is allowed.

(9) The references in subsections (4) and (6) to the real dividend include references to a manufactured dividend which is treated as a real dividend by virtue of section 814D(2).

(10) For the purposes of subsections (6) and (7), the manufactured dividend is treated as referable to basic life assurance and general annuity business so far as the real dividend is received by the company and is so referable in accordance with Chapter 4 of Part 2 of FA 2012 (apportionment rules for I-E charge).

Treatment of recipient of manufactured dividend

814D (1) Subsection (2) applies if a company has a manufactured dividend relationship under which a manufactured dividend is payable to it.

(2) For the purposes of the charge to corporation tax on the income of the company, the Corporation Tax Acts apply to the company, and any company claiming title through or under the company, as if the manufactured dividend were a dividend on the shares.

(3) Subsection (2) is subject to subsections (4) to (8).

(4) Subsection (2) does not apply in relation to a company so far as the manufactured dividend is brought into account under Part 3 of CTA 2009 in calculating the profits of a trade carried on by the company.

(5) Subsection (2) does not apply in relation to a company for the purposes of determining entitlement to double taxation relief in respect of any dividend.

(6) Part 9A of CTA 2009 (company distributions), in its application in relation to a manufactured dividend as a result of subsection (2), has effect with the modification in subsection (7).

(7) The modification is that—

(a) references in that Part to the payer are to be treated as references to the company that pays the real dividend, and

(b) the definition of "the payer" in section 931T is to be treated as omitted.

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(8) The company to which the manufactured dividend is payable is not entitled to a tax credit under section 1109 (tax credits for certain recipients of exempt qualifying distributions) in respect of the dividend.

(9) For the purposes of subsection (5) "double taxation relief" means any relief given under or as a result of Part 2 of TIOPA 2010.

(10) This section has effect regardless of section 358 of CTA 2009 (exclusion of credits on release of connected companies debts) or any other provision of Part 5 of that Act (loan relationships) which prevents a credit from being brought into account."

PART 3

CONSEQUENTIAL ETC AMENDMENTS

Introductory

3 The following amendments are in consequence of, or otherwise connected with, the amendments made by Parts 1 and 2.

TCGA 1992

4 TCGA 1992 is amended as follows.

5 In section 263B (stock lending arrangements), for subsection (7) substitute—

"(7) In this section "securities" has the meaning given by section 263AA."

6 Omit section 263D (gains accruing to persons paying manufactured dividends).

7 In section 263F (power to modify repo provisions: non-standard repo cases)—

(a) in subsection (1)—

(i) at the end of paragraph (c) insert " or ", and

(ii) omit paragraph (d) (and the word "or" at the end of it), and

(b) in subsection (2), omit "or 263D".

8 In section 263G (power to modify repo provisions: redemption arrangements)—

(a) in subsection (1), omit paragraph (d) (but not the word "or" at the end of it), and

(b) in subsection (2), omit "or 263D".

9 In section 263H (sections 263F and 263G: supplementary provisions), in subsection (3)(b) omit "or 263D".

10 (1) Section 263I (powers about manufactured overseas dividend) is amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) substitute—

"(a) pays or receives an amount (a "manufactured overseas dividend") which is representative of an overseas dividend on overseas securities where the payment or receipt is required to be made under an arrangement for the transfer of the securities, or

(b) is treated as doing so for any purposes of the Tax Acts."

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(3) For subsection (6) substitute—

"(6) In this section—

(a) "overseas securities" means shares, stock or other securities issued by—

(i) a government, local authority or other public authority of a territory outside the United Kingdom, or

(ii) another body of persons not resident in the United Kingdom,

(b) "overseas securities" includes shares in a company which is not resident in the United Kingdom,

(c) "overseas dividend" means any interest, dividend or other annual payment payable in respect of overseas securities, and

(d) "securities" includes loan stock or any similar security."

FA 2004

11 In Schedule 24 to FA 2004 (manufactured dividends), omit paragraph 3(1) and (3).

ITTOIA 2005

12 ITTOIA 2005 is amended as follows.

F109 13 . . . . . .

Textual Amendments

F109 Sch. 29 para. 13 omitted (15.9.2016) (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 1 para. 71(b)**

14 In section 397A (tax credit for distributions of non-UK resident companies)—

F110 (a) . . . . . .

(b) omit subsection (8).

Textual Amendments

F110 Sch. 29 para. 14(a) omitted (15.9.2016) (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 1 para. 71(b)**

15 Omit section 397B (tax credits under section 397A: manufactured overseas dividends).

ITA 2007

16 ITA 2007 is amended as follows.

17 In section 2 (overview of Act)—

(a) omit subsection (11), and

(b) before subsection (11A) insert—

"(11ZA) Part 11ZA is about manufactured payments."

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18 Omit the following provisions (which deal with manufactured payments and repos) —

(a) sections 565 to 595,

(b) section 596(1) to (4), and

(c) section 606(8).

19 In section 647 (makers of manufactured payments), for subsection (6) substitute—

"(6) In this section "manufactured payments contract" means a contract under which—

(a) the seller is required to pay another person an amount which is representative of a periodical payment of interest on UK securities under an arrangement between them for the transfer of the securities, or

(b) the seller is required to pay another person an amount which is representative of an overseas dividend on overseas securities under an arrangement between them for the transfer of the securities.

(7) In this section—

(a) "overseas securities" means shares, stock or other securities issued by—

(i) a government, local authority or other public authority of a territory outside the United Kingdom, or

(ii) another non-UK resident body of persons,

and includes shares in a non-UK resident company,

(b) "overseas dividend" means any interest, dividend or other annual payment payable in respect of overseas securities, and

(c) "UK securities" means securities of—

(i) the government of the United Kingdom,

(ii) a local authority in the United Kingdom,

(iii) another public authority in the United Kingdom, or

(iv) a UK resident company or other UK resident body,

but does not include shares in a UK resident company."

20 In section 658 (powers to modify: supplementary), for subsection (5) substitute—

"(5) Subsections (6) to (10) apply for the purposes of sections 656 and 657 and this section.

(6) "UK shares" means shares in a UK resident company.

(7) "UK securities" means securities of—

(a) the government of the United Kingdom,

(b) a local authority in the United Kingdom,

(c) another public authority in the United Kingdom, or

(d) a UK resident company or other UK resident body.

(8) But "UK securities" does not include UK shares.

(9) "Overseas securities" means shares, stock or other securities issued by—

(a) a government, local authority or other public authority of a territory outside the United Kingdom, or

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(b) another non-UK resident body of persons.

(10) "Overseas securities" includes shares in a non-UK resident company."

21 In section 918(1) (manufactured dividends on UK shares: REITs), for paragraph (a) substitute—

"(a) a person pays a manufactured payment as mentioned in section 614ZC(1) and the amount payable is representative of a dividend (a "manufactured dividend"), and".

22 In section 919 (manufactured interest on UK securities)—

(a) for subsection (1) substitute—

"(1) This section applies if—

(a) a person pays a manufactured payment as mentioned in section 614ZC(1),

(b) the amount payable is representative of interest on UK securities ("manufactured interest"), and

(c) the person —

(i) is UK resident, or

(ii) pays the manufactured interest in the course of a trade carried on in the United Kingdom through a branch or agency.",

(b) in subsection (4), omit the words from "section 583" to "special cases)", and

(c) after subsection (5) insert—

"(6) In subsection (1) "UK securities" means securities of—

(a) the government of the United Kingdom,

(b) a local authority in the United Kingdom,

(c) another public authority in the United Kingdom, or

(d) a UK resident company or other UK resident body.

(7) But "UK securities" does not include shares in a UK resident company.

(8) In this section "securities" includes loan stock or any similar security."

23 Omit section 920 (foreign payers of manufactured interest: the reverse charge).

24 In section 921 (cases where interest on underlying securities paid gross), in subsection (3), for the words from " "securities"" to the end substitute " "manufactured interest" has the same meaning as in section 919. "

25 Omit sections 922 to 925 (manufactured overseas dividends).

26 In section 925A(2) (creditor repos), for "to 925" substitute " , 919 and 921 ".

27 Omit section 925B (debtor repos).

28 In section 925C (actual payments ignored)—

(a) in the heading, omit "or 925B",

(b) omit "or 925B(2)", and

(c) for "to 925" substitute " , 919 and 921 ".

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29 In section 926 (interpretation of Chapter 9 of Part 15), omit subsections (1) and (1A).

30 In Schedule 1 (minor and consequential amendments), omit paragraph 335(1) to (4) and (6) to (8).

31 In Schedule 2 (transitionals and savings), omit paragraphs 108 to 111 (and the headings "Part 12", "Manufactured payments and repos" and "Tax credits: stock lending arrangements and repos" immediately preceding paragraph 108).

32 In Schedule 4 (index of defined expressions), omit the entries for— " buying back securities, in the context of a repo (in Part 11) ", " company UK REIT (in Chapter 2 of Part 11) ", " gross amount (in Chapter 2 of Part 11) ", " group (in Chapter 2 of Part 11) ", " group UK REIT (in Chapter 2 of Part 11) ", " manufactured dividend (in Chapter 2 of Part 11) ", " manufactured dividend (in Chapter 3 of Part 11) ", " manufactured interest (in Chapter 2 of Part 11) ", " manufactured overseas dividend (in Chapter 2 of Part 11) ", " overseas dividend (in Part 11) ", " overseas dividend (in Chapter 9 of Part 15) ", " overseas securities (in Part 11) ", " overseas tax (in Chapter 2 of Part 11) ", " overseas tax (in Chapter 9 of Part 15) ", " overseas tax credit (in Chapter 2 of Part 11) ", " prescribed (in Chapter 2 of Part 11) ", " principal company (in Chapter 2 of Part 11) ", " principal company (in Chapter 9 of Part 15) ", " property rental business (in Chapter 2 of Part 11) ", " property rental business (in Chapter 9 of Part 15) ", " related agreements (in Part 11) ", " relevant withholding tax (in Chapter 2 of Part 11) ", " repo (in Part 11) ", " the rules about manufactured payments (in Chapter 4 of Part 11) ", " stock lending arrangement (in Part 11) ", " trade carried on through a branch or agency (in Chapter 2 of Part 11) ", " transfer (in Chapter 2 of Part 11) ", " UK securities (in Part 11) ", and " UK shares (in Part 11) ".

FA 2008

33 (1) FA 2008 is amended as follows.

(2) In Schedule 12 (tax credit for certain foreign distributions), omit paragraphs 26, 27(2)(a) and (c) and (3), 28(2)(a) and (c) and (3), 29(2)(a), (c)(i) and (d) and (3) and 30.

(3) In Schedule 23 (manufactured payments: anti avoidance), omit paragraphs 1 to 4, 6, 7 and 9 to 11.

CTA 2009

34 CTA 2009 is amended as follows.

35 In section 539 (introduction to Chapter about manufactured interest), omit subsection (7).

36 In section 540(3) (manufactured interest treated as interest under loan relationship), omit "and to section 799 of CTA 2010".

37 In section 550 (which makes provision about the effect of the sale of securities on a borrower)—

(a) in subsection (4), for "(6)" substitute " (5C) ",

(b) after subsection (5A) insert—

"(5B) Nothing in subsection (3) entitles the borrower to double taxation relief in respect of any income payable in respect of overseas securities.

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(5C) But nothing in subsection (3) affects the entitlement of the borrower to double taxation relief in respect of any overseas tax deducted from any amount representative of income payable in respect of overseas securities.

(5D) In subsection (5C) "overseas tax" means tax under the law of a territory outside the United Kingdom.", and

(c) omit subsection (6).

38 In section 1221(1) (amounts treated as expenses of management), for paragraph (i) substitute—

"(i) section 814C(5) of CTA 2010 (treatment of payer of manufactured dividend),".

39 In section 1248 (expenses in connection with arrangements for securing a tax advantage)—

(a) omit subsection (3), and

(b) in subsection (5), omit the definition of "relevant tax relief".

FA 2009

40 In Schedule 19 to FA 2009 (income tax credits for foreign distributions), omit paragraphs 4 and 13(b).

CTA 2010

41 CTA 2010 is amended as follows.

42 In section 1 (overview of Act), in subsection (4)—

(a) omit paragraph (d), and

(b) before paragraph (e) insert—

"(da) manufactured dividends (see Part 17A),".

43 Omit Part 17 (manufactured payments and repos).

44 (1) Section 1109(5) (provisions to which section 1109 is subject) is amended as follows.

(2) Omit paragraphs (a) to (c) (and the word "and" at the end of paragraph (c)).

F111(3) . . . . . .

Textual Amendments

F111 Sch. 29 para. 44(3) omitted (15.9.2016) (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 1 para. 71(b)**

45 In Schedule 1 (minor and consequential amendments), omit paragraphs 259, 537, 538, 539(b) and (c), 635, 636 and 689(a) and (b)(i).

46 In Schedule 2 (transitionals and savings), omit Part 17 (manufactured payments and repos).

47 In Schedule 4 (index of defined expressions), omit the entries for—

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"creditor quasi-repo (in Chapter 5 of Part 17)", " creditor repo (in Chapter 5 of Part 17) ", " debtor quasi-repo (in Chapter 5 of Part 17) ", " debtor repo (in Chapter 5 of Part 17) ", " manufactured dividend (in Part 17) ", " manufactured overseas dividend (in Part 17) ", " overseas dividend (in Part 17) ", " overseas securities (in Part 17) ", " overseas tax (in Part 17) ", " prescribed (in Chapter 4 of Part 17) ", " stock lending arrangement (in Chapter 5 of Part 17) ", and " "UK shares (in Part 17)". ".

TIOPA 2010

48 (1) TIOPA 2010 is amended as follows.

(2) In section 85A(4) (schemes involving deemed foreign tax), omit paragraph (b) of the definition of "real foreign tax".

(3) In Schedule 7 (miscellaneous relocations), omit paragraph 113.

(4) In Schedule 8 (minor and consequential amendments), omit paragraph 82.

FA 2011

49 In Schedule 13 to FA 2011 (profits of foreign permanent establishments), omit paragraphs 22 to 24.

FA 2012

50 (1) FA 2012 is amended as follows.

(2) Omit section 22 (treatment of the receipt of manufactured overseas dividends).

(3) In section 78(3) (amounts which are deemed BLAGAB management expense for accounting period), for "783(6), 785(4) or 791(6)" substitute " 814C(7) ".

(4) In Schedule 16 (minor and consequential amendments), omit paragraphs 220 to 223.

PART 4

COMMENCEMENT

51 The amendments made by Parts 1 and 2 of this Schedule have effect in relation to any payment representative of a dividend or interest which is made on or after 1 January 2014.

52 The amendments made by Part 3 of this Schedule come into force on that date.

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SCHEDULE 30

Section 79

CLOSE COMPANIES

PART 1

AMENDMENTS OF PART 10 OF CTA 2010

1 Part 10 of CTA 2010 (close companies) is amended as follows.

2 (1) In section 438 (overview), after subsection (2) insert—

"(2A) Chapter 3A imposes a charge to tax in connection with other arrangements involving close companies and participators.

(2B) Chapter 3B makes provision about the treatment of certain repayments and return payments made in respect of loans, advances and other arrangements."

(2) The amendment made by this paragraph is treated as having come into force on 20 March 2013.

3 (1) In section 455 (charge to tax in case of loan to participator), for subsection (1) substitute—

"(1) This section applies if a close company makes a loan or advances money to—

(a) a relevant person who is a participator in the company or an associate of such a participator,

(b) the trustees of a settlement one or more of the trustees or actual or potential beneficiaries of which is a participator in the company or an associate of such a participator, or

(c) a limited liability partnership or other partnership one or more of the partners in which is an individual who is—

(i) a participator in the company, or

(ii) an associate of an individual who is such a participator."

(2) The amendment made by this paragraph has effect in relation to a loan or advance made on or after 20 March 2013.

4 (1) In section 459(2) (application of other provisions where loan treated as made to participator), after "458" insert " and 464C and 464D ".

(2) The amendment made by this paragraph is treated as having come into force on 20 March 2013.

5 (1) After Chapter 3 insert—

"**CHAPTER 3A**

CHARGE TO TAX: OTHER ARRANGEMENTS

Charge to tax: arrangements conferring benefit on participator

464A (1) This section applies if—

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(a) a close company is at any time a party to tax avoidance arrangements, and

(b) as a result of those arrangements, a benefit is conferred (whether directly or indirectly) on an individual who is—

(i) a participator in the company, or

(ii) an associate of such a participator.

(2) But this section does not apply if, or to the extent that, the conferral of the benefit gives rise to—

(a) a charge to tax on the company under section 455, or

(b) a charge to income tax on the participator or associate.

(3) There is due from the company, as if it were an amount of corporation tax chargeable on the company for the accounting period in which the benefit is conferred on the participator or associate, an amount equal to 25% of the value of the benefit conferred.

(4) Tax due under this section in relation to a benefit conferred on a participator or associate is due and payable in accordance with section 59D of TMA 1970 on the day following the end of the period of 9 months from the end of the accounting period in which the benefit was conferred.

(5) If a company (C) controls another company (D), a participator in C is to be treated for the purposes of this section as being also a participator in D.

(6) For the purposes of this section, arrangements are "tax avoidance arrangements" if the main purpose, or one of the main purposes, of the arrangements is—

(a) to avoid or reduce, or obtain a relief or increased relief from, a charge to tax on the company under section 455, or

(b) to obtain a tax advantage for the participator or associate.

(7) In this section—

"arrangements" includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions, and

"tax advantage" has the meaning given in section 1139, reading references to tax in that section as references to income tax.

Relief in case of return payment to company

464B(1) Subsection (2) applies if a benefit has been conferred which gave rise to a charge to tax on the company under section 464A.

(2) Relief is to be given from that tax, or a proportionate part of it, if—

(a) a payment ("the return payment") is made to the company in respect of the benefit, and

(b) no consideration is given for the return payment.

(3) Relief under this section is to be given on a claim, which must be made within 4 years from the end of the financial year in which the return payment is made to the company.

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(4) Subsection (5) applies if the return payment is made on or after the day on which tax under section 464A becomes due and payable in relation to the benefit.

(5) Relief in respect of the return payment may not be given under this section at any time before the end of the period of 9 months from the end of the accounting period in which the return payment was made.

(6) Schedule 1A to TMA 1970 (claims and elections not included in return) applies to a claim for relief under this section unless—

(a) the claim is included (by amendment or otherwise) in the return for the period in which the benefit was conferred, and

(b) the relief may be given at the time the claim is made."

(2) The amendment made by this paragraph has effect in relation to arrangements to which a close company becomes a party on or after 20 March 2013.

6 (1) After Chapter 3A insert—

"**CHAPTER 3B**

REPAYMENTS AND RETURN PAYMENTS

Treatment of certain repayments and return payments

464C (1) Where—

(a) within any period of 30 days—

(i) the qualifying amount of repayments made to a close company in respect of one or more chargeable payments made by the company to a person totals £5,000 or more, and

(ii) the available amount of the relevant chargeable payments made by the company to the person or an associate of the person totals £5,000 or more, and

(b) the relevant chargeable payments are made in an accounting period subsequent to that in which the chargeable payments mentioned in paragraph (a)(i) were made,

the qualifying amount of the repayments, so far as not exceeding the available amount of the relevant chargeable payments, is to be treated for the purposes of this Chapter as a repayment of the relevant chargeable payments.

(2) A chargeable payment is a relevant chargeable payment for the purposes of subsection (1) if (or to the extent that) it is not repaid within the period of 30 days mentioned in that subsection.

(3) Where—

(a) immediately before a repayment is made in respect of one or more chargeable payments made by a close company to a person, the total amount owed to the company by the person in respect of chargeable payments is £15,000 or more,

(b) at the time the repayment is made, arrangements had been made for one or more chargeable payments to be made to replace some or all of the amount repaid, and

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(c) the available amount of the chargeable payments made by the company to the person or an associate of the person under the arrangements totals £5,000 or more,

the qualifying amount of the repayment, so far as not exceeding the available amount of the chargeable payments mentioned in paragraph (c), is to be treated for the purposes of this Chapter as a repayment of those chargeable payments.

(4) An amount contained in a chargeable payment is an available amount—

(a) for the purposes of subsection (1), to the extent that no repayment has been treated as made in respect of it by the previous operation of that subsection, and

(b) for the purposes of subsection (3), to the extent that no repayment has been treated as made in respect of it—

(i) by the operation of subsection (1), or

(ii) by the previous operation of subsection (3).

(5) An amount contained in a repayment is a qualifying amount to the extent that it has not been treated by the previous operation of this section as a repayment of a chargeable payment.

(6) This section does not apply in relation to a repayment which gives rise to a charge to income tax on the participator or associate by reference to whom the loan, advance or benefit was a chargeable payment.

(7) The Treasury may by order vary a sum specified in subsection (1) or (3).

(8) An order under subsection (7) may contain incidental, supplemental, consequential and transitional provision and savings.

Section 464C: supplementary

464D(1) All such assessments and adjustments of assessments are to be made as are necessary to give effect to section 464C(1) and (3).

(2) If a person who has made a tax return becomes aware that, after making it, anything in it has become incorrect because of the operation of section 464C(1) or (3), the person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.

(3) The notice must be given within 3 months beginning with the day on which the person became aware that anything in the return had become incorrect because of the operation of section 464C(1) or (3).

(4) In section 464C, "chargeable payment" means—

(a) a loan or advance made by a close company which gives rise to a charge to tax under section 455, or

(b) the conferral of a benefit on an individual in circumstances which give rise to a charge to tax under section 464A.

(5) In a case within subsection (4)(b)—

(a) the conferral of the benefit is to be treated for the purposes of section 464C as a loan made by the close company to the individual to the value of the benefit conferred, and

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(b) any payment in respect of which (apart from section 464C) relief is due to the close company under section 464B is to be treated for the purposes of section 464C as a repayment of the loan."

(2) The amendment made by this paragraph has effect in relation to repayments and return payments made on or after 20 March 2013.

7 In section 465 (power to obtain information), after "Chapter 3" (in both places) insert " or 3A ".

PART 2

OTHER AMENDMENTS

Taxes Management Act 1970

8 TMA 1970 is amended as follows.

9 In section 59E(11)(a) (provision as to when tax is due and payable)—

(a) after "455" insert " or 464A ", and

(b) after "loan" insert " or benefit ".

10 In section 59F(6)(a) (arrangements for paying tax on behalf of group members)—

(a) after "455" insert " or 464A ", and

(b) after "loan" insert " or benefit ".

11 (1) Section 109 (corporation tax on close company in connection with loans to participators etc) is amended as follows.

(2) In subsection (1)—

(a) after "459" insert " and 464A and 464B ", and

(b) for "by close companies" insert " or benefits ".

(3) For subsection (3) substitute—

"(3) For the purposes of section 87A of this Act as applied by subsection (1) above—

(a) the date when tax under section 455 of CTA 2010 became due and payable is that determined in accordance with subsection (3) of that section, and

(b) the date when tax under section 464A of CTA 2010 became due and payable is that determined in accordance with subsection (4) of that section."

(4) After subsection (3A) insert—

"(3B) If there is a payment which for the purposes of section 464B of CTA 2010 is a return payment in respect of a benefit conferred, interest under section 87A of this Act on so much of the tax under section 464A of CTA 2010 as is referable to the return payment is not payable in respect of any period after the date on which the return payment was made."

(5) In subsection (4), after "458" insert " or 464B ".

(6) In subsection (5), after "459" insert " or 464A and 464B ".

***Changes to legislation:** Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) In the heading, after "**loans**" insert " **or benefits** ".

12 The amendments made by paragraphs 9 to 11 are treated as having come into force on 20 March 2013.

Finance Act 1998

13 (1) Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.

(2) In paragraph 1 (meaning of "tax"), after the entry relating to section 455 of CTA 2010 insert— " section 464A of that Act (tax on other benefit conferred on participator), ".

(3) In paragraph 8(1) (calculation of tax payable), in paragraph 1 of the third step—

(a) after "455" insert " or 464A ", and

(b) for "or advance made by close company" substitute " , advance or benefit ".

(4) In paragraph 18 (failure to deliver return: tax-related penalty), for sub-paragraph (4) substitute—

"(4) In determining that amount no account is to be taken of—

(a) any relief under section 458 of the Corporation Tax Act 2010 (relief in respect of repayment, etc of loan) which is deferred under subsection (5) of that section, or

(b) any relief under section 464B of that Act (relief in respect of return payment) which is deferred under subsection (5) of that section."

(5) The amendments made by this paragraph are treated as having come into force on 20 March 2013.

Income Tax (Trading and Other Income) Act 2005

14 (1) In section 417 of ITTOIA 2005 (person liable for charge on release of loan or advance), for subsection (1) substitute—

"(1) The person liable for any tax charged under this Chapter is—

(a) in the case of a loan or advance made to a partnership, any partner who is an individual, and

(b) in any other case, the person to whom the loan or advance was made.

(1A) If more than one person is liable in a case within subsection (1)(a), the liability is to be apportioned between them in a just and reasonable manner."

(2) The amendment made by this paragraph has effect in relation to loans or advances made on or after 20 March 2013.

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SCHEDULE 31

Section 89

MISCELLANEOUS AMENDMENTS RELATING TO DECOMMISSIONING

PART 1

ABANDONMENT GUARANTEES AND ABANDONMENT EXPENDITURE

Expenditure on abandonment guarantees

1 (1) In Part 2 of ITTOIA 2005 (trading income), Chapter 16A (oil activities) is amended as follows.

(2) In section 225N (expenditure on and under abandonment guarantees)—

(a) after subsection (1) insert—

"(1A) Subsection (2) also applies if expenditure incurred by a participator in an oil field would be so allowable as a result of section 3(1)(hh) of that Act but for the fact that the oil field is a non-taxable oil field within the meaning of Part 3 of FA 1993 (see section 185 of that Act).";

(b) in subsection (2), for "that expenditure is so allowable" substitute " the expenditure mentioned in subsection (1) or (1A) is or would be so allowable ".

(3) In section 225R (introduction to sections 225S and 225T)—

(a) in paragraph (a) of subsection (1), omit the words from ", or would apply" to "made";

(b) in paragraph (b) of that subsection, after "Schedule" insert " , or would fall to be so attributed if a claim under paragraph 2A(2) of that Schedule were made ";

(c) after subsection (1) insert—

"(1A) The condition in subsection (1)(b) is to be treated as met for the purposes of this section if it would be met but for the fact that the contributing participator is (or was) a participator in an oil field that is a non-taxable oil field within the meaning of Part 3 of FA 1993 (see section 185 of that Act).";

(d) in subsection (2), before "attributed" insert " or would be ".

2 (1) In Part 8 of CTA 2010 (oil activities), Chapter 4 (calculation of profits) is amended as follows.

(2) In section 292 (expenditure on and under abandonment guarantees)—

(a) after subsection (1) insert—

"(1A) Subsection (2) also applies if expenditure incurred by a participator in an oil field would be so allowable as a result of section 3(1)(hh) of that Act but for the fact that the oil field is a non-taxable oil field within the meaning of Part 3 of FA 1993 (see section 185 of that Act).";

Changes to legislation: *Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) in subsection (2), for "that expenditure is so allowable" substitute " the expenditure mentioned in subsection (1) or (1A) is or would be so allowable ".

(3) In section 296 (introduction to sections 297 and 298)—

(a) in paragraph (a) of subsection (1), omit the words from ", or would apply" to "made";

(b) in paragraph (b) of that subsection, after "Schedule" insert " , or would fall to be so attributed if a claim under paragraph 2A(2) of that Schedule were made ";

(c) after subsection (1) insert—

"(1A) The condition in subsection (1)(b) is to be treated as met for the purposes of this section if it would be met but for the fact that the contributing participator is (or was) a participator in an oil field that is a non-taxable oil field within the meaning of Part 3 of FA 1993 (see section 185 of that Act).";

(d) in subsection (2), before "attributed" insert " or would be ".

Expenditure under abandonment guarantees

3 In Schedule 3 to OTA 1975 (petroleum revenue tax: miscellaneous provisions), in paragraph 8 (certain subsidised expenditure to be disregarded), after sub-paragraph (1) insert—

"(1A) But sub-paragraph (1) above does not apply to any expenditure for which the relevant participator is liable that has been or is to be met directly or indirectly out of a payment made by the guarantor under an abandonment guarantee.

(1B) In sub-paragraph (1A) above—

"abandonment guarantee" has the same meaning as it has for the purposes of section 3 of this Act (see section 104 of the Finance Act 1991), and

"the guarantor" and "the relevant participator" have the same meaning as in section 104 of that Act."

4 In Schedule 5 to OTA 1975 (allowance of expenditure), in paragraph 2C(2), in the definition of "sum in default", for the words from "less the aggregate of" to the end substitute " less so much of that payment as has been made by the defaulter ".

5 (1) Part 3 of FA 1991 (oil taxation) is amended as follows.

(2) Omit section 105 (restriction of expenditure relief by reference to payments under abandonment guarantees).

(3) Omit section 106 (relief for reimbursement expenditure under abandonment guarantees).

6 (1) In Part 2 of ITTOIA 2005 (trading income), Chapter 16A (oil activities) is amended as follows.

(2) In section 225N (expenditure on and under abandonment guarantees), omit subsections (3) and (4).

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(3) Omit section 225O (relief for reimbursement expenditure under abandonment guarantees).

7 (1) In Part 8 of CTA 2010 (oil activities), Chapter 4 (calculation of profits) is amended as follows.

(2) In section 292 (expenditure on and under abandonment guarantees), omit subsections (3) and (4).

(3) Omit section 293 (relief for reimbursement expenditure under abandonment guarantees).

Reimbursement by defaulter in respect of abandonment expenditure

8 In Part 3 of FA 1991, omit section 108 (reimbursement by defaulter in respect of certain abandonment expenditure).

9 In Part 2 of ITTOIA 2005, omit section 225T (reimbursement by defaulter in respect of certain abandonment expenditure).

10 In Part 8 of CTA 2010, omit section 298 (reimbursement by defaulter in respect of certain abandonment expenditure).

Consequential amendments

11 (1) Section 104 of FA 1991 is amended as follows.

(2) In subsection (1), omit "and sections 105 and 106 below".

(3) In subsection (2), omit "and section 106 (but not section 105) below".

12 In FA 2008, omit section 105.

13 In Part 2 of ITTOIA 2005, Chapter 16A is amended as follows.

14 (1) Section 225N is amended as follows.

(2) Omit subsection (5).

(3) In subsection (6), in the definition of "abandonment guarantee"—

(a) for "section 105 of FA 1991" substitute " section 3 of OTA 1975 ", and

(b) for "that Act" substitute " FA 1991 ".

(4) The heading of that section becomes " **Expenditure on abandonment guarantees** ".

15 Omit sections 225P and 225Q.

16 In section 225R (introduction to sections 225S and 225T)—

(a) in subsection (1), for "Sections 225S and 225T apply" substitute " Section 225S applies ";

(b) the heading of section 225R becomes " **Introduction to section 225S** ".

17 In Part 8 of CTA 2010, Chapter 4 is amended as follows.

18 (1) Section 292 is amended as follows.

(2) Omit subsection (5).

(3) In subsection (6), in the definition of "abandonment guarantee"—

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(a) for "section 105 of FA 1991" substitute " section 3 of OTA 1975 ", and
(b) for "that Act" substitute " FA 1991 ".

(4) The heading of that section becomes " **Expenditure on abandonment guarantees** ".

19 Omit sections 294 and 295.

20 In section 296 (introduction to sections 297 and 298)—
(a) in subsection (1), for "Sections 297 and 298 apply" substitute " Section 297 applies ";
(b) the heading of section 296 becomes " **Introduction to section 297** ".

PART 2

RECEIPTS ARISING FROM DECOMMISSIONING

Calculation of profits chargeable to corporation tax and supplementary charge

21 In Chapter 4 of Part 8 of CTA 2010 (oil activities: calculation of profits), after section 298 insert—

"Receipts arising from decommissioning

298A Receipts arising from decommissioning

(1) This section applies if—
(a) a company that is or has been carrying on a ring fence trade ("the defaulter") has defaulted on a liability under—
(i) a relevant agreement, or
(ii) an abandonment programme,
to make a payment towards decommissioning expenditure,
(b) another company that is or has been carrying on a ring fence trade ("the contributing company") pays an amount ("the relevant contribution") in or towards meeting the whole or part of the default, and
(c) the amount of the relevant contribution is less than the sum of the amounts within subsection (2).

(2) The amounts within this subsection are—
(a) any payments made (directly or indirectly) to the contributing company by the guarantor under an abandonment guarantee as a result of the defaulter defaulting on the liability,
(b) any reimbursement payments, and
(c) any relief from tax which the contributing company obtains in respect of the relevant contribution.

(3) The difference between—
(a) the sum of the amounts within subsection (2), and
(b) the relevant contribution,

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("the relevant difference") is to be treated as a receipt (in the nature of income) of the contributing company's ring fence trade for the relevant accounting period (see subsection (4)).

(4) "The relevant accounting period" means the accounting period that includes the day on which the Secretary of State certifies that the relevant abandonment programme has been satisfactorily completed ("the certification date").

This is subject to subsections (5) and (6).

(5) If the contributing company has ceased to carry on the ring fence trade before the certification date, "the relevant accounting period" is the last accounting period of the trade.

(6) If the contributing company has ceased to be within the charge to corporation tax in respect of the ring fence trade before the certification date, "the relevant accounting period" is the accounting period during or at the end of which the contributing company ceased to be within the charge to corporation tax in respect of the trade.

(7) The relevant difference is to be determined—

(a) in a case where subsection (5) or (6) applies, at the end of the calendar year in which the certification date falls, and

(b) in any other case, at the end of the relevant accounting period.

(8) In a case where subsection (5) or (6) applies, any corporation tax chargeable for the relevant accounting period by virtue of this section is due and payable as if it were corporation tax for an accounting period beginning with the certification date.

(9) Any additional assessment to corporation tax required in order to take account of a receipt arising under this section may be made at any time not later than 4 years after the end of the calendar year in which the certification date falls.

(10) In this section—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),

"decommissioning expenditure" has the meaning given by section 330C,

"reimbursement payment" means any payment made to the contributing company by the defaulter in reimbursing the contributing company in respect of, or otherwise making good to the contributing company, the whole or any part of the relevant contribution,

"the relevant abandonment programme" means the abandonment programme in respect of which the decommissioning expenditure mentioned in subsection (1)(a) was incurred, and

"relevant agreement" has the meaning given by section 104(5)(a) of FA 1991."

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Calculation of profits chargeable to income tax

22 In Chapter 16A of Part 2 of ITTOIA 2005 (trading income: oil activities), after section 225U insert—

"Receipts arising from decommissioning

225V Receipts arising from decommissioning

(1) This section applies if—

(a) a person that is or has been carrying on a ring fence trade ("the defaulter") has defaulted on a liability under—

(i) a relevant agreement, or

(ii) an abandonment programme,

to make a payment towards decommissioning expenditure,

(b) another person that is or has been carrying on a ring fence trade ("the contributing person") pays an amount ("the relevant contribution") in or towards meeting the whole or part of the default, and

(c) the amount of the relevant contribution is less than the sum of the amounts within subsection (2).

(2) The amounts within this subsection are—

(a) any payments made (directly or indirectly) to the contributing person by the guarantor under an abandonment guarantee as a result of the defaulter defaulting on the liability,

(b) any reimbursement payments, and

(c) any relief from tax which the contributing person obtains in respect of the relevant contribution.

(3) The difference between—

(a) the sum of the amounts within subsection (2), and

(b) the relevant contribution,

("the relevant difference") is to be treated as a receipt (in the nature of income) of the contributing person's ring fence trade for the relevant tax year (see subsection (4)).

(4) "The relevant tax year" means the tax year that includes the day on which the Secretary of State certifies that the relevant abandonment programme has been satisfactorily completed ("the certification date").

This is subject to subsection (5).

(5) If the contributing person's ring fence trade is permanently discontinued before the certification date, "the relevant tax year" is the last tax year in which that trade is carried on.

(6) The relevant difference is to be determined—

(a) in a case where subsection (5) applies, at the end of the tax year in which the certification date falls, and

(b) in any other case, at the end of the relevant tax year.

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(7) In a case where subsection (5) applies, any income tax chargeable for the relevant tax year by virtue of this section is due and payable for the tax year in which the certification date falls.

(8) Any additional assessment to income tax required in order to take account of a receipt arising under this section may be made at any time not later than 4 years after the end of the tax year in which the certification date falls.

(9) In this section—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised),

"decommissioning expenditure" has the meaning given by section 330C of CTA 2010,

"reimbursement payment" means any payment made to the contributing person by the defaulter in reimbursing the contributing person in respect of, or otherwise making good to the contributing person, the whole or any part of the relevant contribution,

"the relevant abandonment programme" means the abandonment programme in respect of which the decommissioning expenditure mentioned in subsection (1)(a) was incurred, and

"relevant agreement" has the meaning given by section 104(5)(a) of FA 1991."

PART 3

COMMENCEMENT

23 The amendments made by this Schedule have effect in relation to expenditure incurred on or after the day on which this Act is passed.

SCHEDULE 32

Section 93

RESTRICTIONS ON ALLOWANCES FOR CERTAIN OIL-RELATED EXPENDITURE

PART 1

DECOMMISSIONING EXPENDITURE

1 CAA 2001 is amended as follows.

2 After section 165 insert—

"Restrictions on allowances: anti-avoidance

165A Decommissioning services supplied by connected person

(1) Allowances under this Part are restricted under section 165B(1) if—

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(a) a person ("R") who is carrying on, or has ceased to carry on, a ring fence trade enters into an arrangement,

(b) under the arrangement, a person ("S") who is connected with R provides a service to R, and

(c) all or part of the consideration for the service is decommissioning expenditure.

(2) Subsection (1)(b) may be satisfied whether the service is provided to R directly or indirectly; and in particular it does not matter—

(a) whether R and S are parties to the same contract, or

(b) whether payments are made by R directly to S.

(3) Subsections (4) to (9) apply for the purposes of this section and sections 165B to 165E.

(4) References to providing a service include—

(a) letting a ship on charter or any other asset on hire, and

(b) providing goods which are to be used up in the course of providing a service.

(5) "Decommissioning expenditure" means expenditure in connection with decommissioning.

(6) "Decommissioning" means—

(a) demolishing plant or machinery,

(b) preserving plant or machinery pending its reuse or demolition,

(c) preparing plant or machinery for reuse, or

(d) arranging for the reuse of plant or machinery.

(7) It is immaterial for the purposes of subsection (6)(b) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.

(8) It is immaterial for the purposes of subsection (6)(c) and (d) whether the plant or machinery is in fact reused.

(9) References to R's expenditure under the arrangement are to so much of the consideration for the service as is decommissioning expenditure incurred by R.

165B Restriction on allowance available

(1) The amount, if any, by which R's expenditure under the arrangement exceeds D is to be left out of account in determining R's available qualifying expenditure.

(2) D is the cost to S of providing the service or, if R's expenditure under the arrangement relates to only part of the service, that part.

(3) Subsection (2) is subject to sections 165C and 165D, which provide for D to be calculated differently in certain circumstances.

(4) But if, under any arrangement, a particular service or part of a service is provided by more than one person who is connected with R (so that without this subsection there would be more than one amount for D in relation to that service or part), D is the lowest of those amounts.

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165C Allowance in respect of certain services related to decommissioning

(1) This section applies to so much of R's expenditure under the arrangement as relates to the supply by S of a service if—

(a) the service is a planning or project management service, and

(b) the cost plus method is an appropriate method of applying the arm's length principle to the provision of it.

(2) D is the sum of—

(a) the cost to S of providing the service or, if R's expenditure under the arrangement relates to only part of the service, that part, and

(b) the appropriate percentage of that amount.

(3) The appropriate percentage is the smaller of—

(a) the appropriate mark up determined in accordance with the cost plus method, and

(b) 10%.

(4) Any expression which is used in this section and in the transfer pricing guidelines has the meaning given in those guidelines.

"The transfer pricing guidelines" has the meaning given by section 164(4) of TIOPA 2010.

165D Allowance where decommissioning undertaken for other participators in oil field

(1) This section applies where—

(a) S decommissions the plant or machinery,

(b) there are, in addition to R, one or more other participators in the relevant field, and

(c) the expenditure incurred in respect of the decommissioning is apportioned between the participators (including R) in accordance with their shares in the oil won from the relevant field or their shares in the equity of that field.

(2) D is the part of the expenditure referred to in subsection (1)(c) which is incurred by R.

(3) Where—

(a) plant or machinery is or has been used in connection with the winning of oil from more than one relevant field, and

(b) the expenditure incurred in respect of the decommissioning is apportioned between those fields in accordance with the contribution from each field to the total of the oil won using that plant or machinery,

subsections (1) and (2) apply to each such field as if subsection (1)(c) referred to the expenditure apportioned to that field.

(4) But subsections (2) and (3) do not apply (and section 165B(2) applies instead) if—

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(a) the amount of consideration, or the method of determining the amount of consideration, to be received by S under the arrangement or arrangements, or

(b) the apportionment of the liability for that consideration (whether between the participators as mentioned in subsection (1)(c) or between the fields as mentioned in subsection (3)(b)),

has been agreed as, or as part of, an avoidance scheme.

(5) A scheme is an "avoidance scheme" if the main purpose, or one of the main purposes, of a party in entering into the scheme is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.

(6) The reference in subsection (5) to obtaining a tax advantage that would not otherwise be obtained includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.

(7) In this section—

"licensee", "oil" and "oil field" have the same meaning as in Part 1 of OTA 1975,

"other participator" means a person, not connected with R, who is a licensee in respect of any licensed area wholly or partly included in the oil field in question, and

"relevant field" means an oil field—

(a) in which plant or machinery is located, or

(b) in connection with which the plant or machinery is being or has been used for the purposes of a ring fence trade.

165E Transaction to obtain tax advantage

(1) Allowances under this Part are restricted under subsection (5) if—

(a) a person ("R") who is carrying on, or has ceased to carry on, a ring fence trade enters into a transaction with another person ("S"),

(b) S receives from R consideration for services provided in pursuance of the transaction,

(c) all or part of that consideration is decommissioning expenditure, and

(d) the transaction either has an avoidance purpose, or is part of, or occurs as a result of, a scheme or arrangement that has an avoidance purpose.

(2) Subsection (1)(d) may be satisfied—

(a) whether the scheme or arrangement was made before or after the transaction was entered into, and

(b) whether or not the scheme or arrangement is legally enforceable.

(3) A transaction, scheme or arrangement has an "avoidance purpose" if the main purpose, or one of the main purposes, of a party in—

(a) entering into the transaction, scheme or arrangement, or

(b) agreeing an amount of consideration, or a method of determining an amount of consideration, to be paid in pursuance of the transaction, scheme or arrangement,

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is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.

(4) The reference in subsection (3) to obtaining a tax advantage that would not otherwise be obtained includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.

(5) All or part of R's expenditure under the transaction is to be left out of account in determining R's available qualifying expenditure.

(6) The amount of expenditure to be left out of account is—

(a) such amount as would or would in effect cancel out the tax advantage mentioned in subsection (3) (whether that advantage is obtained by R or another person and whether it relates to the transaction or something else), or

(b) if the amount found under paragraph (a) exceeds the whole of R's expenditure under the transaction, the whole of that expenditure."

3 In section 26(5), at the end insert " and sections 165A to 165E (restrictions on allowances: anti-avoidance). "

4 In section 57(3), after the reference to section 70DA insert— " sections 165A to 165E (restrictions on allowances: anti-avoidance); ".

5 In section 161C(3), for "and 164(4)" substitute " , 164(4) and 165A to 165E ".

6 In section 164(5A), at the end insert " and sections 165A to 165E. "

7 After section 165(3) insert—

"(3A) Subsection (3) is subject to sections 165A to 165E."

8 The amendments made by this Part have effect in relation to expenditure incurred on decommissioning carried out on or after the day on which this Act is passed.

PART 2

EXPENDITURE ON SITE RESTORATION

9 After section 416ZB of CAA 2001 (inserted by section 92) insert—

"**416ZC Site restoration services supplied by connected person**

(1) Where—

(a) a person ("R") who is carrying on, or has ceased to carry on, a ring fence trade enters into an arrangement,

(b) under the arrangement, a person ("S") who is connected with R provides a service to R in connection with work on the restoration of a relevant site, and

(c) (in the absence of this section) all or part of the consideration for the service would be qualifying expenditure of R under section 416ZA,

the amount of the expenditure which is qualifying expenditure is restricted under section 416ZD(1).

(2) Subsection (1)(b) may be satisfied whether the service is provided to R directly or indirectly; and in particular it does not matter—

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(a) whether R and S are parties to the same contract, or
(b) whether payments are made by R directly to S.

(3) Subsections (4) and (5) apply for the purposes of this section and sections 416ZD and 416ZE.

(4) "Relevant site" has the meaning given by section 416ZA(8).

(5) References to providing a service include—
(a) letting a ship on charter or any other asset on hire, and
(b) providing goods which are to be used up in the course of providing a service.

416ZD Restriction on allowance available

(1) In determining how much of the consideration for the service is qualifying expenditure, there is to be left out of account the amount (if any) by which that consideration exceeds D.

(2) D is the cost to S of providing the service or, if the qualifying expenditure relates to only part of the service, that part.

(3) Subsection (2) is subject to—
(a) subsection (4), and
(b) section 416ZE,
which provide for D to be calculated differently in certain circumstances.

(4) The following provisions apply in relation to an amount restricted under subsection (1) as they apply in relation to an amount restricted under section 165B(1)—
(a) section 165C;
(b) section 165E, subject to the modifications in subsection (5).

(5) The modifications are that—
(a) the references to Part 2 are to be read as references to this Part,
(b) in subsection (1)(c), the reference to decommissioning expenditure is to be read as a reference to qualifying expenditure under section 416ZA, and
(c) in subsection (5), the reference to R's available qualifying expenditure is to be read as a reference to R's qualifying expenditure on the restoration of the site.

(6) But if, under the arrangement, a particular service or part of a service is provided by more than one person who is connected with R (so that without this subsection there would be more than one amount for D in relation to that service or part), D is the lowest of those amounts.

416ZE Allowance where site restoration undertaken for other participators in oil field

(1) This section applies where—
(a) S carries out the restoration of a relevant site,

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(b) there are, in addition to R, one or more other participators in the relevant field, and

(c) the expenditure incurred in carrying out the restoration is apportioned between the participators (including R) in accordance with their shares in the oil won from the relevant field or their shares in the equity of that field.

(2) D is the part of the expenditure referred to in subsection (1)(c) which is incurred by R.

(3) Where—

(a) a relevant site has been used in connection with the winning of oil from more than one relevant field, and

(b) the expenditure incurred in respect of the restoration is apportioned between those fields in accordance with the contribution from each field to the total of the oil won using that site,

subsections (1) and (2) apply to each such field as if subsection (1)(c) referred to the expenditure apportioned to that field.

(4) But subsections (2) and (3) do not apply (and section 416ZD(2) applies instead) if—

(a) the amount of consideration, or the method of determining the amount of consideration, to be received by S under the arrangement or arrangements, or

(b) the apportionment of the liability for that consideration (whether between the participators as mentioned in subsection (1)(c) or between the fields as mentioned in subsection (3)(b)),

has been agreed as, or as part of, an avoidance scheme.

(5) A scheme is an "avoidance scheme" if the main purpose, or one of the main purposes, of a party in entering into the scheme is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.

(6) The reference in subsection (5) to obtaining a tax advantage that would not otherwise be obtained includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.

(7) In relation to the restoration of a relevant site, "relevant field" means any of the following—

(a) the oil field in which the site is located;

(b) if the site is the site of a source to the working of which a ring fence trade relates (or related), an oil field from which oil is or has been won by means of working the source;

(c) if the site is land used in connection with working such a source, an oil field from which oil is or has been won by means of working the source.

(8) In this section—

"licensee", "oil" and "oil field" have the same meaning as in Part 1 of OTA 1975, and

"other participator" means a person, not connected with R, who is a licensee in respect of any licensed area wholly or partly included in the oil field in question."

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10 In section 395(3) of that Act (provisions limiting "qualifying expenditure") for "Chapter 4 contains" substitute " Chapters 4 and 5 contain ".

11 The amendments made by this Part have effect in relation to expenditure incurred on restoration carried out on or after the day on which this Act is passed.

PART 3

AMENDMENTS OF TIOPA 2010

12 Part 4 of TIOPA 2010 (transfer pricing) is amended as follows.

13 In section 147(6) (list of exceptions to the basic rule stated in that section), after paragraph (b) insert—

"(ba) section 206A (modification of basic rule where allowances restricted for certain oil-related expenditure),".

14 After section 206 insert—

"**206A Modification of basic rule where allowances restricted for certain expenditure**

(1) This section applies where—

(a) in a case to which section 165A(1) of CAA 2001 (restriction of allowances for decommissioning expenditure) applies, R's available qualifying expenditure is restricted under section 165B(2) or 165C of that Act, or

(b) in a case to which section 416ZC(1) of that Act (restriction of allowances for expenditure on site restoration) applies, R's qualifying expenditure is restricted under section 416ZD(2) or section 165C as applied by section 416ZD(4)(a) of that Act.

(2) In calculating for tax purposes S's profits and losses in relation to the service provided by S to R, the amount which S is required to bring into account is an amount equal to R's expenditure (restricted as mentioned in subsection (1)(a) or (b)).

(3) Section 147(3) and (5) do not apply to the extent that they are inconsistent with subsection (2).

(4) In this section "R" and "S" have the meaning given by section 165A or 416ZC of CAA 2001 (as the case may be)."

15 In section 213 (effect of Part 4 on capital allowances), after subsection (2) insert—

"(3) But a claim under section 174 may not be made if the claim would affect the operation of sections 165A to 165E or 416ZC to 416ZE of CAA 2001."

16 The amendments made by this Part have effect for accounting periods ending on or after the day on which this Act is passed.

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SCHEDULE 33

Section 162

ANNUAL TAX ON ENVELOPED DWELLINGS: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 1

RETURNS

Contents of return

1 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision about—

(a) the form and content of a return;

(b) the method of delivering a return.

(2) Regulations under sub-paragraph (1) may make different provision for different purposes.

(3) Every return must include a declaration by the person making it to the effect that the return is correct and complete to the best of the person's knowledge.

(4) A return is treated as containing any information provided by the person making the return for the purpose of completing the return.

2 In this Part of this Act—

(a) references to the delivery of an annual tax on enveloped dwellings return are to the delivery of a return that complies with all requirements imposed by or under any of sections 159 **[**F112, 159A**]** and 161 and paragraph 1;

(b) references to the delivery of a return of the adjusted chargeable amount are to the delivery of a return that complies with all requirements imposed by or under any of sections 160 and 161 and paragraph 1.

Textual Amendments

F112 Word in Sch. 33 para. 2(a) inserted (with effect in accordance with s. 73(6) of the amending Act) by Finance Act 2015 (c. 11), **s. 73(5)(a)**

Amendment of return by chargeable person

3 (1) A person who has delivered a return may amend the return by notice to an officer of Revenue and Customs.

(2) The Commissioners for Her Majesty's Revenue and Customs may require that notices under this paragraph—

(a) are in a specified form, or

(b) contain specified information.

(3) An amendment under this paragraph must be made by the end of the next chargeable period after the chargeable period to which the return relates (but see the exception that follows).

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(4) If a return is delivered on or after 1 January in the chargeable period next after that to which it relates, the latest time for amending the return under this paragraph is the end of the period of 3 months after the day on which the return is delivered.

Correction of return by HMRC

4 (1) An officer of Revenue and Customs may correct any obvious error or omission in a return.

(2) A correction under this paragraph—

(a) is made by notice to the chargeable person, and

(b) is regarded as effecting an amendment of the return.

(3) The reference in sub-paragraph (1) to an error includes, for instance, an arithmetical mistake or an error of principle.

(4) A correction under this paragraph must be made within the 9 months beginning with—

(a) the day on which the return was delivered, or

(b) if the correction is needed as a result of an amendment under paragraph 3, the day on which the amendment was made.

(5) A correction under this paragraph has no effect if the chargeable person—

(a) amends the return so as to reject the correction, or

(b) gives a notice rejecting the correction in the special period mentioned in sub-paragraph (6).

(6) A notice is given in the "special period" if it is given—

(a) after the end of the period within which the chargeable person may amend the return, but

(b) before the end of the 3 months beginning with the date of issue of the notice of correction.

(7) A notice under sub-paragraph (5)(b) must be given to HMRC.

PART 2

DUTY TO KEEP AND PRESERVE RECORDS

Duty to keep and preserve records

5 (1) A person who is required to deliver a return for a chargeable period must—

(a) keep any records that may be needed to enable the person to deliver a correct and complete return, and

(b) preserve those records in accordance with this paragraph.

(2) The records must be preserved until the end of the later of the relevant day and the date on which—

(a) an enquiry into the return is completed, or

(b) if there is no enquiry, an officer of Revenue and Customs no longer has power to enquire into the return.

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(3) "The relevant day" means—

(a) the sixth anniversary of the last day of the chargeable period, or

(b) any earlier day that may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs.

(4) Different days may be specified for different purposes under sub-paragraph (3)(b).

(5) The records required to be kept and preserved under this paragraph include—

(a) details of any relevant transaction (including any contract or conveyance and any supporting maps, plans or similar documents and records of relevant payments, receipts and financial arrangements);

(b) records of any valuation of the single-dwelling interest relevant to its value on any day in the chargeable period.

(6) The Commissioners for Her Majesty's Revenue and Customs may by regulations—

(a) provide that the records required to be kept under this paragraph do, or do not, include records specified in the regulations;

(b) specify supporting documents that are required to be kept under this paragraph.

(7) Regulations under this paragraph may make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).

(8) "Supporting documents" includes accounts, books, deeds, contracts, vouchers and receipts.

Preservation of information etc

6 The duty under paragraph 5 to preserve records may be satisfied—

(a) by preserving them in any form and by any means, or

(b) by preserving the information contained in them in any form and by any means, subject to any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.

Penalty for failure to keep and preserve records

7 (1) A person who fails to comply with paragraph 5 in relation to a chargeable period is liable to a penalty not exceeding £3,000, subject to the following exception.

(2) No penalty is incurred if an officer of Revenue and Customs is satisfied that any facts that it is reasonable to require should be proved to HMRC, and that would have been proved by the records, are proved by other documentary evidence provided to them.

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PART 3

ENQUIRY INTO RETURN

Notice of enquiry

8 (1) An officer of Revenue and Customs may enquire into a return if sub-paragraph (2) has been complied with.

(2) Notice of the intention to make an enquiry must be given—

(a) to the person by whom or on whose behalf the return was delivered ("the relevant person");

(b) before the end of the period of 12 months after the relevant date.

(3) The relevant date is—

(a) the filing date, if the return was delivered on or before that date;

(b) the date on which the return was delivered, if the return was delivered after the filing date;

(c) the date on which the amendment was made, if the return is amended under paragraph 3 (amendment by person making the return).

(4) A return that has been the subject of one notice under this paragraph may not be the subject of another, except a notice given in consequence of an amendment (or another amendment) of the return under paragraph 3.

(5) A notice under this paragraph is referred to as a "notice of enquiry".

Scope of enquiry

9 (1) An enquiry extends to anything contained in the return, or required to be contained in the return, that relates—

(a) to the question whether the relevant person is chargeable to tax with respect to the interest to which the return relates for the chargeable period concerned, or

(b) to the amount of tax chargeable on the relevant person with respect to that interest for that period.

(2) Sub-paragraph (3) applies if the notice of enquiry is given as a result of the amendment of a return under paragraph 3 (amendment by person making the return) —

(a) at a time when it is no longer possible to give a notice of enquiry under paragraph 8(3)(a) or (b), or

(b) after an enquiry into the return has been completed.

(3) The enquiry is limited to—

(a) matters to which the amendment relates, and

(b) matters affected by the amendment.

Amendment of self assessment during enquiry to prevent loss of tax

10 (1) If at a time when an enquiry is in progress into a return an officer of Revenue and Customs forms the opinion—

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(a) that the amount stated in the self assessment contained in the return as the amount of tax payable is insufficient, and

(b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,

the officer may by notice in writing to the relevant person amend the assessment to make good the deficiency.

(2) If the enquiry is one that is limited by paragraph 9(2) and (3) to matters arising from an amendment of the return, sub-paragraph (1) above applies only so far as the deficiency is attributable to the amendment.

(3) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which the notice of enquiry is given, and

(b) ending with the day on which the enquiry is completed.

Referral of questions to tribunal during enquiry

11 (1) At any time when an enquiry is in progress into a return any question arising in connection with the subject-matter of the return may be referred to the tribunal for determination.

(2) Notice of the referral must be given to the tribunal jointly by the relevant person and an officer of Revenue and Customs.

(3) More than one notice of referral may be given under this paragraph in relation to an enquiry.

(4) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which the notice of enquiry is given, and

(b) ending with the day on which the enquiry is completed.

Withdrawal of notice of referral

12 An officer of Revenue and Customs or the relevant person may withdraw a notice of referral under paragraph 11.

Effect of referral on enquiry

13 (1) While proceedings on a referral under paragraph 11 are in progress in relation to an enquiry—

(a) no closure notice may be given in relation to the enquiry, and

(b) no application may be made for a direction to give a closure notice.

(2) Proceedings on a referral are "in progress" where—

(a) notice of referral has been given and has not been withdrawn, and

(b) the questions referred have not been finally determined.

(3) A question referred has been "finally determined" when—

(a) it has been determined by the tribunal, and

(b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

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Effect of determination

14 (1) A determination under paragraph 11 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.

(2) The officer of Revenue and Customs conducting the enquiry must take the determination into account—

(a) in reaching conclusions on the enquiry, and

(b) in the formulation of any amendments of the return that may be required to give effect to those conclusions.

(3) The question determined may not be reopened on an appeal, except to the extent that it could be reopened if it had been determined as a preliminary issue in that appeal.

Tribunal to which referrals are made

15 (1) Where the question to be referred under paragraph 11 is of the market value of any single-dwelling interest, the referral is to be made to—

(a) the Upper Tribunal, if the land is in England and Wales;

(b) the Lands Tribunal for Scotland, if the land is in Scotland;

(c) the Lands Tribunal for Northern Ireland, if the land is in Northern Ireland.

(2) In any other case a referral under paragraph 11 is to be made to—

(a) the First-tier Tribunal, or

(b) where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

(3) References to "the tribunal" in paragraphs 11 and 13 are to be read accordingly.

Completion of enquiry

16 (1) An enquiry under paragraph 8 is completed when an officer of Revenue and Customs informs the relevant person by a notice (a "closure notice") that the enquiry is complete and states the conclusions reached in the enquiry.

(2) A closure notice must either—

(a) state that in the officer's opinion no amendment of the return is required, or

(b) make the amendments of the return required to give effect to the officer's conclusions.

(3) A closure notice takes effect when it is issued.

Direction to complete enquiry

17 (1) The relevant person may apply to the tribunal for a direction that a closure notice is to be given within a specified period.

(2) The tribunal hearing the application must give a direction unless satisfied that HMRC have reasonable grounds for not giving a closure notice within that period.

(3) In this paragraph "the tribunal" means—

(a) the First-tier Tribunal, or

(b) where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

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PART 4

HMRC DETERMINATION WHERE NO RETURN DELIVERED

Determination of tax chargeable if no return delivered

18 (1) This paragraph applies where condition A or condition B is met.

(2) Condition A is that—

(a) an officer of Revenue and Customs has reason to believe that a person ("P") is chargeable to tax for a chargeable period in respect of a single-dwelling interest,

(b) P has not made an annual tax on enveloped dwellings return for the period in respect of the interest, and

(c) the relevant filing date has passed.

(3) Condition B is that—

(a) an officer of Revenue and Customs has reason to believe that additional tax is payable by a person ("P") under section 163(2) for a chargeable period in respect of a single-dwelling interest,

(b) P has not made a return of the adjusted chargeable amount for the period in respect of the interest, and

(c) the relevant filing date has passed.

(4) "The relevant filing date" means the date by which the officer believes a return was required to be delivered.

(5) The officer may make a determination (an "HMRC determination") to the best of the officer's information and belief of the amount of tax to which P is chargeable for the period concerned with respect to the interest.

(6) Notice of the determination must be given to P and must state the date on which it is issued.

(7) No HMRC determination may be made more than 4 years after the end of the chargeable period to which it relates.

Determination to have effect as a self assessment

19 (1) A determination under paragraph 18 has effect for enforcement purposes as if it were a self assessment made by P.

(2) In sub-paragraph (1) "for enforcement purposes" means for the purposes of section 165 and Schedule 12 to FA 2003 (collection and recovery of tax etc).

(3) Nothing in this paragraph affects any liability of a person to a penalty for failure to deliver a return.

Determination superseded by actual self assessment

20 (1) If after an HMRC determination has been made P delivers a return for the chargeable period with respect to the interest **[**F113 in question containing a self assessment, that self assessment **]** supersedes the determination.

(2) Sub-paragraph (1) does not apply to a return delivered—

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(a) more than 4 years after the power to make the determination first became exercisable, or

(b) more than 12 months after the date of the determination,

whichever is the later.

(3) Where—

(a) proceedings have been begun for the recovery of any tax charged by an HMRC determination, and

(b) before the proceedings are concluded the determination is superseded by a self assessment,

the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self assessment as is due and payable and has not yet been paid.

[F114(4) Where—

(a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount ("the original amount") of tax charged by an HMRC determination, and

(b) before that action is concluded, the determination is superseded by a self-assessment,

that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not yet been paid and does not exceed the original amount.**]**

Textual Amendments

F113 Words in Sch. 33 para. 20(1) substituted (with effect in accordance with s. 73(6) of the amending Act) by Finance Act 2015 (c. 11), **s. 73(5)(b)**

F114 Sch. 33 para. 20(4) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 8 para. 42**

PART 5

HMRC ASSESSMENTS

Assessment where loss of tax discovered

21 (1) Sub-paragraph (2) applies if an officer of Revenue and Customs discovers that—

(a) an amount of tax that ought to have been assessed under this Part of this Act as tax chargeable on a person for a chargeable period with respect to a single-dwelling interest has not been assessed,

(b) an assessment of the tax chargeable on a person for a chargeable period in respect of a single-dwelling interest is or has become insufficient, or

(c) relief has been given that is or has become excessive.

(2) An officer of Revenue and Customs may make an assessment (a "discovery assessment") in the amount or further amount that ought in the officer's opinion to be charged in order to make good to the Crown the loss of tax.

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(3) The functions of an officer of Revenue and Customs under this paragraph are also exercisable by the Commissioners for Her Majesty's Revenue and Customs.

Assessment to recover excessive repayment of tax

22 (1) If an amount of tax has been, but ought not to have been, repaid to a person that amount may be assessed and recovered as if it were unpaid tax.

(2) If the repayment was made with interest, the amount assessed and recovered may include the amount of interest that ought not to have been paid.

References to "the taxpayer"

23 In paragraphs 24 to 27 "taxpayer" means—

(a) in relation to an assessment under paragraph 21, the chargeable person;

(b) in relation to an assessment under paragraph 22, the person mentioned in paragraph 22(1).

Conditions for making assessment where return has been delivered

24 (1) If the taxpayer has delivered a return in respect of the interest in question for the chargeable period in question, an assessment under paragraph 21 or 22 may only be made in the two cases specified in sub-paragraphs (2) and (3). See also the further restriction in sub-paragraph (7).

(2) The first case is where the situation mentioned in paragraph 21(1) or 22(1) was brought about carelessly or deliberately by—

(a) the taxpayer,

(b) a person acting on behalf of the taxpayer, or

(c) a person who was a partner of the taxpayer at the relevant time.

(3) The second case is where it could not reasonably have been expected that an officer of Revenue and Customs in possession of the information made available to HMRC before the relevant time would be aware at the relevant time of the situation mentioned in paragraph 21(1) or 22(1).

(4) In sub-paragraph (3) "the relevant time" means the time HMRC—

(a) ceased to be entitled to give a notice of enquiry into the return, or

(b) completed their enquiries into the return.

(5) For this purpose information is regarded as made available to HMRC if—

(a) it is contained in a return delivered by the taxpayer,

(b) it is contained in any documents produced or information provided to an officer of Revenue and Customs for the purposes of an enquiry into any such return,

(c) it is information the existence and relevance of which officers of Revenue and Customs could reasonably have been expected to infer from information made available as mentioned in paragraph (a) or (b), or

(d) it is information the existence and relevance of which was notified to an officer of Revenue and Customs by the taxpayer or a person acting on the taxpayer's behalf.

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(6) In sub-paragraph (5)(c) and (d) "relevance" means relevance as regards the situation mentioned in paragraph 21(1) or 22(1).

(7) No assessment may be made under paragraph 21 or 22 if—

(a) the situation mentioned in paragraph 21(1) or 22(1) is attributable to a mistake in the return as to the basis on which the tax liability ought to have been calculated, and

(b) the return was in fact made on the basis prevailing, or in accordance with the practice generally prevailing, at the time it was made.

Time limit for assessments

25 (1) The general rule is that no assessment may be made more than 4 years after the end of the chargeable period to which the assessment relates.

(2) An assessment of a person to tax in a case involving a loss of tax brought about carelessly by the taxpayer or a related person may be made up to 6 years after the end of the chargeable period to which the assessment relates.

(3) An assessment to which this sub-paragraph applies may be made up to 20 years after the end of the chargeable period to which the assessment relates.

(4) Sub-paragraph (3) applies to an assessment of a person in any case involving a loss of tax—

(a) brought about deliberately by the taxpayer or a related person,

(b) attributable to a failure by the taxpayer to comply with obligations under section 159(1) or 160(1) (duty to make annual tax on enveloped dwellings return or return of adjusted chargeable amount), **F115**...

(c) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of FA 2004 (obligation of parties to tax avoidance schemes to provide information to HMRC).

[F116, or

(d) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the person was under an obligation to notify the Commissioners for Her Majesty's Revenue and Customs under section 253 of FA 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.**]**

(5) An assessment under paragraph 22 (assessment to recover excessive repayment of tax) is not out of time if it is made—

(a) while an enquiry is in progress into a relevant return, or

(b) within the period of one year beginning with the date on which the repayment in question was made.

(6) In sub-paragraph (5)—

"in progress" is to be read in accordance with paragraph 11(4);

"relevant return" means a return delivered by the taxpayer and relating to the chargeable period and the interest in question.

(7) If the taxpayer has died—

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(a) any assessment on the personal representatives must be made within 4 years after the death, and

(b) an assessment is not to be made by virtue of sub-paragraph (2) in respect of a chargeable period that ended more than 6 years before the death.

(8) Any objection to the making of an assessment on the ground that the time limit for making it has expired can only be made on an appeal against the assessment.

(9) In this paragraph "related person", in relation to the taxpayer, means—

(a) a person acting on the taxpayer's behalf, or

(b) a person who was the partner of the taxpayer at the relevant time.

Textual Amendments

F115 Word in Sch. 33 para. 25(4) omitted (17.7.2014) by virtue of Finance Act 2014 (c. 26), **s. 277(6)(a)** (with ss. 269-271)

F116 Sch. 33 para. 25(4)(d) and word inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 277(6)(b)** (with ss. 269-271)

Losses brought about carelessly or deliberately

26 (1) This paragraph applies for the purposes of paragraphs 24 and 25.

(2) A loss of tax is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that loss.

(3) Sub-paragraph (4) applies where—

(a) information is provided to HMRC,

(b) the person who provided the information, or the person on whose behalf the information was provided, discovers some time later that the information was inaccurate, and

(c) that person fails to take reasonable steps to inform HMRC.

(4) Any loss of tax brought about by the inaccuracy is to be treated as having been brought about carelessly by that person.

(5) References to a loss of tax brought about deliberately by a person include a loss of tax brought about as a result of a deliberate inaccuracy in a document given to HMRC by or on behalf of that person.

Assessment procedure

27 (1) Notice of an assessment must be served on the taxpayer.

(2) The notice must state—

(a) the tax due,

(b) the date on which the notice is issued, and

(c) the time within which any appeal against the assessment must be made.

(3) After notice of the assessment has been served on the taxpayer, the assessment may not be altered except in accordance with the express provisions of this Part of this Act.

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(4) Where an officer of Revenue and Customs has decided to make an assessment to tax, and has taken all other decisions needed for arriving at the amount of the assessment, the officer may entrust to some other officer of Revenue and Customs the responsibility for completing the assessing procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment.

PART 6

RELIEF IN CASE OF OVERPAID TAX OR EXCESSIVE ASSESSMENT

Relief in case of double assessment

28 (1) A person who believes that tax has been assessed on that person more than once in respect of the same matter may make a claim to the Commissioners for Her Majesty's Revenue and Customs for relief against any double charge.

(2) Schedule 11A to FA 2003 (claims not included in returns) applies in relation to a claim under sub-paragraph (1) as it applies to a claim such as is mentioned in paragraph 1 of that Schedule.

Claim for relief for overpaid tax etc

29 (1) This paragraph applies where—

(a) a person has paid an amount by way of tax but believes the tax was not chargeable, or

(b) a person has been assessed as chargeable to an amount of tax, or a determination has been made that a person is chargeable to an amount of tax but the person believes the tax is not chargeable.

(2) The person may make a claim to the Commissioners for Her Majesty's Revenue and Customs for the amount to be repaid or discharged.

(3) Where this paragraph applies, the Commissioners for Her Majesty's Revenue and Customs are not liable to give relief, except as provided in this Schedule or by or under any other provision of this Part of this Act.

(4) For the purposes of this paragraph and paragraphs 30 to 34, an amount paid by one person on behalf of another is treated as paid by the other person.

Cases in which Commissioners are not liable to give effect to a claim

30 (1) The Commissioners for Her Majesty's Revenue and Customs are not liable to give effect to a claim under paragraph 29 if or to the extent that the claim falls within a case described in this paragraph.

(2) Case A is where the amount of tax paid, or liable to be paid, is excessive because of—

(a) a mistake in a claim, or

(b) a mistake consisting of making, or failing to make, a claim.

(3) Case B is where the claimant is or will be able to seek relief by taking other steps under this Part of this Act.

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(4) Case C is where the claimant—

(a) could have sought relief by taking such steps within a period that has now expired, and

(b) knew or ought reasonably to have known, before the end of that period, that such relief was available.

(5) Case D is where the claim is made on grounds that—

(a) have been put to a court or tribunal in the course of an appeal by the claimant relating to the amount paid or liable to be paid, or

(b) have been put to HMRC in the course of an appeal by the claimant relating to that amount that is treated as having been determined by a tribunal by virtue of paragraph 46 (settling of appeals by agreement).

(6) Case E is where the claimant knew, or ought reasonably to have known, of the grounds for the claim before the latest of the following—

(a) the date on which a relevant appeal in the course of which the ground could have been put forward was determined by a court or tribunal (or is treated as having been so determined);

(b) the date on which the claimant withdrew a relevant appeal to a court or tribunal;

(c) the end of the period in which the claimant was entitled to make a relevant appeal to a court or tribunal.

In this sub-paragraph "relevant appeal" means an appeal by the claimant relating to the amount paid or liable to be paid.

(7) Case F is where the amount in question was paid or is liable to be paid—

(a) in consequence of proceedings enforcing the payment of that amount brought against the claimant by HMRC, or

(b) in accordance with an agreement between the claimant and HMRC settling such proceedings.

(8) Case G is where—

(a) the amount paid, or liable to be paid, is excessive by reason of a mistake in calculating the claimant's liability to tax, and

(b) liability was calculated in accordance with the practice generally prevailing at the time.

(9) Case G does not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).

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Making a claim

31 (1) A claim under paragraph 29 must be made within the period of 4 years after the end of the chargeable period to which the payment by way of tax, or the assessment or determination, relates.

(2) A claim under paragraph 29 may not be made by being included in a return.

(3) Schedule 11A to FA 2003 (claims not included in returns) applies in relation to a claim under paragraph 29 as it applies to a claim such as is mentioned in paragraph 1 of that Schedule.

The claimant: partnerships

32 (1) This paragraph is about the application of paragraph 29 in a case where either—

(a) (in a case falling within sub-paragraph (1)(a) of that paragraph) the person paid the amount in question in the capacity of a responsible partner or representative partner, or

(b) (in a case falling within sub-paragraph (1)(b) of that paragraph) the assessment was made on, or the determination related to the liability of, the person in such a capacity.

(2) In such a case, only a relevant person who has been nominated to do so by all of the relevant persons may make a claim under paragraph 29 in respect of the amount in question.

(3) The relevant persons are all the persons who would have been liable as responsible partners to pay the amount in question had the payment been due or (in a case falling within sub-paragraph (1)(b)) had the assessment or determination been correctly made.

Assessment of claimant in connection with claim

33 (1) This paragraph applies where—

(a) a claim is made under paragraph 29 (relief for overpaid tax etc),

(b) the grounds for giving effect to the claim also provide grounds for a discovery assessment on the claimant in respect of single-dwelling interest, and

(c) such an assessment could be made but for a relevant restriction.

(2) In a case falling within paragraph 32(1)(a) or (b), the reference to the claimant in sub-paragraph (1)(b) of this paragraph includes any relevant person (as defined in paragraph 32(3)).

(3) The following are relevant restrictions—

(a) the restrictions in paragraph 24 (assessment where return has been delivered);

(b) the expiry of a time limit for making a discovery assessment.

(4) Where this paragraph applies—

(a) the relevant restrictions are to be disregarded, and

(b) the discovery assessment is not out of time if it is made before the final determination of the claim.

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(5) A claim is not finally determined until it, or the amount to which it relates, can no longer be varied (whether on appeal or otherwise).

Contract settlements

34 (1) In paragraph 29(1)(a) the reference to an amount paid by a person by way of tax includes an amount paid by a person under a contract settlement in connection with tax believed to be due.

(2) Sub-paragraphs (3) to (6) apply if the person who paid the amount under the contract settlement ("the payer") and the person from whom the tax was due ("the taxpayer") are not the same person.

(3) In relation to a claim under paragraph 29 in respect of that amount—

(a) the references to the claimant in paragraph 30(5), (6) and (7) (Cases D, E and F) have effect as if they included the taxpayer,

(b) the reference to the claimant in paragraph 30(8) (case G) has effect as if it were a reference to the taxpayer,

(c) the reference to the claimant in paragraph 33(1)(b) has effect as if it were a reference to the taxpayer, and

(d) references to tax in Schedule 11A to FA 2003 (as it applies to a claim under paragraph 29) include the amount paid under the contract settlement.

(4) Sub-paragraph (5) applies where the grounds for giving effect to a claim by the payer in respect of the amount also provide grounds for a discovery assessment on the taxpayer in respect of any single-dwelling interest.

(5) The Commissioners for Her Majesty's Revenue and Customs may set any amount repayable to the payer as a result of the claim against any amount payable by the taxpayer as a result of the assessment.

(6) The obligations of the Commissioners for Her Majesty's Revenue and Customs and the taxpayer are discharged to the extent of any set-off under sub-paragraph (5).

(7) "Contract settlement" means an agreement made in connection with any person's liability to make a payment to the Commissioners for Her Majesty's Revenue and Customs under or by virtue of an enactment.

PART 7

REVIEWS AND APPEALS

Right of appeal

35 (1) An appeal may be brought against—

(a) an amendment of a self assessment under paragraph 10 (amendment during enquiry to prevent loss of tax),

(b) a conclusion stated or amendment made by a closure notice (see paragraph 16),

(c) an HMRC determination under paragraph 18 (determination of tax chargeable if no return delivered),

(d) a discovery assessment (see paragraph 21), or

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(e) an assessment under paragraph 22 (assessment to recover excessive repayment).

(2) If an appeal under sub-paragraph (1)(a) against an amendment of a self assessment is made while an enquiry is in progress none of the steps mentioned in paragraph 38(2)(a) to (c) may be taken in relation to the appeal until the enquiry is completed.

Modifications etc. (not altering text)

C16 Sch. 33 para. 35(1)(b) excluded (with application in accordance with Sch. 31 of the amending Act) by Finance Act 2014 (c. 26), **ss.**, 208(11)(e) 208(10)

Notice of appeal

36 (1) Notice of an appeal under paragraph 35 must be given—

(a) in writing,

(b) within 30 days after the specified date,

(c) to HMRC.

(2) In sub-paragraph (1) "specified date" means—

(a) in relation to an appeal under paragraph 35(1)(a), the date on which the notice of amendment was issued;

(b) in relation to an appeal under paragraph 35(1)(b), the date on which the closure notice was issued;

(c) in relation to an appeal under paragraph 35(1)(c) the date on which the HMRC determination was issued;

(d) in relation to an appeal under paragraph 35(1)(d) or (e), the date on which the notice of assessment was issued.

(3) The notice of appeal must specify the grounds of appeal.

(4) Where a determination has been made under paragraph 18 as to the amount of tax to which a person is chargeable with respect to a single-dwelling interest, the only grounds on which an appeal lies under paragraph 35(1)(c) are—

(a) that the condition in section 94(2)(a) (nature and value of interest) is not met in relation to the interest in question on any day to which the determination relates,

(b) that the person, partnership or scheme that the determination identifies as meeting the ownership condition on one or more days does not meet that condition on any day in the chargeable period,

(c) if the tax is determined to be chargeable by virtue of section 94(5), that a person identified in the determination as one of the responsible partners is not a responsible partner in relation to any tax chargeable for the period in question, or

(d) if the tax is determined to be chargeable by virtue of section 94(6), that the person identified in the determination as the chargeable person in relation to the collective investment scheme concerned is not the chargeable person.

Late notice of appeal

37 (1) This paragraph applies in a case where—

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(a) notice of appeal may be given to HMRC under this Schedule, but
(b) no notice is given before the relevant time limit.

(2) Notice may be given after the relevant time limit if—
(a) HMRC agree, or
(b) where HMRC do not agree, the tribunal gives permission.

(3) HMRC must agree to notice being given after the relevant time limit if the appellant has requested in writing that HMRC do so and HMRC are satisfied—
(a) that there was reasonable excuse for not giving the notice before the relevant time limit, and
(b) that the request has been made without unreasonable delay.

(4) If a request of the kind mentioned in sub-paragraph (3) is made, HMRC must notify the appellant whether or not HMRC agree to the request.

(5) In this paragraph "relevant time limit", in relation to notice of appeal, means the time before which the notice must to be given (disregarding this paragraph).

Steps that may be taken following notice of appeal

38 (1) This paragraph applies if notice of appeal has been given to HMRC.

(2) In such a case—
(a) the appellant may notify HMRC that it requires them to review the matter in question (see paragraph 39),
(b) HMRC may notify the appellant of an offer to review the matter in question (see paragraph 40), or
(c) the appellant may notify the appeal to the tribunal.

(3) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(4) See paragraphs 43 and 44 for provision about the circumstances in which an appeal may be notified to the tribunal after a review has been required by the appellant or offered by HMRC.

(5) This paragraph does not prevent the matter in question from being dealt with in accordance with paragraph 46(1) and (2) (settling of appeals by agreement).

Right of appellant to require review

39 (1) If the appellant notifies HMRC that it requires them to review the matter in question, HMRC must—
(a) notify the appellant of HMRC's view of the matter in question within the relevant period, and
(b) review the matter in question in accordance with paragraph 41.

(2) Sub-paragraph (1) does not apply if—
(a) the appellant has already given a notification under this paragraph in relation to the matter in question,
(b) HMRC have given a notification under paragraph 40 in relation to the matter in question, or

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(c) the appellant has notified the appeal to the tribunal.

(3) In this paragraph "the relevant period" means—

(a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or

(b) such longer period as is reasonable.

Offer of review by HMRC

40 (1) Sub-paragraphs (2) to (5) apply if HMRC notify the appellant of an offer to review the matter in question.

(2) The notification must include a statement of HMRC's view of the matter in question.

(3) If the appellant notifies HMRC within the acceptance period that it accepts the offer, HMRC must review the matter in question in accordance with paragraph 41.

(4) If the appellant does not accept the offer in accordance with sub-paragraph (3)—

(a) HMRC's view of the matter in question is treated as if it were contained in a settlement agreement (see paragraph 46(1)); but

(b) paragraph 46(3) (right to withdraw from agreement) does not apply in relation to that notional agreement.

(5) Sub-paragraph (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal.

(See paragraph 44 for the circumstances in which the appellant may do so after accepting HMRC's offer of a review).

(6) HMRC may not take the action mentioned in sub-paragraph (1) at any time if before that time—

(a) HMRC have given a notification under this paragraph in relation to the matter in question,

(b) the appellant has given a notification under paragraph 39 in relation to the matter in question, or

(c) the appellant has notified the appeal to the tribunal.

(7) In this paragraph "acceptance period" means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

Nature of review

41 (1) This paragraph applies if HMRC are required by paragraph 39 or 40 to review the matter in question.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

(a) by HMRC in deciding the matter in question, and

(b) by any person in seeking to resolve disagreement about the matter in question.

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(4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that HMRC's view of the matter in question is to be—

(a) upheld,

(b) varied, or

(c) cancelled.

(6) HMRC must notify the appellant of the conclusions of the review and their reasoning within—

(a) the period of 45 days beginning with the relevant day, or

(b) such other period as may be agreed.

(7) In sub-paragraph (6) "relevant day" means—

(a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC's view of the matter in question,

(b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant's acceptance of the offer.

(8) If HMRC do not give notice of the conclusions of the review within the period specified in sub-paragraph (6), the review is treated as having concluded that HMRC's view of the matter in question is upheld.

(9) If sub-paragraph (8) applies, HMRC must notify the appellant of the conclusions which the review is treated as having reached.

Effect of conclusions of review

42 (1) If HMRC give notice of the conclusions of a review (see paragraph 41)—

(a) the conclusions are to be treated as if they were contained in a settlement agreement (see paragraph 46(1)), but

(b) paragraph 46(3) (withdrawal from agreement) does not apply in relation to that notional agreement.

(2) Sub-paragraph (1) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal (see paragraphs 43 and 44).

Notifying appeal to tribunal after appellant has required review

43 (1) Where HMRC have notified an appellant under paragraph 39(1)(a) of their view of a matter to which an appeal under paragraph 35 relates, the appellant—

(a) may not notify the appeal to the tribunal before the beginning of the post-review period;

(b) may notify the appeal to the tribunal after the end of that period only if the tribunal gives permission.

(2) Except where sub-paragraph (3) applies, the post-review period is the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 41(6).

(3) If the period specified in paragraph 41(6) ends without HMRC having given notice of the conclusions of the review, the post-review period is the period that—

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(a) begins with the day following the last day of the period specified in paragraph 41(6), and

(b) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 41(9).

Notifying appeal to tribunal after HMRC have offered review

44 (1) Where HMRC have offered to review the matter to which a notice of an appeal under paragraph 35 relates, the right of the appellant at any time to notify the appeal to the tribunal depends on whether or not the appellant has accepted the offer at that time.

(2) If the appellant has accepted the offer, the appellant—

(a) may not notify the appeal to the tribunal before the beginning of the post-review period;

(b) may notify the appeal to the tribunal after the end of that period only if the tribunal gives permission.

(3) If the appellant has not accepted the offer, the appellant—

(a) may notify the appeal to the tribunal within the acceptance period;

(b) may notify the appeal to the tribunal after the end of that period only if the tribunal gives permission.

(4) In this paragraph—

"acceptance period" has the same meaning as in paragraph 40;

"post-review period" has the same meaning as in paragraph 43.

Interpretation of paragraphs 38 to 44

45 (1) In paragraphs 38 to 44—

(a) "matter in question" means the matter to which an appeal relates;

(b) a reference to a notification is to a notification in writing.

(2) In paragraphs 38 to 44, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—

(a) notification of HMRC's view under paragraph 39(1)(a),

(b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 40,

(c) notification of the conclusions of a review under paragraph 41(6) or (9).

(3) But if a notification falling within any of the paragraphs of sub-paragraph (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.

Settling of appeals by agreement

46 (1) In relation to an appeal of which notice has been given under paragraph 36, "settlement agreement" means an agreement between the appellant and an officer of Revenue and Customs that is—

(a) entered into before the appeal is determined, and

(b) to the effect that the decision appealed against should be upheld without variation, varied in a particular manner or discharged or cancelled.

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(2) Where a settlement agreement is entered into in relation to an appeal, the consequences are to be the same (for all purposes) as if, at the time the agreement was entered into, the tribunal had decided the appeal and had upheld the decision without variation, varied it in that manner or discharged or cancelled it, as the case may be.

(3) Sub-paragraph (2) does not apply if, within 30 days from the date when the settlement agreement was entered into, the appellant gives notice in writing to HMRC that it wishes to withdraw from the agreement.

(4) Where a settlement agreement is not in writing—

(a) sub-paragraph (2) does not apply unless the fact that an agreement was entered into, and the terms agreed, are confirmed by notice in writing given by HMRC to the appellant or by the appellant to the HMRC, and

(b) the references in sub-paragraphs (2) and (3) to the time when the agreement was entered into are to be read as references to the time when the notice of confirmation was given.

(5) Sub-paragraph (6) applies where notice of an appeal has been given under paragraph 36 and—

(a) the appellant notifies HMRC, orally or in writing, that the appellant does not wish to proceed with the appeal, and

(b) HMRC do not, within 30 days after that notification, give the appellant notice in writing indicating that they are unwilling that the appeal should be withdrawn.

(6) Sub-paragraphs (1) to (4) have effect as if, at the date of the appellant's notification, the appellant and an officer of Revenue and Customs had agreed (orally or in writing, as the case may be) that the decision under appeal should be upheld without variation.

(7) References in this paragraph to an agreement being entered into with an appellant, and to the giving of notice or notification by or to the appellant, include references to an agreement being entered into, or notice or notification being given by or to, a person acting on behalf of the appellant in relation to the appeal.

Appeal does not postpone recovery of tax

47 (1) Where there is an appeal under paragraph 35, the tax charged by the amendment or assessment in question remains due and payable as if there had been no appeal.

(2) Sub-paragraph (1) is subject to paragraphs 48 and 49.

Application for payment of tax to be postponed

48 (1) If the appellant has grounds for believing that the amendment or assessment overcharges the appellant to tax, or as a result of the conclusion stated in the closure notice the tax charged on the appellant is excessive, the appellant may—

(a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal, and

(b) if the appellant does not agree with a determination made by HMRC under paragraph (a), refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC's determination.

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(2) An application under sub-paragraph (1)(a) must state the amount believed to be overcharged to tax and the grounds for that belief.

(3) An application may be made more than 30 days after the specified date if there is a change in the circumstances of the case as a result of which the appellant has grounds for believing that it is overcharged to tax by the decision appealed against.

(4) If, after an application under sub-paragraph (1) has been determined, there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount determined has become either excessive or insufficient, that party may (if the parties cannot agree on a revised determination) apply to the tribunal for a revised determination of that amount.

(5) An application under sub-paragraph (4) may be made at any time before the determination of the appeal.

(6) An application under this paragraph is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).

(7) The amount of tax of which payment is to be postponed pending the determination of the appeal is the amount (if any) by which it appears that there are reasonable grounds for believing that the appellant is overcharged.

(8) Where an application under this paragraph has been determined, section 163 has effect in relation to any tax of which payment is not postponed as if—

(a) the tax were payable in accordance with an assessment under paragraph 22 issued on the date on which the application was determined, and

(b) there was no appeal against that assessment.

[F117(8A) Sub-paragraphs (8B) and (8C) apply where a person has been given an accelerated payment notice under Chapter 3 of Part 4 of FA 2014 and that notice has not been withdrawn.

(8B) Nothing in this paragraph enables the postponement of the payment of (as the case may be)—

(a) the understated tax to which the payment specified in the notice under section 220(2)(b) of that Act relates, or

(b) the disputed tax specified in the notice under section 221(2)(b) of that Act.

(8C) Accordingly, if the payment of an amount of tax within sub-paragraph (8B)(b) is postponed by virtue of this paragraph immediately before the accelerated payment notice is given, it ceases to be so postponed with effect from the time that notice is given, and the tax is due and payable—

(a) if no representations were made under section 222 of that Act in respect of the notice, on or before the last day of the period of 90 days beginning with the day the notice is given, and

(b) if representations were so made, on or before whichever is later of—

(i) the last day of the 90 day period mentioned in paragraph (a), and

(ii) the last day of the period of 30 days beginning with the day on which HMRC's determination in respect of those representations is notified under section 222 of that Act.**]**

(9) In this paragraph "specified date" has the meaning given by paragraph 36.

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Textual Amendments

F117 Sch. 33 para. 48(8A)-(8C) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 224(5)**

Modifications etc. (not altering text)

C17 Sch. 33 para. 48(8C) modified (17.7.2014) by Finance Act 2014 (c. 26), **s. 227(9)(d)**

Agreement to postpone payment of tax

49 (1) If the appellant and an officer of Revenue and Customs agree that payment of an amount of tax should be postponed pending the determination of the appeal, the consequences are to be the same (for all purposes) as if the tribunal had, at the time when the agreement was entered into, made a direction to the same effect as the agreement. This is without prejudice to the making of a further agreement or further direction.

(2) Where the agreement is not in writing—

(a) sub-paragraph (1) does not apply unless the fact that an agreement was entered into, and the terms agreed, are confirmed by notice in writing given by the officer of Revenue and Customs to the appellant or by the appellant to that officer, and

(b) the reference in sub-paragraph (1) to the time when the agreement was entered into is to be read as a reference to the time when notice of confirmation was given.

(3) References in this paragraph to an agreement being entered into with an appellant, and to the giving of notice to or by the appellant, include references to an agreement being entered into, or notice being given to or by, a person acting on behalf of the appellant in relation to the appeal.

[F118(4) Sub-paragraphs (8A) to (8C) of paragraph 48 apply for the purposes of this paragraph as they apply for the purposes of paragraph 48.**]**

Textual Amendments

F118 Sch. 33 para. 49(4) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 224(6)**

Assessments and self assessments

50 (1) This paragraph applies where an appeal under paragraph 35(1) has been notified to the tribunal.

(2) If the tribunal decides that the appellant is overcharged by a self assessment or any other assessment, the assessment must be reduced accordingly.

(3) If the tribunal does not so decide, the assessment is to stand good.

(4) If it appears to the tribunal that the appellant is undercharged to tax by a self assessment or any other assessment, the assessment must be increased accordingly.

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Tribunal determinations

51 The determination of the tribunal in relation to any proceedings under this Part of this Schedule is to be final and conclusive except as otherwise provided in—

(a) sections 9 to 14 of the Tribunals, Courts and Enforcement Act 2007, or

(b) this Part of this Act.

Payment of tax where appeal has been determined

52 (1) On the determination of an appeal under paragraph 35 any tax overpaid must be repaid.

(2) On the determination of an appeal under paragraph 35, section 163(payment of tax) has effect in relation to any relevant tax as if—

(a) the tax were payable in accordance with an assessment under paragraph 22 issued on the date on which HMRC issues to the appellant a notice of the total amount payable in accordance with the determination, and

(b) there had been no appeal against that assessment.

(3) The reference in sub-paragraph (2) to "relevant tax" is to any tax payable in accordance with the determination, so far as it is tax—

(a) the payment of which had been postponed, or

(b) which would not have been charged by the amendment or assessment if there had been no appeal.

Payment of tax where there is a further appeal

53 (1) Where a party to an appeal to the tribunal under paragraph 35 makes a further appeal, tax is to be payable or repayable in accordance with the determination of the tribunal or court (as the case may be), even though the further appeal is pending.

(2) But if the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court, then—

(a) if too much tax has been paid, the amount overpaid must be refunded, with any interest allowed by the order or judgment, and

(b) if too little tax has been charged, the amount undercharged is due and payable at the end of the 30 days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment.

[F119(3) Sub-paragraph (4) applies where—

(a) an accelerated payment notice has been given to a party to the appeal under Chapter 3 of Part 4 of FA 2014 (and not withdrawn), and

(b) the assessment to which the appeal relates has effect, or partly has effect, to counteract the whole or part of the asserted advantage (within the meaning of section 219(3) of that Act) by reason of which the notice was given.

(4) If, on the application of HMRC, the relevant court or tribunal considers it necessary for the protection of the revenue, it may direct that sub-paragraph (1) does not apply so far as the tax relates to the counteraction of the whole or part of the asserted advantage, and—

(a) give permission to withhold all or part of any repayment, or

(b) require the provision of adequate security before repayment is made.

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(5) "Relevant court or tribunal" means the tribunal or court from which permission or leave to appeal is sought.**]**

Textual Amendments

F119 Sch. 33 para. 53(3)-(5) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 225(3)**

References to "the tribunal"

54 (1) In this Part of this Schedule "the tribunal" means—

(a) the First-tier Tribunal, or

(b) where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

(2) Sub-paragraph (1) does not apply so far as sub-paragraph (3) requires otherwise.

(3) Where the question in any dispute on any appeal under paragraph 35(1) is of the market value of any single-dwelling interest, that question is to be determined on a reference by—

(a) the Upper Tribunal, if the land is in England and Wales;

(b) the Lands Tribunal for Scotland, if the land is in Scotland;

(c) the Lands Tribunal for Northern Ireland, if the land is in Northern Ireland.

PART 8

SUPPLEMENTARY

Application of Schedule in cases involving joint liability to tax

55 (1) This paragraph applies where—

(a) section 97(2) applies and the other persons mentioned in section 97(1)(b) include a company, or

(b) section 97(4) applies and P is a company.

(2) Any obligation to deliver a return with respect to the single-dwelling interest for the chargeable period concerned is a joint obligation of the persons who are jointly and severally liable under subsection (2) or (as the case may be) (4) of section 97; and a single return is required.

Partnerships

56 In relation to a return delivered by the responsible partners for a partnership, anything required or authorised under section 159 or 160 or this Schedule to be done by the responsible partners is required or authorised to be done by all the responsible partners.

Meaning of "return"

57 In this Schedule "return", except where the contrary is indicated, means an annual tax on enveloped dwellings return or a return of the adjusted chargeable amount.

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Meaning of "filing date"

58 "Filing date", in relation to a return, means the day by the end of which the return is required to be delivered.

SCHEDULE 34

Section 164

ANNUAL TAX ON ENVELOPED DWELLINGS: INFORMATION AND ENFORCEMENT

PART 1

INFORMATION AND INSPECTION POWERS

1 Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.

2 In paragraph 12A (powers to inspect property for valuation etc), in sub-paragraph (3)—

(a) omit the "or" after paragraph (d), and

(b) after paragraph (e) insert ", or

(f) annual tax on enveloped dwellings."

3 After paragraph 21A insert—

"Annual tax on enveloped dwellings: taxpayer notices following return

21B (1) Where a person has delivered, for a chargeable period with respect to a single-dwelling interest—

(a) an annual tax on enveloped dwellings return, or

(b) a return of the adjusted chargeable amount,

a taxpayer notice may not be given for the purpose of checking the person's annual tax on enveloped dwellings position as regards the matters dealt with in that return.

(2) Sub-paragraph (1) does not apply where, or to the extent that, any of conditions A to C is met.

(3) Condition A is that notice of enquiry has been given in respect of—

(a) the return, or

(b) a claim (or an amendment of a claim) made by the person in relation to the chargeable period,

and the enquiry has not been completed.

(4) In sub-paragraph (3) "notice of enquiry" means a notice under paragraph 8 of Schedule 33 to FA 2013 or paragraph 7 of Schedule 11A to FA 2003 (as applied by paragraphs 28(2) and 31(3) of Schedule 33 to FA 2013).

(5) Condition B is that, as regards the person, an officer of Revenue and Customs has reason to suspect that—

(a) an amount that ought to have been assessed to annual tax on enveloped dwellings for the chargeable period may not have been assessed,

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(b) an assessment to annual tax on enveloped dwellings for the chargeable period may be or have become insufficient, or

(c) relief from annual tax on enveloped dwellings for the chargeable period may be or have become excessive.

(6) Condition C is that the notice is given for the purpose of obtaining any information or document that is also required for the purpose of checking that person's position as regards a tax other than annual tax on enveloped dwellings.

(7) In this Schedule references to a "single-dwelling interest" are to be read in accordance with section 108 of FA 2013."

4 In paragraph 37 (partnerships), after sub-paragraph (2A) insert—

"(2B) Where, in respect of a single-dwelling interest (see paragraph 21B(7)) to which one or more companies are or were entitled as members of a partnership, any member of the partnership has—

(a) delivered an annual tax on enveloped dwellings return or a return of the adjusted chargeable amount under Part 3 of FA 2013, or

(b) made a claim under that Part of that Act,

paragraph 21B (restrictions where taxpayer has delivered return) has effect as if that return had been delivered, or that claim had been made, by each member of the partnership."

5 In paragraph 63(1) (meaning of "tax" in the Schedule), after paragraph (h) insert—

"(ha) annual tax on enveloped dwellings,".

PART 2

PENALTIES

Errors in returns

6 In Schedule 24 to FA 2007 (penalties for errors), in the Table in paragraph 1, after the entry relating to stamp duty reserve tax insert—

"Annual tax on enveloped dwellings	Annual tax on enveloped dwellings return.
Annual tax on enveloped dwellings	Return of adjusted chargeable amount."

Failure to make returns

7 (1) In Schedule 55 to FA 2009 (penalty for failure to make returns etc), in the Table in paragraph 1, after item 11 insert—

"11A	Annual tax on enveloped dwellings	Annual tax on enveloped dwellings return under section 159 of FA 2013
11B	Annual tax on enveloped dwellings	Return of adjusted chargeable amount under section 160 of FA 2013".

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(2) That Schedule, as amended by sub-paragraph (1), is taken to have come into force for the purposes of annual tax on enveloped dwellings on the date on which this Act is passed.

Failure to make payments on time

8 Paragraphs 9 to 12 contain amendments and modifications of Schedule 56 to FA 2009 (penalty for failure to make payments on time).

9 (1) The Table in paragraph 1 of that Schedule is amended as follows.

(2) After item 10 insert—

"10A	Annual tax on enveloped dwellings	Amount payable under section 163(1) or (2) of FA 2013 (except an amount falling within item 23).	The date falling 30 days after the date specified in section 163(1) or (2) of FA 2013 as the date by which the amount must be paid".

(3) After item 15 insert—

"15A	Annual tax on enveloped dwellings	Amount shown in determination under paragraph 18 of Schedule 33 to FA 2013	The date falling 30 days after the filing date for the return in question".

(4) In item 17, in the second column, for "or 10" substitute " , 10 or 10A " and in the third column for "15" substitute " 15A ".

10 (1) Until paragraphs 2(13)(a) and 2(14)(a) of Schedule 11 to F(No. 3)A 2010 (which amend items 23 and 24) come into force, paragraph 1 of Schedule 56 to FA 2009 has effect as if—

(a) in item 23 the references in the second and third columns to items 1 to 6, 9 or 10 included item 10A, and

(b) in item 24 the reference in the second column to items 1 to 6, 9 or 10 included item 10A.

(2) With effect from the coming into force of paragraphs 2(13)(a) and 2(14)(a) of Schedule 11 to F(No. 3)A 2010, paragraph 1 of Schedule 56 to FA 2009 is amended as follows—

(a) in item 23, in the second and third columns, for "9, 10" substitute " 9 to 10A ";

(b) in item 24, in the second column, for "9, 10" substitute " 9 to 10A ".

11 Until paragraph 3 of Schedule 11 to F(No. 3)A 2010 comes into force, paragraph 2(c) has effect as if the reference in that paragraph to items 1 to 10 were to items 1 to 10A.

12 Schedule 56 to FA 2009, as amended by paragraph 9, is taken to have come into force for the purposes of annual tax on enveloped dwellings on the date on which this Act is passed.

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SCHEDULE 35

Section 168

ANNUAL TAX ON ENVELOPED DWELLINGS: MISCELLANEOUS AMENDMENTS AND TRANSITORY PROVISION

PART 1

MISCELLANEOUS AMENDMENTS

Provisional collection of taxes

1 In section 1(1) of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions), after "stamp duty land tax," insert " annual tax on enveloped dwellings, ".

Disclosure of tax avoidance schemes

2 In section 318(1) of FA 2004 (disclosure of tax avoidance schemes: interpretation), in the definition of "tax"—

(a) omit the "or" after paragraph (f), and

(b) after paragraph (g) insert ", or

(h) annual tax on enveloped dwellings."

Definitions relating to charities

3 In paragraph 7 of Schedule 6 to FA 2010 (definition of "charity", "charitable company" and "charitable trust")—

(a) omit the "and" after paragraph (g), and

(b) after paragraph (h) insert ", and

(i) annual tax on enveloped dwellings."

PART 2

TRANSITORY PROVISION: THE FIRST CHARGEABLE PERIOD

4 In relation to the chargeable period beginning on 1 April 2013, section 159(annual tax on enveloped dwellings return) has effect as if subsections (2) and (3) of that section provided as follows—

"(2) A return under subsection (1) must be delivered by the end of 1 October 2013 if the days on which the person is within the charge with respect to the interest include 1 April 2013.

(3) If the days on which the person is within the charge with respect to the interest do not include 1 April 2013, the return must be delivered—

(a) by the end of 1 October 2013, or

(b) by the end of the period of 30 days beginning with the first day in the chargeable period on which the person is within the charge with respect to the interest,

whichever is the later."

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5 In relation to the chargeable period beginning on 1 April 2013, section 163(payment of tax) has effect as if subsection (1) of that section provided as follows—

"(1) Tax charged on a person under section 99 with respect to a single-dwelling interest must be paid—

(a) by the end of 31 October 2013, or

(b) if later, by the end of the filing date for the return."

SCHEDULE 36

Section 176

TREATMENT OF LIABILITIES FOR INHERITANCE TAX PURPOSES

IHTA 1984

1 IHTA 1984 is amended as follows.

2 (1) Section 162 (liabilities) is amended as follows.

(2) In subsection (4), after "possible" insert " and to the extent that it is not taken to reduce value in accordance with section 162B ".

(3) In subsection (5), after "possible" insert " and to the extent that it is not taken to reduce value in accordance with section 162B ".

3 After section 162 insert—

"**162A Liabilities attributable to financing excluded property**

(1) To the extent that a liability is attributable to financing (directly or indirectly)—

(a) the acquisition of any excluded property, or

(b) the maintenance, or an enhancement, of the value of any such property,

it may only be taken into account so far as permitted by subsections (2) to (4).

(2) Where the property mentioned in subsection (1) has been disposed of, in whole or in part, for full consideration in money or money's worth, the liability may be taken into account up to an amount equal to so much of that consideration as—

(a) is not excluded property, and

(b) has not been used—

(i) to finance (directly or indirectly) the acquisition of excluded property or the maintenance, or an enhancement, of the value of such property, or

(ii) to discharge (directly or indirectly) any other liability that, by virtue of this section, would not be taken into account.

(3) The liability may be taken into account up to an amount equal to the value of such of the property mentioned in subsection (1) as—

(a) has not been disposed of, and

(b) is no longer excluded property.

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(4) To the extent that any remaining liability is greater than the value of such of the property mentioned in subsection (1) as—

(a) has not been disposed of, and

(b) is still excluded property,

it may be taken into account, but only so far as the remaining liability is not greater than that value for any of the reasons mentioned in subsection (7).

(5) Subsection (6) applies where—

(a) a liability or any part of a liability is attributable to financing (directly or indirectly)—

(i) the acquisition of property that was not excluded property, or

(ii) the maintenance, or an enhancement, of the value of such property, and

(b) the property or part of the property—

(i) has not been disposed of, and

(ii) has become excluded property.

(6) The liability or (as the case may be) the part may only be taken into account to the extent that it exceeds the value of the property, or the part of the property, that has become excluded property, but only so far as it does not exceed that value for any of the reasons mentioned in subsection (7).

(7) The reasons are—

(a) arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage,

(b) an increase in the amount of the liability (whether due to the accrual of interest or otherwise), or

(c) a disposal, in whole or in part, of the property.

(8) In this section—

"arrangements" includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable, and any associated operations;

"remaining liability" means the liability mentioned in subsection (1) so far as subsections (2) and (3) do not permit it to be taken into account;

"tax advantage" means—

(a) the avoidance or reduction of a charge to tax, or

(b) the avoidance of a possible determination in respect of tax.

162B Liabilities attributable to financing certain relievable property

(1) Subsection (2) applies if—

(a) the whole or part of any value transferred by a transfer of value is to be treated as reduced, under section 104, by virtue of it being attributable to the value of relevant business property, and

(b) the transferor has a liability which is attributable, in whole or in part, to financing (directly or indirectly)—

(i) the acquisition of that property, or

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(ii) the maintenance, or an enhancement, of its value.

(2) The liability is, so far as possible, to be taken to reduce the value attributable to the value of the relevant business property, before it is treated as reduced under section 104, but only to the extent that the liability—

(a) is attributable as mentioned in subsection (1)(b), and

(b) does not reduce the value of the relevant business property by virtue of section 110(b).

(3) Subsection (4) applies if—

(a) the whole or part of any value transferred by a transfer of value is to be treated as reduced, under section 116, by virtue of it being attributable to the agricultural value of agricultural property, and

(b) the transferor has a liability which is attributable, in whole or in part, to financing (directly or indirectly)—

(i) the acquisition of that property, or

(ii) the maintenance, or an enhancement, of its agricultural value.

(4) To the extent that the liability is attributable as mentioned in subsection (3)(b), it is, so far as possible, to be taken to reduce the value attributable to the agricultural value of the agricultural property, before it is treated as reduced under section 116.

(5) Subsection (6) applies if—

(a) part of the value of a person's estate immediately before death is attributable to the value of land on which trees or underwood are growing,

(b) the value of the trees or underwood is to be left out of account, under section 125(2)(a), in determining the value transferred by the chargeable transfer made on the person's death, and

(c) the person has a liability which is attributable, in whole or in part, to financing (directly or indirectly)—

(i) the acquisition of the land or trees or underwood,

(ii) planting the trees or underwood, or

(iii) the maintenance, or an enhancement, of the value of the trees or underwood.

(6) To the extent that the liability is attributable as mentioned in subsection (5)(c), it is, so far as possible, to be taken to reduce the value of the trees or underwood, before their value is left out of account.

(7) Subject to subsection (8), to the extent that a liability is, in accordance with this section, taken to reduce value in determining the value transferred by a chargeable transfer, that liability is not then to be taken into account in determining the value transferred by any subsequent transfer of value by the same transferor.

(8) Subsection (7) does not prevent a liability from being taken into account by reason only that the liability has previously been taken into account in determining the amount on which tax is chargeable under section 64.

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(9) For the purposes of subsections (1) to (4) and (7), references to a transfer of value or chargeable transfer include references to an occasion on which tax is chargeable under Chapter 3 of Part 3 (apart from section 79) and—

(a) references to the value transferred by a transfer of value or chargeable transfer include references to the amount on which tax is then chargeable, and

(b) references to the transferor include references to the trustees of the settlement concerned.

(10) In this section—

"agricultural property" and "agricultural value" have the same meaning as in Chapter 2 of Part 5;

"relevant business property" has the same meaning as in Chapter 1 of Part 5.

162C Sections 162A and 162B: supplementary provision

(1) This section applies for the purposes of determining the extent to which a liability is attributable as mentioned in section 162A(1) or (5) or 162B(1)(b), (3)(b) or (5)(c).

(2) Where a liability was discharged in part before the time in relation to which the question as to whether or how to take it into account arises—

(a) any part of the liability that, at the time of discharge, was not attributable as mentioned in subsection (1) is, so far as possible, to be taken to have been discharged first,

(b) any part of the liability that, at the time of discharge, was attributable as mentioned in section 162B(1)(b), (3)(b) or (5)(c) is, so far as possible, only to be taken to have been discharged after any part of the liability within paragraph (a) was discharged, and

(c) any part of the liability that, at the time of discharge, was attributable as mentioned in section 162A(1) or (5) is, so far as possible, only to be taken to have been discharged after any parts of the liability within paragraph (a) or (b) were discharged."

4 After section 175 (estate on death: liability to make future payments etc) insert—

"**175A Discharge of liabilities after death**

(1) In determining the value of a person's estate immediately before death, a liability may be taken into account to the extent that—

(a) it is discharged on or after death, out of the estate or from excluded property owned by the person immediately before death, in money or money's worth, and

(b) it is not otherwise prevented, under any provision of this Act, from being taken into account.

(2) Where the whole or any part of a liability is not discharged in accordance with paragraph (a) of subsection (1), the liability or (as the case may be) the part may only be taken into account for the purpose mentioned in that subsection to the extent that—

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(a) there is a real commercial reason for the liability or the part not being discharged,

(b) securing a tax advantage is not the main purpose, or one of the main purposes, of leaving the liability or part undischarged, and

(c) the liability or the part is not otherwise prevented, under any provision of this Act, from being taken into account.

(3) For the purposes of subsection (2)(a) there is a real commercial reason for a liability, or part of a liability, not being discharged where it is shown that—

(a) the liability is to a person dealing at arm's length, or

(b) if the liability were to a person dealing at arm's length, that person would not require the liability to be discharged.

(4) Where, by virtue of this section, a liability is not taken into account in determining the value of a person's estate immediately before death, the liability is also not to be taken into account in determining the extent to which the estate of any spouse or civil partner of the person is increased for the purposes of section 18.

(5) In subsection (2)(b) "tax advantage" means—

(a) a relief from tax or increased relief from tax,

(b) a repayment of tax or increased repayment of tax,

(c) the avoidance, reduction or delay of a charge to tax or an assessment to tax, or

(d) the avoidance of a possible assessment to tax or determination in respect of tax.

(6) In subsection (5) "tax" includes income tax and capital gains tax.

(7) Where the liability is discharged as mentioned in subsection (1)(a) only in part—

(a) any part of the liability that is attributable as mentioned in section 162A(1) or (5) is, so far possible, taken to be discharged first,

(b) any part of the liability that is attributable as mentioned in section 162B(1)(b), (3)(b) or (5)(c) is, so far as possible, taken to be discharged only after any part of the liability within paragraph (a) is discharged, and

(c) the liability so far as it is not attributable as mentioned in paragraph (a) or (b) is, so far as possible, taken to be discharged only after any parts of the liability within either of those paragraphs are discharged."

Commencement

5 (1) Subject to sub-paragraph (2), the amendments made by this Schedule have effect in relation to transfers of value made, or treated as made, on or after the day on which this Act is passed.

(2) Section 162B of IHTA 1984 (inserted by paragraph 3) only has effect in relation to liabilities incurred on or after 6 April 2013.

(3) For the purposes of sub-paragraph (2), where a liability is incurred under an agreement—

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(a) if the agreement was varied so that the liability could be incurred under it, the liability is to be treated as having been incurred on the date of the variation, and

(b) in any other case, the liability is to be treated as having been incurred on the date the agreement was made.

SCHEDULE 37

Section 190

VEHICLE LICENCES FOR DISABLED PEOPLE

1 VERA 1994 is amended as follows.

2 (1) Section 19 (rebates) is amended as follows.

(2) In subsection (3), after paragraph (c) insert—

"(ca) a qualifying application for a vehicle licence for the vehicle is made,".

(3) After that subsection insert—

"(3ZA) An application for a vehicle licence is a qualifying application for the purposes of subsection (3)(ca) if—

(a) paragraph 1ZA of Schedule 1 applies to the vehicle when the application is made, but

(b) that paragraph did not apply to the vehicle when the licence which is unexpired when the application is made was taken out."

3 (1) Section 22ZA (nil licences for vehicles for disabled persons: information) is amended as follows.

(2) In subsection (1)(b), at the beginning insert " falls within subsection (1A) or ".

(3) After subsection (1) insert—

"(1A) Information falls within this subsection if it is—

(a) the name, date of birth or national insurance number of a person who is in receipt of a relevant payment, or would be in receipt of such a payment but for—

(i) regulations under section 86(1) of the Welfare Reform Act 2012 (treatment as in-patient in hospital or similar institution), or

(ii) corresponding provision having effect in relation to personal independence payment in Northern Ireland;

(b) in the case of a person who is or would be in receipt of personal independence payment attributable to entitlement to the mobility component, the rate of the payment to which the person is or would be entitled;

(c) in the case of a person who has ceased or will cease to receive a relevant payment, the date on which the person ceased or will cease to receive it and the reason for the person ceasing to receive it.

(1B) In subsection (1A) "relevant payment" means—

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(a) personal independence payment attributable to entitlement to the mobility component, and

(b) armed forces independence payment."

(4) In subsections (2) and (4), and in the heading, omit "nil".

(5) For subsection (5) substitute—

"(5) In this section "relevant licence functions" means functions relating to applications for, and the issue of—

(a) vehicle licences in respect of vehicles to which paragraph 1ZA of Schedule 1 applies, and

(b) nil licences in respect of vehicles that are exempt vehicles under paragraph 19 of Schedule 2 or paragraph 7 of Schedule 4."

4 In section 62(1) (definitions), at the appropriate places insert—

""armed forces independence payment" means armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004,", and

""personal independence payment" means personal independence payment under—

(a) the Welfare Reform Act 2012, or

(b) the corresponding provision having effect in Northern Ireland,".

5 In Schedule 1 (annual rates of duty), in Part 1 after paragraph 1 insert—

"1ZA (1) The annual rate of vehicle excise duty applicable to a vehicle to which this paragraph applies is 50 per cent of the rate which (but for this paragraph) would be applicable.

(2) This paragraph applies to a vehicle when it is being used, or kept for use, by or for the purposes of a disabled person who is in receipt of personal independence payment by virtue of entitlement to the mobility component at the standard rate if—

(a) the vehicle is registered under this Act in the name of the disabled person, and

(b) no other vehicle registered in his or her name under this Act is—

(i) a vehicle for which a vehicle licence taken out at a rate of duty reduced in accordance with sub-paragraph (1) is in force, or

(ii) an exempt vehicle under paragraph 19 of Schedule 2 or paragraph 7 of Schedule 4.

(3) This paragraph has effect as if a person were in receipt of personal independence payment by virtue of entitlement to the mobility component at the standard rate in any case where the person would be in receipt of that payment by virtue of that entitlement but for—

(a) regulations under section 86(1) of the Welfare Reform Act 2012 (treatment as in-patient in hospital or similar institution), or

(b) corresponding provision having effect in Northern Ireland.

(4) For the purposes of sub-paragraph (2), a vehicle is to be treated as registered under this Act in the name of a person in receipt of

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personal independence payment by virtue of entitlement to the mobility component at the standard rate if it is so registered in the name of—

(a) an appointee, or

(b) a person nominated for the purposes of this paragraph by the person or an appointee.

(5) In sub-paragraph (4) "appointee" means a person appointed pursuant to regulations made under (or having effect as if made under) the Social Security Administration Act 1992 or the Social Security Administration (Northern Ireland) Act 1992 to exercise any of the rights and powers of a person in receipt of personal independence payment."

6 (1) In Schedule 2 (exempt vehicles), paragraph 19 is amended as follows.

(2) In sub-paragraph (1), for paragraph (b) substitute—

"(b) no other vehicle registered in his or her name under this Act is—

(i) a vehicle for which a vehicle licence taken out at a rate of vehicle excise duty reduced in accordance with paragraph 1ZA(1) of Schedule 1 is in force, or

(ii) an exempt vehicle under this paragraph or paragraph 7 of Schedule 4."

(3) In sub-paragraph (2), after paragraph (a) insert—

"(aa) he or she is in receipt of personal independence payment by virtue of entitlement to the mobility component at the enhanced rate,

(ab) he or she is in receipt of armed forces independence payment,".

(4) After sub-paragraph (2A) insert—

"(2B) This paragraph has effect as if a person were in receipt of personal independence payment by virtue of entitlement to the mobility component at the enhanced rate in any case where the person would be in receipt of that payment by virtue of that entitlement but for—

(a) regulations under section 86(1) of the Welfare Reform Act 2012 (treatment as in-patient in hospital or similar institution), or

(b) corresponding provision having effect in Northern Ireland."

(5) In sub-paragraph (3), for "person in receipt of a disability living allowance by virtue of entitlement to the mobility component at the higher rate, or of a mobility supplement," substitute " disabled person who satisfies sub-paragraph (2) by virtue of paragraph (a), (aa), (ab) or (b) of that sub-paragraph ".

(6) In sub-paragraph (4)(a), after "disability living allowance," insert " personal independence payment or armed forces independence payment, ".

7 The amendments made by this Schedule are treated as having come into force on 8 April 2013.

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SCHEDULE 38

Section 192

VALUATION OF CERTAIN SUPPLIES OF FUEL

Introductory

1 VATA 1994 is amended as follows.

Valuation of supplies for private use

2 In Schedule 6 (valuation: special cases), before paragraph 1 insert—

"**PART 1**

VALUATION OF SUPPLIES OF FUEL FOR PRIVATE USE

Option for valuation on flat-rate basis

A1 (1) This paragraph applies if, in a prescribed accounting period, supplies of goods by a taxable person ("P") arise by virtue of paragraph 5(1) of Schedule 4 (but otherwise than for a consideration) where road fuel which is or has previously been supplied to or imported or manufactured by P in the course of P's business is provided for, or appropriated to, private use.

(2) For this purpose "road fuel is provided for, or appropriated to, private use" if—

(a) it is provided or to be provided by P—

(i) to an individual for private use in the individual's own car or a car allocated to the individual, and

(ii) by reason of the individual's employment,

(b) where P is an individual, it is appropriated or to be appropriated by P for private use in P's own car, or

(c) where P is a partnership, it is provided or to be provided to any of the individual partners for private use in that partner's own car.

(3) P may opt for all supplies of goods within sub-paragraph (1) made by P in the prescribed accounting period to be valued on the flat-rate basis.

(4) On the flat-rate basis, the value of all supplies made to any one individual in respect of any one car is that determined in accordance with an order under paragraph B1.

B1 (1) The Treasury must, by order, make provision about the valuation of supplies on the flat-rate basis.

(2) In particular, an order under this paragraph must—

(a) set out a table ("the base valuation table") by reference to which the value of supplies is to be determined until such time as the base valuation table is replaced under paragraph (b),

(b) provide that at regular intervals—

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(i) the amounts specified in the base valuation table are to be revalorised by the Commissioners in accordance with the order, and

(ii) a table (an "updated valuation table") containing the revalorised amounts is to take effect (and replace any existing table) in accordance with the order, and

(c) require the Commissioners to publish any updated valuation table before it takes effect, together with a statement specifying the date from which it has effect.

(3) An order under this paragraph may provide for the base valuation table and any updated valuation table to be implemented or supplemented by either or both of the following—

(a) rules set out in the order which explain how the value is to be determined by reference to any table;

(b) notes set out in the order with respect to the interpretation or application of any table or any rules or notes.

(4) Rules or notes may make different provision for different circumstances or cases.

Interpretation

C1 (1) For the purposes of this Part of this Schedule—

(a) any reference to an individual's own car is to be construed as including any car of which for the time being the individual has the use, other than a car allocated to the individual,

(b) subject to sub-paragraph (2), a car is at any time to be taken to be allocated to an individual if at that time it is made available (without any transfer of the property in it) either to the individual or to any other person, and is so made available by reason of the individual's employment and for private use, and

(c) fuel provided by an employer to an employee and fuel provided to any person for private use in a car which, by virtue of paragraph (b), is for the time being taken to be allocated to the employee is to be taken to be provided to the employee by reason of the employee's employment.

(2) For the purposes of this Part of this Schedule, in any prescribed accounting period a car is not regarded as allocated to an individual by reason of the individual's employment if—

(a) in that period it was made available to, and actually used by, more than one of the employees of one or more employers and, in the case of each of them, it—

(i) was made available to that employee by reason of the employment, but

(ii) was not in that period ordinarily used by any one of them to the exclusion of the others,

(b) in the case of each of the employees, any private use of the car made by the employee in that period was merely incidental to the employee's other use of it in that period, and

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(c) in that period it was not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the car available to them.

(3) In this Part of this Schedule—

"employment" includes any office, and related expressions are to be construed accordingly;

"car" means a motor car as defined by paragraph 1A(4) and (5);

"road fuel" means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act) on which duty has been or is required to be paid in accordance with that Act.

(4) The Treasury may, by order, amend the definition of "road fuel" in sub-paragraph (3).

PART 2 Other provisions ".

3 In paragraph 6 of that Schedule (valuation of supplies of goods by virtue of paragraph 5(1) of Schedule 4 etc), in sub-paragraph (1), after "except where" insert " the person making the supply opts under paragraph A1(3) above for valuation on the flat-rate basis or ".

4 Omit sections 56 and 57 (fuel for private use).

5 In section 97(4) (orders subject to affirmative procedure), in paragraph (f)—

(a) after "paragraph" insert " B1, C1(4), ", and

(b) after "1A(7)" insert " , 2A(4) ".

Supplies to employees etc at less than open market value

6 After paragraph 2 of Schedule 6 insert—

"2A (1) This paragraph applies if—

(a) a taxable person ("P") makes a supply of road fuel for a consideration,

(b) the recipient of the supply is—

(i) connected with P, or

(ii) an employee or partner of P or a person who is connected with such an employee or partner,

(c) the value of the supply would (in the absence of this paragraph) be less than its open market value, and

(d) the recipient of the supply is not entitled to credit for the whole of the input tax arising on the supply.

(2) The value of the supply is to be taken to be an amount equal to its open market value.

(3) For the purposes of this paragraph—

(a) "road fuel" means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act)

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on which duty has been or is required to be paid in accordance with that Act, and

(b) any question whether a person is connected with another is to be determined in accordance with section 1122 of the Corporation Tax Act 2010.

(4) The Treasury may, by order, amend the definition of "road fuel" in sub-paragraph (3)(a)."

Commencement and transitional provision

7 (1) The amendments made by paragraphs 2 to 4 come into force in relation to prescribed accounting periods beginning on or after 1 February 2014.

(2) Subject to that, section 56 of VATA 1994 has effect on and after 11 December 2012 as if in subsection (2) of that section for the words after "it is supplied" there were substituted " for consideration. "

8 (1) The amendment made by paragraph 6 is to be treated as coming into force on 11 December 2012 and has effect in relation to—

(a) supplies of goods on or after the commencement day, and

(b) supplies of goods in the period beginning with 11 December 2012 and ending immediately before the commencement day, if and to the extent that the goods are not made available before the end of that period to the person to whom they are supplied.

(2) "The commencement day" means the day on which this Act is passed.

SCHEDULE 39

Section 195

STAMP DUTY LAND TAX: TRANSACTIONS ENTERED INTO BEFORE COMPLETION OF CONTRACT

1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

2 For section 45 (contract and conveyance: effect of transfer of rights) substitute—

"**45 Transactions entered into before completion of contract**

Schedule 2A contains—

(a) provision about the application of section 44 (contract and conveyance) in certain cases where an assignment of rights, subsale or other transaction is entered into without the contract having been completed, and

(b) other provision about such cases."

3 After Schedule 2 insert—

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"SCHEDULE
2A

TRANSACTIONS ENTERED INTO BEFORE COMPLETION OF CONTRACT

Pre-completion transactions

1 (1) This Schedule applies where—

(a) a person ("the original purchaser") enters into a contract ("the original contract") for the acquisition by that person of a chargeable interest under which the acquisition is to be completed by a conveyance, and

(b) there is a pre-completion transaction.

(2) A transaction is a "pre-completion transaction" for the purposes of sub-paragraph (1) if—

(a) as a result of the transaction a person other than the original purchaser ("the transferee") becomes entitled to call for a conveyance to that person of the whole or part of the subject-matter of the original contract, and

(b) immediately before the transaction took place a person was entitled under the original contract to call for a conveyance of the whole or part of that subject-matter.

(3) A transaction that effects a person's acquisition of the whole or part of the subject-matter of the original contract is not a pre-completion transaction.

(4) The grant or assignment of an option is not a pre-completion transaction.

(5) The fact that a transaction has the effect of discharging the original contract does not prevent that transaction from being a pre-completion transaction.

(6) The reference in sub-paragraph (1)(a) to a contract does not include a contract that is an assignment of rights in relation to another contract.

(7) In this Schedule references to "part of the subject-matter of the original contract"—

(a) are to a chargeable interest that is the same as the chargeable interest referred to in sub-paragraph (1)(a) except that it relates to part only of the land concerned, and

(b) also include, so far as is appropriate, interests or rights appurtenant or pertaining to the chargeable interest.

(8) This Schedule does not apply where paragraph 12B of Schedule 17A (assignment of agreement for lease) applies.

Other key expressions

2 (1) A pre-completion transaction is an "assignment of rights" if the entitlement of the transferee referred to in paragraph 1(2)(a) is an entitlement to exercise rights under the original contract.

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(2) A pre-completion transaction other than an assignment of rights is referred to in this Schedule as a "free-standing transfer".

(3) In this Schedule "the transferor", in relation to a pre-completion transaction, means a party to the pre-completion transaction who immediately before the pre-completion transaction took place was entitled to call for a conveyance of (what became) the subject-matter of the pre-completion transaction.

(4) References in this Schedule to the "subject-matter" of a pre-completion transaction—

(a) are to the chargeable interest the conveyance of which the transferee is entitled to call for as a result of the pre-completion transaction, and

(b) include, so far as appropriate, any interest or right appurtenant or pertaining to the chargeable interest.

Tax not charged on transferee by reason of the pre-completion transaction

3 The transferee is not regarded as entering into a land transaction by reason of the pre-completion transaction.

Assignments of rights: application of rules about completion and consideration

4 (1) This paragraph applies if the pre-completion transaction is an assignment of rights.

(2) If the subject-matter of the original contract is conveyed to the transferee, the conveyance is taken to effect the completion of the original contract (despite section 44(10)).

(3) Sub-paragraphs (4) to (6) apply if—

(a) the subject-matter of the original contract is conveyed to the transferee, or

(b) the original contract is substantially performed by the transferee.

(4) The transferee is taken to be the purchaser under the land transaction effected as mentioned in section 44(3), or treated as effected under section 44(4).

(5) For the purpose of determining the chargeable consideration for that land transaction, the land transaction is taken to give effect to a contract the consideration under which is—

(a) the consideration under the original contract, and

(b) the consideration for the assignment of rights.

Paragraph 1 of Schedule 4 has effect accordingly (but this sub-paragraph does not allow any amount of consideration given by a person to be counted twice in determining the chargeable consideration).

(6) In any case in which there is a relevant connection between parties as mentioned in paragraph 12(2) (minimum consideration rule), the chargeable consideration for the land transaction mentioned in sub-paragraph (4) of this paragraph is calculated (regardless of whether the consideration is taken to be the amount in paragraph (a), (b) or (c) of sub-paragraph 12(2)), as if in paragraph 1(1) of Schedule 4 the words, "or a person connected with him" were omitted.

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(7) The original contract is said to be "substantially performed by the transferee" where a land transaction is treated under section 44(4) as effected by reason of—

(a) the transferee under the assignment of rights, or a person connected with the transferee, taking possession of the whole, or substantially the whole, of the subject-matter of the original contract, or

(b) a substantial amount of the consideration being paid or provided by the transferee or a person connected with the transferee, or

(c) consideration paid or provided by a person within paragraph (b) amounting, when taken together with consideration paid or provided by another person, to a substantial amount of the consideration.

(8) References in sub-paragraph (7) to possession and to the payment or provision of a substantial amount of the consideration are to be read in accordance with section 44(6) and (7).

(9) In sub-paragraph (5) "the consideration"—

(a) in relation to the land transaction, means (what is to be taken to be) the consideration for the acquisition of the subject-matter of the land transaction;

(b) in relation to the original contract, means the consideration for the acquisition of the subject-matter of that contract;

(c) in relation to the assignment of rights, means the consideration for the transferee's acquisition of the rights to which that contract relates.

Assignment of rights: transferor treated as making separate acquisition

5 (1) Where paragraph 4(4) to (6) applies (assignment of rights: original contract completed or substantially performed) this Part of this Act has effect as if—

(a) the effective date of the land transaction mentioned in paragraph 4(4) ("the transferee's land transaction") were also the effective date of another land transaction (a "notional land transaction"), and

(b) the original purchaser were the purchaser under that notional land transaction.

The notional land transaction is referred to below as "associated with" the assignment of rights under which the original purchaser is the transferor.

(2) Where sub-paragraph (1) applies and the assignment of rights mentioned in paragraph 4(1) ("the implemented assignment of rights") was preceded by one or more related assignments of rights, then for the purposes of this Part of this Act there is taken to be, for each assignment of rights (other than the first) in the chain formed by the implemented assignment of rights and those preceding assignments of rights, an additional land transaction in the case of which—

(a) the effective date is the effective date of the transferee's land transaction, and

(b) the purchaser is the transferor under that assignment of rights.

The additional land transaction is referred to below as "associated with" the assignment of rights.

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(3) For the purpose of determining the chargeable consideration for the notional land transaction, Schedule 4 has effect as if paragraph 1(1) of that Schedule provided that the chargeable consideration is (except as otherwise expressly provided) the total of amounts A and B.

(4) For the purpose of determining the chargeable consideration for any additional land transaction, Schedule 4 has effect as if paragraph 1(1) of that Schedule provided that the chargeable consideration is (except as otherwise expressly provided) the total of amounts A, B and C.

(5) For the purposes of sub-paragraphs (3) and (4)—

A is the total amount of any consideration in money or money's worth given (whether directly or indirectly) by any of the following as consideration under the original contract—

(a) the transferee under the assignment of rights with which the notional land transaction or (as the case requires) the additional land transaction is associated;

(b) where that assignment of rights is one in a chain of successive transactions that are pre-completion transactions in relation to the original contract (all having at least part of their subject-matter in common), the transferee under any subsequent pre-completion transaction in that chain;

(c) a person connected with a person falling within paragraph (a) or (b);

B is the total amount of any other consideration in money or money's worth given as consideration under the original contract (directly or indirectly) by—

(a) the purchaser (under the notional land transaction or, as the case requires, the additional land transaction), or

(b) a person connected with the purchaser;

C is the amount of any consideration in money or money's worth given for the preceding assignment of rights by—

(a) the purchaser (under the additional land transaction), or

(b) a person connected with the purchaser.

(6) In the definition of amount C, "the preceding assignment of rights" means the assignment of rights as a result of which the purchaser became entitled to call for a conveyance of (what became) the subject-matter of the assignment of rights associated with the additional land transaction.

(7) In sub-paragraph (2) "related assignment of rights" means a transaction that is an assignment of rights in relation to the original contract and has some subject-matter in common with the implemented assignment of rights.

Paragraph 5: effect of rescission etc following substantial performance

6 (1) This paragraph applies where paragraph 5(1) (transferor treated as making separate acquisition) applies by virtue of the substantial performance by the transferee of the original contract.

(2) If the original contract is (to any extent) subsequently rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of

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paragraph 5(1), and any tax paid by virtue of paragraph 5(2), must (to that extent) be repaid by HMRC.

(3) Repayment under sub-paragraph (2) must be claimed by amendment of the land transaction return made in respect of the notional or additional land transaction.

Assignment of rights relating to part only of subject-matter of original contract

7 Where the transferee under the assignment of rights referred to in paragraph 4(1) is entitled to call for the conveyance of part, but not the whole, of the subject-matter of the original contract—

(a) paragraph 4 applies as if the original contract, so far as relating to that part of its subject-matter, were a separate contract, and

(b) the references in paragraph 5 to the original contract are to be read accordingly.

Assignment of rights: references to "the vendor"

8 (1) This paragraph applies where—

(a) the pre-completion transaction is an assignment of rights, and

(b) either the subject-matter of the original contract is conveyed to the transferee or the original contract is substantially performed by the transferee.

(2) This paragraph does not apply if the original contract is itself a free-standing transfer. See paragraphs 10 and 11 for the treatment of such cases.

(3) In relation to a relevant land transaction, the general rule is that references in this Part of this Act to the vendor are to be read as references to the vendor under the original contract (but see sub-paragraphs (4) and (5)).

(4) In cases where the original contract was substantially performed before the transferee became entitled to call for a conveyance of the whole or part of the subject-matter of the original contract, references in this Part of this Act to the vendor are to be read as references to the person who was the purchaser under the original contract when it was substantially performed.

(5) In relation to a relevant land transaction, references to the vendor in the specified provisions (see sub-paragraph (6)) are to be read as including—

(a) the vendor under the original contract, and

(b) the transferor under any relevant assignment of rights.

(6) The specified provisions are—

(a) section 61(1)(a) (compliance with planning obligations: conditions for exemption);

(b) section 66(1) and (2) (transfers involving public bodies);

(c) paragraph 8(1)(a) of Schedule 4 (debt as consideration);

(d) paragraph 10(2)(c) of Schedule 4 (carrying out of works);

(e) paragraph 16 of Schedule 4 (indemnity given by vendor).

(7) The following are "relevant land transactions"—

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(a) the land transaction effected by the conveyance mentioned in sub-paragraph (1)(b) or treated as effected by the substantial performance mentioned in that provision;

(b) the notional land transaction mentioned in paragraph 5(1)(b) and any additional land transaction under paragraph 5(2).

(8) In determining under section 108(1) whether or not a relevant land transaction such as is mentioned in sub-paragraph (7)(a) is linked to another transaction, it may be assumed that any of the following is the vendor under the relevant land transaction—

(a) the vendor (determined in accordance with sub-paragraph (3)), or

(b) the transferor under any relevant assignment of rights.

(9) The following are "relevant assignments of rights" in relation to a relevant land transaction—

(a) the assignment of rights mentioned in sub-paragraph (1)(a);

(b) any other transaction that is an assignment of rights in relation to the original contract and has some subject-matter in common with the assignment of rights mentioned in paragraph (a).

Free-standing transfers: consideration and substantial performance

9 (1) This paragraph applies where the pre-completion transaction is a free-standing transfer.

(2) If the transferee acquires the subject-matter of the free-standing transfer, the consideration for the transaction effecting that acquisition is taken to include the consideration given for the free-standing transfer (if that would not otherwise be the case).

(3) References in sub-paragraph (2) to an acquisition include an acquisition deemed to take place under section 44(4) (and the reference to the transaction effecting that acquisition is read accordingly).

(4) An action taken by the transferee (or an assignee of the transferee) that would, if taken by the original purchaser, constitute (for the purposes of section 44(5)) the taking of possession of the whole or substantially the whole of the subject-matter of the original contract is treated as effecting the substantial performance of the original contract.

(5) If a transaction that is a free-standing transfer in relation to a contract is also a free-standing transfer in relation to another contract (in particular, where there have been successive free-standing transfers), each of those contracts may be regarded as "the original contract" for the purposes of separate applications of sub-paragraph (4).

(6) In sub-paragraph (4)—

(a) the reference to the transferee includes a person connected with the transferee, and

(b) the reference to an assignee of the transferee includes a person connected with such a person.

(7) References in this paragraph to an assignee of the transferee are to a person who, as a result of a transaction that is an assignment of rights in relation to

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the free-standing transfer, is entitled to call for a conveyance of the whole or part of the subject-matter of the free-standing transfer.

Meaning of "the vendor": cases involving free-standing transfers

10 (1) This paragraph applies where—

(a) a land transaction is effected, or treated as effected, by an acquisition falling within paragraph 9(2) (read with paragraph 9(3)), or

(b) paragraph 8(1) (meaning of "vendor" where the transferee is the assignee under an assignment of rights) would apply but for paragraph 8(2) (exclusion of cases where the original contract is itself a free-standing transfer).

(2) In this paragraph "the relevant land transaction" means the land transaction—

(a) mentioned in sub-paragraph (1)(a), or

(b) in a case falling within sub-paragraph (1)(b), effected by the conveyance to the transferee of the subject-matter of the original contract or the substantial performance by the transferee of the original contract.

(3) References in this paragraph to "the specified transaction" are to—

(a) the free-standing transfer mentioned in paragraph 9(2), or

(b) the original contract the subject-matter of which is conveyed to the transferee or which is substantially performed by the transferee.

(4) The general rule is that in relation to the relevant land transaction references in this Part of this Act to "the vendor" are to be read as references to the vendor or (as the case may be) transferor under the first appropriate transaction (but see sub-paragraph (5)).

(5) In relation to the relevant land transaction, references to the vendor in the specified provisions (see sub-paragraph (6)) are to be read as including—

(a) the vendor under the first appropriate transaction, and

(b) each person who is the transferor in the case of a relevant pre-completion transaction.

(6) The specified provisions are—

(a) section 61(1)(a) (compliance with planning obligations: conditions for exemption);

(b) section 66(1) and (2) (transfers involving public bodies);

(c) paragraph 8(1)(a) of Schedule 4 (debt as consideration);

(d) paragraph 10(2)(c) of Schedule 4 (carrying out of works);

(e) paragraph 16 of Schedule 4 (indemnity given by vendor).

(7) In determining under section 108(1) whether or not the relevant land transaction is linked to another transaction it may be assumed that any of the following is the vendor under the relevant land transaction—

(a) the vendor (determined under sub-paragraph (4)), or

(b) the transferor under any relevant pre-completion transaction.

(8) The following are "relevant pre-completion transactions" in relation to the relevant land transaction—

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(a) the specified transaction;

(b) any other transaction that is a pre-completion transaction in relation to the original contract and has some subject-matter in common with the specified transaction.

Paragraph 10: "the first appropriate transaction" and "the original contract"

11 (1) Subject to the following provisions of this paragraph, "the first appropriate transaction" means the original contract.

(2) If the original contract is not performed at the same time as, and in connection with the performance of, the specified transaction, "the first appropriate transaction" means a transaction that is a pre-completion transaction in relation to the original contract and meets the following conditions.

(3) The conditions are that the pre-completion transaction—

(a) is performed at the time when the specified transaction is performed and (if it is not itself the specified transaction) is performed in connection with the performance of the specified transaction,

(b) is a transaction on which the entitlement of the transferee to call for the conveyance of the subject-matter of the specified transaction depends, and

(c) is not preceded by another pre-completion transaction meeting the conditions in paragraphs (a) and (b).

(4) For the purposes of this paragraph—

(a) a contract for a land transaction is taken to be "performed" when it is substantially performed or completed (whichever is earlier);

(b) a free-standing transfer other than a contract is taken to be "performed" when the transferee under that free-standing transfer (or an assignee of that transferee, as defined in paragraph 9(7)) acquires the subject-matter of that free-standing transfer.

(5) Where the specified transaction is a pre-completion transaction in relation to each of two or more contracts such as are mentioned in paragraph 1(1)(a) that together form a series of such contracts (each having some subject-matter in common with all the others), references in paragraph 10 and this paragraph to "the original contract" are to be read as references to the first contract in that series.

(6) In this paragraph "the specified transaction" has the meaning given by paragraph 10(3).

Minimum consideration rule

12 (1) This paragraph applies where either of the following provisions applies—

(a) paragraph 4(3) (assignment of rights: chargeable interest acquired or treated as acquired by transferee);

(b) paragraph 9(2) (free-standing transfers: chargeable interest acquired or treated as acquired by transferee).

(2) If there is a relevant connection between parties, then for the purposes of paragraph 1(1) of Schedule 4 the consideration given by the purchaser for

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the subject-matter of the land transaction referred to in paragraph 4(4) or 9(2) is taken to be—

(a) the amount that it would be apart from this sub-paragraph, or

(b) (if higher) the first minimum amount, or

(c) (if higher than both those amounts) the second minimum amount.

(3) There is a "relevant connection between parties" if—

(a) the persons who are the transferor and transferee in relation to the pre-completion transaction mentioned in paragraph 4(1) or 9(1) ("the implemented transaction") are connected with each other, or are not acting at arm's length, or

(b) sub-paragraph (4) applies.

(4) This sub-paragraph applies if—

(a) the implemented transaction is one in a chain of successive transactions (all having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract, and

(b) a person who is the transferor in relation to a pre-completion transaction that precedes the implemented transaction in the chain of transactions is connected with, or not acting at arm's length in relation to, the transferee under the implemented transaction.

(5) Where the implemented transaction is a pre-completion transaction in relation to—

(a) a contract for a land transaction that is not itself a free-standing transfer in relation to any other contract, and

(b) a contract, or two or more successive contracts, that are themselves free-standing transfers in relation to the contract mentioned in paragraph (a),

references in this paragraph to "the original contract" are to the contract mentioned in paragraph (a) (and do not include any contract mentioned in paragraph (b)).

The first minimum amount

13 (1) "The first minimum amount" means—

(a) if the chargeable interest acquired (or treated as acquired) under the land transaction referred to in paragraph 4(4) or 9(2) is the whole subject-matter of the original contract, the amount of any consideration (in money or money's worth) agreed to be given, under the terms of the original contract, for the acquisition of that subject-matter, or

(b) if paragraph (a) does not apply, so much of the amount mentioned in paragraph (a) as is referable, on a just and reasonable apportionment, to the chargeable interest mentioned in that paragraph.

This is subject to sub-paragraph (2).

(2) If conditions A to C are met, "the first minimum amount" means the amount of any consideration (in money or money's worth) agreed, under the terms of the transfer to the first T, to be given in respect of the subject-matter of

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that transaction (including any consideration relating to an obligation of the transferor under the transfer to the first T).

(3) The conditions mentioned in sub-paragraph (2) are as follows.

Condition A is that the pre-completion transaction referred to in paragraph 4(4) or 9(2) is one of a chain of successive transactions (all having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract.

Condition B is that a person ("T") is the transferor under a pre-completion transaction that forms part of that chain and T is connected with, or not acting at arm's length in relation to—

(a) the transferee under that transaction, or

(b) the transferee under a subsequent transaction in the chain.

Condition C is that having regard to all the circumstances it would not be reasonable to conclude that the obtaining of a tax advantage (for any person) was the main purpose, or one of main purposes, of T in entering into—

(a) any pre-completion transaction in the chain, or

(b) any arrangements of which such a transaction forms part.

(4) Where conditions A to C are met, "the first T" means—

(a) if condition B is met in relation to only one pre-completion transaction, T, or

(b) if condition B is met in relation to more than one pre-completion transaction in the chain, the transferor in relation to the first of the pre-completion transactions in relation to which condition B is met.

(5) In this paragraph "the transfer to the first T" means—

(a) the pre-completion transaction under which the first T is the transferee, or

(b) the original contract (if T is the original purchaser).

(6) In this paragraph—

(a) references to "the original contract" are to be read in accordance with paragraph 12(5) (and references to the original purchaser are to be read accordingly);

(b) "tax advantage" has the same meaning as in paragraph 18.

The second minimum amount

14 (1) In paragraph 12 "the second minimum amount" means the total of the net amounts of consideration given by the relevant parties.

(2) The net amount of consideration given by any relevant party is—

$$CP - CR$$

where—

CP is the total amount of consideration given by the party for the acquisition of the chargeable interest or as consideration for a pre-completion transaction;

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CR is the total of any amounts of consideration given to the party by another relevant party (or other relevant parties) as consideration for the acquisition of the chargeable interest or as consideration for a pre-completion transaction.

If CR is greater than CP, the net amount of consideration given by the relevant party is taken to be zero.

(3) Except where sub-paragraph (4) applies, the relevant parties for the purposes of this paragraph are—

(a) the original purchaser, and

(b) the transferee.

(4) If the pre-completion transaction referred to in paragraph 4(4) or 9(2) ("the implemented transaction") is one in a chain of successive transactions (having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract, only the following are relevant parties—

(a) the persons who are the transferor and transferee in relation to the implemented transaction;

(b) a person who is the transferor in relation to preceding transaction, if that person is connected with, or not acting at arm's length in relation to, the transferee under the implemented transaction,

(c) the transferee under a pre-completion transaction, if the transferor is a relevant party (whether by virtue of this paragraph (c) or otherwise).

(5) For the purposes of sub-paragraph (2)—

(a) amounts given by a person connected with a relevant party are treated as given by the relevant party;

(b) amounts given to a person connected with a relevant party are treated as given to the relevant party.

References in this paragraph to a person connected with a relevant party do not include a person who is a relevant party.

(6) If the subject-matter of the implemented transaction is not the whole subject-matter of the original contract—

(a) the amounts that are taken for the purposes of sub-paragraph (2) to be given "for the acquisition of the chargeable interest" are to be determined on a just and reasonable basis, and

(b) only so much of the consideration for a preceding transaction as is referable, on a just and reasonable apportionment, to the subject-matter of the implemented transaction is taken into account under sub-paragraph (2).

(7) In this paragraph—

(a) references to "the original contract" are to be read in accordance with paragraph 12(5) (and references to "the original purchaser" are to be read accordingly);

(b) "preceding transaction" means a pre-completion transaction that precedes the implemented transaction in a chain of successive pre-

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completion transactions (all having at least part of their subject-matter in common).

Relief for transferor: assignment of rights

15 (1) This paragraph applies where—

(a) a person would, in the absence of this paragraph, be liable to pay tax in respect of a notional land transaction deemed to take place under paragraph 5(1) or an additional land transaction deemed to take place under paragraph 5(2), and

(b) the original contract had not been substantially performed when the assignment of rights mentioned in paragraph 4(1) was entered into.

(2) If the purchaser claims relief under this paragraph in respect of the notional land transaction or additional land transaction, no liability to tax arises in respect of that transaction.

(3) Sub-paragraph (2) does not apply if the land transaction mentioned in paragraph 4(4) is exempt from charge by virtue of any of sections 71A to 73 (which relate to alternative property finance).

(4) Relief under this section must be claimed in a land transaction return or an amendment of such a return.

Relief for original purchaser: qualifying subsales

16 (1) This paragraph applies if—

(a) the pre-completion transaction is a qualifying subsale,

(b) the original purchaser would, in the absence of this paragraph, be liable to pay tax in respect of a land transaction effected by the completion of the original contract or deemed to be effected by the substantial performance of the original contract,

(c) the performance of the qualifying subsale takes place at the same time as, and in connection with, the performance of the original contract, and

(d) relief is claimed in respect of the land transaction mentioned in paragraph (b).

(2) If the subject-matter of the qualifying subsale is the whole of the subject-matter of the original contract, no liability to tax arises in respect of the land transaction.

(3) If the subject-matter of the qualifying subsale is part (but not the whole) of the subject-matter of the original contract, the amount of the consideration for the land transaction is taken to be—

(a) the amount that it would be apart from this subsection, less

(b) so much of that amount as is referable to the subject-matter of the qualifying subsale.

(4) The amount mentioned in sub-paragraph (3)(a) may be reduced more than once under sub-paragraph (3) if there is more than one qualifying subsale.

(5) Sub-paragraphs (2) to (4) do not apply if—

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(a) the original contract had been substantially performed when the qualifying subsale was entered into, or

(b) the transaction effected, or deemed to be effected, by the performance of the qualifying subsale is exempt from charge by virtue of any of sections 71A to 73.

(6) Relief under this section must be claimed in a land transaction return or an amendment of a land transaction return.

(7) For the purposes of this paragraph a contract for a land transaction is taken to be "performed" when it is substantially performed or completed (whichever is earlier).

(8) A pre-completion transaction is a "qualifying subsale" if it is a contract under which the original purchaser contracts to sell the whole or part of the subject-matter of the original contract to the transferee.

Application of paragraph 16 to successive subsales

17 If a transaction is a qualifying subsale in relation to more than one contract such as is mentioned in paragraph 1(1)(a), paragraph 16 is to be applied separately in relation to each such original contract for the purpose of determining what relief, if any, may be available with respect to the land transaction in question.

Tax avoidance arrangements

18 (1) Relief may not be claimed—

(a) under paragraph 15 if the assignment of rights referred to in sub-paragraph (1)(b) of that paragraph forms part of any tax avoidance arrangements, or

(b) under paragraph 16 if the qualifying subsale referred to in sub-paragraph (1)(c) of that paragraph forms part of any tax avoidance arrangements.

(2) Arrangements are "tax avoidance arrangements" if, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage for the original purchaser or any other person was the main purpose, or one of the main purposes, of the original purchaser in entering into the arrangements.

(3) In this paragraph "tax advantage" means—

(a) a relief from tax or increased relief from tax,

(b) a repayment of tax or increased repayment of tax,

(c) the avoidance or reduction of a charge to tax, or

(d) the avoidance of a possible assessment to tax.

(4) In this paragraph "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) Nothing in paragraphs 12 to 14 (minimum consideration rule) or this paragraph affects the breadth of the application of sections 75A to 75C (anti-avoidance).

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Exclusion of transactions from duty to make returns etc

19 (1) The Treasury may by regulations amend this Schedule, or any provision of this Part of this Act relating to the making of returns, so as to—

(a) exempt relevant purchasers of any specified description, or in specified circumstances, from the duty to deliver a land transaction return,

(b) provide for relief under paragraph 15 or 16 to be available without a claim in the case of any specified class of transactions, or

(c) provide that paragraph 5 does not apply in specified cases.

(2) In this paragraph "relevant purchaser" means a person who is the transferor under a pre-completion transaction.

Connected persons

20 Section 1122 of CTA 2010 (connected persons) applies for the purposes of this Schedule.

Interpretation of Schedule

21 (1) In this Schedule—

"assignment of rights" has the meaning given by paragraph 2(1);

"contract" includes any agreement;

"conveyance" includes any instrument;

"free-standing transfer" has the meaning given by paragraph 2(2);

"pre-completion transaction" (in relation to a contract such as is mentioned in paragraph 1(1)) has the meaning given by paragraph 1(2);

"qualifying subsale" has the meaning given by paragraph 16(8);

"the transferee", in relation to a pre-completion transaction, has the meaning given by paragraph 1(2)(a);

"the transferor", in relation to a pre-completion transaction, has the meaning given by paragraph 2(3).

(2) In this Schedule—

(a) references to "the original contract" are to be read in accordance with paragraph 1(1)(a);

(b) references to "the original purchaser" are to be read in accordance with paragraph 1(1)(a) and see also sub-paragraph (3);

(c) references to "part of the subject-matter of the original contract" are to be read in accordance with paragraph 1(7);

(d) references to the "subject-matter" of a pre-completion transaction are to be read in accordance with paragraph 2(4);

(e) references to substantial performance of the original contract "by the transferee" (in cases involving an assignment of rights) are to be read in accordance with paragraph 4(7).

(3) For any one contract for the acquisition of a chargeable interest there is only one original purchaser (disregarding cases involving joint purchasers)."

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4 In section 57A (sale and leaseback arrangements), in subsection (3)(c)—

(a) omit "section 45 (contract and conveyance: effect of transfer of rights) or", and

(b) after the second occurrence of "transfer of rights)" insert " or a pre-completion transaction within the meaning of Schedule 2A (transactions entered into before completion of contract) ".

5 In section 77 (notifiable transactions), in subsection (1)—

(a) omit the "or" after paragraph (c), and

(b) after paragraph (d) insert, "or

(e) a notional or additional land transaction under paragraph 5 of Schedule 2A."

6 In section 79(2) (registration of land transactions etc)—

(a) omit paragraph (a)(i) and the "or" after it, and

(b) after paragraph (b) insert—

"(ba) under paragraph 5 of Schedule 2A (transactions entered into before completion of contract),".

7 In section 119 (meaning of "effective date" of a transaction), in subsection (2), at the appropriate place insert— " paragraph 5 of Schedule 2A, ".

8 In section 121 (index of defined expressions), in the entry for "vendor", in the second column, for "sections 45(5A) and 45A(9)" substitute " section 45A(9) and paragraphs 8, 10 and 11 of Schedule 2A ".

9 In Schedule 6B (transfers involving multiple dwellings), in paragraph 7(6), in the definition of "relevant deeming provision", after "45A" insert " or paragraph 5(1) or (2) of Schedule 2A ".

10 In paragraph 12B of Schedule 17A (assignment of agreement for lease), in sub-paragraph (1) for "section 45 (contract and conveyance: effect of transfer of rights)" substitute " Schedule 2A (transactions entered into before completion of contract) ".

11 The amendments made by this Schedule have effect in relation to transfers of rights (see section 45 of FA 2003) and pre-completion transactions (see paragraph 3) entered into on or after the day on which this Act is passed.

SCHEDULE 40

Section 196

STAMP DUTY LAND TAX: RELIEF FROM 15% RATE

1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

Amendments of FA 2003

2 (1) Schedule 4A (higher rate for certain transactions) is amended as follows.

(2) In paragraph 2(6) (treatment of certain transactions as two separate chargeable transactions) for "and 5" substitute " , 5 to 5K and 6A to 6H ".

(3) For paragraph 5 (property developers) and the cross-heading preceding it substitute—

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"Businesses of letting, trading in or redeveloping properties

5 (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest that is acquired exclusively for one or more of the following purposes—

(a) exploitation as a source of rents or other receipts (other than excluded rents) in the course of a qualifying property rental business;

(b) development or redevelopment and resale in the course of a property development trade;

(c) resale in the course of a property development trade (in a case where the chargeable transaction is part of a qualifying exchange);

(d) resale (as stock of the business) in the course of a property trading business.

(2) A chargeable interest does not count as being acquired exclusively for one or more of those purposes if it is intended that a non-qualifying individual will be permitted to occupy the dwelling.

(3) In this paragraph—

"excluded rents" has the same meaning as in section 133 of the Finance Act 2013;

"property development trade" means a trade that—

(a) consists of or includes buying and developing or redeveloping for resale residential or non-residential property, and

(b) is run on a commercial basis and with a view to profit;

"part of a qualifying exchange" is to be construed in accordance with section 139(4) of the Finance Act 2013;

"property trading business" means a business that—

(a) consists of or includes activities in the nature of a trade of buying and selling dwellings, and

(b) is run on a commercial basis and with a view to profit;

"qualifying property rental business" has the same meaning as in section 133 of the Finance Act 2013."

(4) After paragraph 5 insert—

"Meaning of "non-qualifying individual"

5A (1) In paragraph 5 "non-qualifying individual", in relation to a chargeable transaction, means any of the following—

(a) the purchaser (other than a purchaser entering into the transaction as a member of a partnership);

(b) a purchaser who enters into the transaction as a member of a partnership and has a major share in the partnership,

(c) an individual (a "connected person") who is connected with the purchaser;

(d) a relevant settlor;

(e) the spouse or civil partner of a connected person or of a relevant settlor;

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(f) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor;

(g) a relative of the spouse or civil partner of a connected person or of a relevant settlor;

(h) the spouse or civil partner of a person falling within paragraph (g);

(i) an individual who is a major participant in a relevant collective investment scheme or is connected with a major participant in a relevant collective investment scheme.

(2) A member of a partnership has a "major share" in the partnership if the member is entitled to a 50% or greater share—

(a) in the income profits of the partnership, or

(b) in the partnership's assets.

(3) A collective investment scheme is a "relevant collective investment scheme" for the purposes of sub-paragraph (1)(i) if the purchaser under the chargeable transaction referred to in that sub-paragraph acquires the subject-matter of the transaction for the purposes of that scheme.

(4) An individual who participates in a collective investment scheme is a "major participant" in the scheme if the individual—

(a) is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or income arising from the scheme that may be distributed to participants, or

(b) would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.

(5) The reference in sub-paragraph (4)(a) to profits or income arising from a collective investment scheme is to profits or income arising from the acquisition, holding, management or disposal of the property subject to the scheme.

(6) In this paragraph—

"participant", in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000;

"relative" means brother, sister, ancestor or lineal descendant;

"relevant settlor", in relation to a chargeable transaction, means an individual who is a settlor in relation to a relevant settlement (as defined in sub-paragraph (7));

"settlement" has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).

(7) Where a person, in the capacity of trustee of a settlement, is connected with a person who is the purchaser under a chargeable transaction, that settlement is a "relevant settlement" in relation to the chargeable transaction.

(8) In sub-paragraph (7) "trustee" is to be read in accordance with section 1123(3) of CTA 2010 ("connected persons": supplementary).

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(9) In this paragraph "the purchaser", in relation to a chargeable transaction, is to be read as a reference to any of the purchasers (if there are more than one).

(10) Section 1122 of the Corporation Tax Act 2010 (connected persons) has effect for the purposes of this paragraph, but for those purposes—

(a) subsections (7) and (8) of that section (application of rules about connected persons to partnerships) are to be disregarded, and

(b) subsections (2) to (7) of section 172 of the Finance Act 2013 apply as they apply for the purposes of Part 3 of that Act.

Trades involving making a dwelling available to the public

5B (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions in sub-paragraph (2) are met.

(2) The conditions are that—

(a) the higher threshold interest is acquired with the intention that it will be exploited as a source of income in the course of a qualifying trade, and

(b) reasonable commercial plans have been formulated to carry out that intention without delay (except so far as delay may be justified by commercial considerations or cannot be avoided).

(3) "Qualifying trade", in relation to a higher threshold interest, means a trade that—

(a) is carried on on a commercial basis and with a view to profit, and

(b) involves, in its normal course, offering the public the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade on at least 28 days in any calendar year.

(4) For the purposes of sub-paragraph (3), persons are not considered to have the opportunity to make use of, stay in or otherwise enjoy a dwelling unless the areas that they have the opportunity to make use of, stay in or otherwise enjoy include a significant part of the interior of the dwelling.

(5) The size (relative to the size of the whole dwelling), nature and function of any relevant area or areas in a dwelling are taken into account in determining whether they form a significant part of the interior of the dwelling.

Financial institutions acquiring dwellings in the course of lending

5C (1) Sub-paragraph (2) applies to a chargeable transaction if the purchaser is a financial institution carrying on a business that involves the lending of money.

(2) Paragraph 3 does not apply to the chargeable transaction so far as its subject-matter consists of a higher threshold interest that is acquired in the course of that business—

(a) for the purpose of resale in the course of the business and,

(b) in connection with those lending activities.

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Dwellings for occupation by certain employees etc

5D (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions in sub-paragraph (2) are met. Those conditions can only be met if the purchaser, or a relevant group member, carries on or is to carry on a relievable trade.

(2) The conditions are that—

(a) the interest is acquired for the purpose of making the dwelling available to one or more qualifying employees or qualifying partners for use as living accommodation, and

(b) the dwelling is to be made available as mentioned in paragraph (a) for purposes that are solely or mainly purposes of the relievable trade.

(3) For the purposes of the relief under this paragraph it does not matter whether or not the individuals mentioned in sub-paragraph (2)(a) are identified at the time of the chargeable transaction.

(4) "Relievable trade" means a trade that is carried on on a commercial basis and with a view to profit.

(5) In this paragraph references to making a dwelling available to a qualifying employee or qualifying partner include making it available to persons who are to share the accommodation with a qualifying employee or qualifying partner as that individual's family.

(6) Where the purchaser is a company, "relevant group member" means a company which is a member of the same group of companies as the purchaser for the purposes mentioned in paragraph 1(2) of Schedule 7 (group relief).

More about the condition in paragraph 5D(2)(a)

5E (1) In a case where the person carrying on the relievable trade mentioned in paragraph 5D(1) carries it on in partnership with one or more other persons, "qualifying partner" means any individual who is a member of the partnership.

(2) "Qualifying employee" means an individual employed for the purposes of the qualifying trade.

(3) In a case falling within sub-paragraph (1), the condition in paragraph 5D(2)(a) is taken not to be met if the individuals, or a class of individuals, to whom it is proposed to make the dwelling available for use as living accommodation include, or are likely to include, a member of the partnership who is (or will at the relevant time be) entitled to a 10% or greater share—

(a) in the income profits of the partnership, or

(b) in any company beneficially entitled to the higher threshold interest mentioned in paragraph 5D(1), or

(c) in that higher threshold interest.

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(4) In addition, the condition in paragraph 5D(2)(a) is taken not to be met if the individuals, or a class of individuals, to whom it is proposed to make the dwelling available for use as living accommodation include, or are likely to include, an individual employed for the purposes of the trade in question who is (or will at the relevant time be)—

(a) entitled to a 10% or greater share—

(i) in the income profits of the trade, or

(ii) in any company that is beneficially entitled to the higher threshold interest, or

(iii) in that higher threshold interest, or

(b) employed to provide excluded domestic services.

(5) The reference in sub-paragraph (4)(b) to an individual employed to provide excluded domestic services is to an individual the duties of whose employment include the provision of services in connection with the (actual or intended) occupation, by an individual to whom sub-paragraph (6) applies, of the dwelling mentioned in paragraph 5D(2)(a) ("the relevant dwelling"), or a linked dwelling.

(6) This sub-paragraph applies to any individual who is connected with a person who is or is to be beneficially entitled to the higher threshold interest.

(7) The following are "linked" dwellings for the purposes of sub-paragraph (5)—

(a) if the conditions in section 116(2) of the Finance Act 2013 are met in relation to the relevant dwelling and another dwelling, that other dwelling;

(b) a dwelling that is linked to the relevant dwelling, as described in section 117(1) of the Finance Act 2013.

(8) For the purposes of sub-paragraphs (3)(c) and (4)(a) persons who are entitled to a chargeable interest as beneficial joint tenants (or, in Scotland, as joint owners) are taken to be entitled to the chargeable interest as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.

(9) Section 147 of the Finance Act 2013 (meaning of "10% or greater share in a company") applies for the purposes of this paragraph as for the purposes of section 146 of that Act.

(10) In this paragraph references to employment include the holding of an office.

Farmhouses

5F (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in or over a dwelling—

(a) that is, or is to be, a farmhouse, and

(b) in relation to which the conditions in sub-paragraph (3) are met.

(2) The reference in sub-paragraph (1) to a dwelling that "is or is to be a farmhouse" is to a dwelling that forms part of land that is to be occupied, or to continue to be occupied, for the purposes of a qualifying trade of farming.

(3) The conditions are that—

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(a) the dwelling is to be occupied for the purposes of that trade by a qualifying farm worker,

(b) reasonable commercial plans have been formulated under which such occupation is either to continue from the effective date of the chargeable transaction or to begin without delay (except so far as delay may be justified by commercial considerations or cannot be avoided), and

(c) occupation of the farmhouse by a qualifying farm worker is then expected to continue as part of the normal way in which the trade is, or is to be, carried on.

(4) In sub-paragraph (3) "qualifying farm worker" means an individual who occupies the dwelling for the purposes of the trade mentioned in that sub-paragraph and has a substantial involvement—

(a) in the day-to-day work of the trade, or

(b) in the direction and control of the conduct of the trade.

(5) "Qualifying trade of farming" means a trade of farming that is carried on—

(a) on a commercial basis, and

(b) with a view to profit.

(6) A person occupying part of a dwelling is regarded as occupying the dwelling for the purposes of this paragraph.

(7) In this paragraph—

(a) "farming" has the same meaning as in the Corporation Tax Acts (see section 1125 of CTA 2010), except that in this paragraph "farming" includes market gardening;

(b) "market gardening" has the same meaning as in the Corporation Tax Acts (see section 1125(5) of CTA 2010).

Withdrawal of relief

5G (1) Sub-paragraph (2) applies where relief under paragraph 5 has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.

(2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction ("the control period") a requirement in sub-paragraph (3) is not met.

(3) The requirements are that—

(a) the higher threshold interest (if still held by the purchaser) is held exclusively for one or more of the purposes mentioned in paragraph 5(1),

(b) any chargeable interest derived from the higher threshold interest that may be held by the purchaser is held exclusively for one or more of those purposes, and

(c) (if the higher threshold interest or a chargeable interest derived from it is held by the purchaser) no non-qualifying individual is permitted to occupy the dwelling.

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(4) The requirements in sub-paragraph (3)(a) and (b) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect the purposes for which the higher threshold interest was acquired to be carried out.

(5) Sub-paragraph (6) applies if a higher threshold interest was acquired for a purpose mentioned in paragraph 5(1) but at some time in the control period the activity in question (for instance, exploitation of the interest as mentioned in paragraph 5(1)(a))—

(a) has not yet begun, or

(b) has ceased.

(6) For the purposes of sub-paragraph (3), the interest is taken to be held for the purpose in question only if reasonable steps are being taken to ensure that the purpose in question is carried out.

(7) In this paragraph "non-qualifying individual" (in relation to the chargeable transaction mentioned in sub-paragraph (1)) has the meaning given by paragraph 5A.

5H (1) This paragraph applies where relief under paragraph 5B (trades involving making a dwelling open to the public) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.

(2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction ("the control period") a requirement in sub-paragraph (3) is not met.

(3) The requirements are that—

(a) the higher threshold interest (if still held by the purchaser), is being exploited as a source of income in the course of a qualifying trade, and

(b) any chargeable interest derived from that interest that may be held by the purchaser is being exploited as mentioned in paragraph (a).

(4) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect the chargeable interest concerned to be exploited in the manner specified.

(5) Sub-paragraph (6) applies if at some time in the control period the higher threshold interest, or a chargeable interest derived from it—

(a) has not begun to be exploited as mentioned in sub-paragraph (3), or

(b) has ceased to be so exploited.

(6) The requirements in sub-paragraph (3) are treated as being met if reasonable steps are being taken to ensure that the chargeable interest in question begins to be exploited as mentioned in that sub-paragraph, or that such exploitation of the interest is resumed.

5I (1) This paragraph applies where relief under paragraph 5C (financial institutions acquiring dwellings in the course of lending) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.

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(2) The relief is withdrawn if any requirement in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction ("the control period") (but see sub-paragraphs (4) and (5)).

(3) The requirements are that—

(a) the purchaser continues to be a financial institution carrying on a business that involves the lending of money, and

(b) the interest is held for the purpose of resale in the course of the business.

(4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—

(a) the higher threshold interest, or

(b) a chargeable interest that is derived from the higher threshold interest.

(5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect those requirements to be met.

5J (1) This paragraph applies where relief under paragraph 5D (dwellings for occupation by certain employees etc) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.

(2) The relief is withdrawn if any requirement in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction ("the control period") (but see sub-paragraphs (4) and (5)).

(3) The requirements are that—

(a) the purchaser, or a relevant group member (as defined in paragraph 5D(6)), carries on a trade on a commercial basis and with a view to profit,

(b) the dwelling is made available as mentioned in paragraph 5D(2)(a), and

(c) the dwelling is made so available for purposes that are solely or mainly purposes of the trade mentioned in paragraph (a) of this sub-paragraph.

(4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—

(a) the higher threshold interest, or

(b) a chargeable interest that is derived from the higher threshold interest.

(5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect those requirements to be met.

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(6) Sub-paragraph (7) applies if at some time in the control period the dwelling—

(a) has not begun to be made available as mentioned in sub-paragraph (3)(b) and (c), or

(b) has ceased to be so made available.

(7) The requirements in paragraphs (b) and (c) of sub-paragraph (3) are treated as being met if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, available as mentioned in those paragraphs.

5K (1) This paragraph applies where relief under paragraph 5F (farmhouses) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.

(2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction ("the control period") the requirements in sub-paragraph (3) are not met (but see sub-paragraphs (4) and (5)).

(3) The requirements are that—

(a) the land mentioned in paragraph 5F(2) is occupied for the purposes of a qualifying trade of farming, and

(b) the dwelling is occupied for the purposes of that trade by a qualifying farm worker.

(4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—

(a) the higher threshold interest, or

(b) a chargeable interest that is derived from the higher threshold interest.

(5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect those requirements to be met.

(6) Sub-paragraph (7) applies if at some time in the control period a requirement in sub-paragraph (3)—

(a) has not begun to be met, or

(b) has ceased to be met.

(7) The requirement is treated as being met if reasonable steps are being taken to ensure that the requirement begins to be met, or is again met."

(5) After paragraph 6 insert—

"Modifications for cases involving alternative finance arrangements

6A (1) This paragraph applies where—

(a) section 71A (land sold to financial institution and leased to person), section 72 (land in Scotland sold to financial institution and leased to person) or section 73 (land sold to financial institution and re-sold to person) applies, and

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(b) the major interest in land purchased under the first transaction consists of or includes a higher threshold interest.

(2) In this paragraph "the first transaction" means—

(a) where section 71A applies, the transaction mentioned in section 71A(1)(a);

(b) where section 72 applies, the transaction mentioned in section 72(1)(a);

(c) where section 73 applies, the transaction mentioned in section 73(1)(a)(i).

(3) The condition in paragraph 3(3) is treated as being met with respect to the first transaction only if that condition is met with respect to the second transaction.

(4) If the second transaction would qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) and 5F(1) (disregarding the exemptions in sections 71A(3), 72(3) and 73(3) and assuming, for this purpose, that the subject-matter of the second transaction is a higher threshold interest), the first transaction is taken to qualify for relief under the same provision (and accordingly paragraph 3 does not apply in relation to the first transaction).

(5) The first transaction does not qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) or 5F(1) except in accordance with sub-paragraph (4).

(6) In this paragraph "the second transaction" has the same meaning as in section 71A, 72 or 73 (as the case requires).

6B (1) This paragraph applies where section 72A (land in Scotland sold to financial institution and person in common) applies and the major interest in land purchased under the transaction mentioned in section 72A(1)(a) ("the first transaction") consists of or includes a higher threshold interest.

(2) In determining whether or not the first transaction meets the condition in paragraph 3(3) it is to be assumed that the financial institution referred to in section 72A(1) is not one of the persons acquiring the major interest in land under that transaction.

(3) Paragraphs 5 to 5F have effect in relation to the first transaction as they would have effect if the financial institution were not a purchaser under that transaction.

Paragraphs 6A and 6B: application where transaction is split under paragraph 2(3)

6C (1) Where paragraph 6A or 6B ("the modifying paragraph") applies and the first transaction (within the meaning of that paragraph) is treated under paragraph 2(3) as two separate chargeable transactions, references in the modifying paragraph to the first transaction include those separate transactions.

(2) If the subject-matter of the second transaction (within the meaning of paragraph 6A) includes a chargeable interest other than a higher threshold interest, that fact is ignored in determining for the purposes of paragraph 6A—

(a) whether that transaction meets the condition in paragraph 3(3), or

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(b) whether it would qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) and 5F(1).

Alternative finance arrangements: withdrawal of relief

6D (1) This paragraph applies where relief under paragraph 5 (businesses of letting, trading in or redeveloping properties) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.

(2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the first transaction ("the control period") a relevant requirement is not met.

(3) The relevant requirements are that—

(a) any relevant interest (see sub-paragraphs (5) and (6)) held by the relevant person is held by that person exclusively for one or more of the purposes mentioned in paragraph 5(1), and

(b) (if a relevant interest is held by the relevant person) no non-qualifying individual is permitted to occupy the dwelling.

(4) For the purposes of sub-paragraph (3)(a) and (b) it does not matter whether the relevant interest is held by the relevant person—

(a) jointly or (in Scotland) in common, or

(b) otherwise.

(5) In relation to relief allowed in accordance with sub-paragraph 6A(4), "relevant interest" means any of the following—

(a) the interest acquired under the second transaction (within the meaning of paragraph 6A);

(b) any interest transferred to the relevant person as a result of the exercise of the right mentioned in section 71A(1)(d) or 72(1)(c);

(c) any chargeable interest derived from an interest such as is mentioned in paragraph (a) or (b).

(6) In relation to relief allowed in accordance with paragraph 6B(3), "relevant interest" means any of the following—

(a) the interest purchased under the first transaction (within the meaning of paragraph 6B);

(b) any interest transferred to the relevant person as a result of the exercise of the right mentioned in section 72A(1)(c);

(c) any chargeable interest derived from an interest such as is mentioned in paragraph (a) or (b).

(7) In this paragraph—

"non-qualifying individual" (in relation to the chargeable transaction mentioned in sub-paragraph (1)) has the meaning given by paragraph 5A;

"the relevant person" means the person (other than the financial institution) who entered into the arrangements in question as mentioned in section 71A(1), 72(1), 72A(1) or 73(1).

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6E (1) The requirement in paragraph 6D(3)(a) does not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person's control, it is not reasonable to expect the interest in question to be held for the purpose for which the relevant person acquired that person's initial interest.

(2) Sub-paragraph (3) applies if the relevant person's initial interest was acquired by the relevant person for a purpose mentioned in paragraph 5(1), but at some time in the control period the activity in question (for instance, exploitation as mentioned in paragraph 5(1)(a))—

(a) has not begun in the case of a relevant interest, or

(b) has ceased in the case of a relevant interest.

(3) For the purposes of paragraph 6D(3)(a) the relevant interest is taken to be held for the purpose in question only if reasonable steps are being taken to ensure that the purpose in question is carried out.

(4) In this paragraph—

(a) "the control period", "relevant interest" and "the relevant person" have the same meaning as in paragraph 6D;

(b) references to the relevant person's "initial interest" are to the interest mentioned in sub-paragraph (5)(a) or (6)(a) of paragraph 6D (as the case requires).

6F (1) This paragraph applies where relief under paragraph 5B (trades involving making a dwelling open to the public) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.

(2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the first transaction ("the control period") the requirement in sub-paragraph (3) is not met.

(3) The requirement is that the dwelling is being exploited as a source of income in the course of a qualifying trade.

(4) The requirement in sub-paragraph (3) does not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person's control, it is not reasonable to expect the interest in question to be exploited as mentioned in that sub-paragraph.

(5) Sub-paragraph (6) applies if at some time in the control period that person—

(a) has not begun to exploit the interest as a source of income in the course of a relevant trade, or

(b) has ceased so to exploit it.

(6) The requirement in sub-paragraph (3) is treated as being met if reasonable steps are being taken to ensure that the relevant interest begins to be exploited as mentioned in that sub-paragraph, or that such exploitation of the interest is resumed.

(7) In this paragraph—

(a) "the relevant person" means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1), 72(1), 72A(1) or 73(1);

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(b) references to a major interest in land include an undivided share in a major interest in land.

6G (1) This paragraph applies where relief under paragraph 5D (dwellings for occupation by certain employees etc) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.

(2) The relief is withdrawn if at any time in the control period when the relevant person holds a relevant interest (whether jointly, or in common, or otherwise) any requirement in sub-paragraph (4) is not met.

(3) In sub-paragraph (2) "the control period" means the three years beginning with the effective date of the first transaction.

(4) The requirements are that—

(a) the relevant person, or a relevant group member, carries on a qualifying trade,

(b) the dwelling is made available as mentioned in paragraph 5D(2)(a), and

(c) the dwelling is made so available for purposes that are solely or mainly purposes of the trade mentioned in sub-paragraph (a).

(5) The requirements in sub-paragraph (4) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person's control, it is not reasonable to expect those requirements to be met.

(6) Sub-paragraph (7) applies if at some time in the control period the relevant interest—

(a) has not begun to be made available as mentioned in sub-paragraph (4)(b) and (c), or

(b) has ceased to be so made available.

(7) The requirements in paragraphs (b) and (c) of sub-paragraph (4) are treated as being met if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, made available as mentioned in those paragraphs.

(8) Where the relevant person is a company, "relevant group member" means a company which is a member of the same group of companies as the relevant person for the purposes mentioned in paragraph 1(2) of Schedule 7.

(9) In this paragraph—

(a) "relevant interest" has the same meaning as in paragraph 6D;

(b) "the relevant person" means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1), 72(1), 72A(1) or 73(1);

(c) references to a major interest in land include an undivided share in a major interest in land.

6H (1) This paragraph applies where relief under paragraph 5F (farmhouses) has been allowed, in accordance with paragraph 6A(4) or 6B(3), in relation to the purchase of a major interest in land.

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(2) The relief is withdrawn if at any time in the control period when the relevant person holds a relevant interest (whether jointly, or in common, or otherwise) any requirement in sub-paragraph (4) is not met.

(3) In sub-paragraph (2) "the control period" means the three years beginning with the effective date of the first transaction.

(4) The requirements are that—

(a) the land mentioned in paragraph 5F(2) is occupied for the purposes of a qualifying trade of farming, and

(b) the dwelling is occupied for the purposes of that trade by a qualifying farm worker.

(5) The requirements in sub-paragraph (4) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person's control, it is not reasonable to expect those requirements to be met.

(6) Sub-paragraph (7) applies if at some time in the control period a requirement in sub-paragraph (4)—

(a) has not begun to be met, or

(b) has ceased to be met.

(7) The requirement is treated as being met if reasonable steps are being taken to ensure that the requirement begins to be met, or is again met.

(8) In this paragraph—

(a) "the relevant interest" has the same meaning as in paragraph 6D;

(b) "the relevant person" means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1), 72(1), 72A(1) or 73(1);

(c) references to a major interest in land include an undivided share in a major interest in land."

(6) In paragraph 9 (interpretation), at the appropriate places insert—

""financial institution" has the same meaning as in sections 71A to 73B (see section 73BA);"

""property development trade" has the meaning given by paragraph 5(3);"

""property rental business" has the meaning given by section 133(4) of the Finance Act 2013;"

""property trading business" has the meaning given by paragraph 5(3);"

""qualifying farm worker" has the meaning given by paragraph 5F(4);"

""qualifying trade" has the meaning given by paragraph 5B(3);"

""qualifying trade of farming" has the meaning given by paragraph 5F(5);".

Minor and consequential amendments

3 (1) Section 81 (further return where relief withdrawn) is amended as follows.

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(2) After subsection (1) insert—

"(1A) Where relief is withdrawn to any extent under any of paragraphs 5G to 5K of Schedule 4A (higher rate for certain transactions) the purchaser must deliver a further return before the end of the period of 30 days after the relevant date.

(1B) In subsection (1A) "the relevant date" means—

(a) in the case of relief under paragraph 5 of Schedule 4A (businesses of letting, trading in or redeveloping properties), the first day in the period mentioned in paragraph 5G(2) on which a requirement under paragraph 5G(3) was not met in the case of the chargeable interest in question;

(b) in the case of relief under paragraph 5B of that Schedule (trades involving making a dwelling available to the public), the first day in the period mentioned in paragraph 5H(2) on which a requirement under paragraph 5H(3) was not met in the case of the chargeable interest in question;

(c) in the case of relief under paragraph 5C of that Schedule (financial institutions acquiring dwellings in the course of lending), the first day in the period mentioned in paragraph 5I(2) on which a requirement under paragraph 5I(3) was not met in the case of the chargeable interest in question;

(d) in the case of relief under paragraph 5D of that Schedule (dwellings for occupation by certain employees etc), the first day in the period mentioned in paragraph 5J(2) on which a requirement under paragraph 5J(3) was not met in the case of the chargeable interest in question;

(e) in the case of relief under paragraph 5F of that Schedule (farmhouses), the first day in the period mentioned in paragraph 5K(2) on which a requirement under paragraph 5K(3) was not met in the case of the chargeable interest in question."

(3) In subsection (2A), for "Tax" substitute " Where subsection (1) applies any tax ".

(4) In subsection (3) for "this section" substitute " subsection (1) ".

(5) After subsection (4) insert—

"(5) The provisions of Schedule 10 apply to a return under subsection (1A) as they apply to a return under section 76, but with the adaptation that references to the effective date of the transaction are to be read as references to the relevant date (as defined in subsection (1B))."

4 After section 81 insert—

"**81ZA Alternative finance arrangements: return where relief withdrawn**

(1) Where relief given in respect of a transaction entered into under alternative finance arrangements is withdrawn to any extent under any of paragraphs 6D, 6F, 6G or 6H of Schedule 4A (higher rate of tax: alternative finance arrangements)—

(a) the relevant person must deliver a return to HMRC before the end of the period of 30 days after the date of the disqualifying event;

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(b) the return must contain a self-assessment of the additional tax chargeable as a result of the withdrawal of the relief;

(c) the tax so chargeable is calculated by reference to the rates in force at the effective date of the transaction in respect of which the relief was allowed.

(2) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this section as they apply to a return under section 76 (general requirement to make land transaction return), but with the following adaptations—

(a) references to the effective date of the transaction are to be read as references to the date of the disqualifying event;

(b) references to the purchaser are to be read as references to the relevant person so far as that is necessary as a result of subsection (1) of this section or section 85(3) (payment of additional tax by relevant person where relief withdrawn).

(3) In this section "the date of the disqualifying event" means the first day in the control period on which a relevant requirement was not met.

(4) In subsection (3) "relevant requirement" means—

(a) where the relief was given under paragraph 5 of Schedule 4A (businesses of letting, trading in or redeveloping properties), a requirement under paragraph 5G(3) of that Schedule;

(b) where the relief was given under paragraph 5B of that Schedule (trades involving making a dwelling available to the public), a requirement under paragraph 5H(3) of that Schedule;

(c) where the relief was given under paragraph 5C of that Schedule (financial institutions acquiring dwellings in the course of lending), a requirement under paragraph 5I(3) of that Schedule;

(d) where the relief was given under paragraph 5D of that Schedule (dwellings for occupation by certain employees etc), a requirement under paragraph 5J(3) of that Schedule;

(e) where the relief was given under paragraph 5F of that Schedule (farmhouses), a requirement under paragraph 5K(3) of that Schedule.

(5) In subsection (3) "the control period" has the same meaning as in paragraph 5G, 5H, 5I, 5J or 5K (as the case requires) of Schedule 4A.

(6) In this section—

"alternative finance arrangements" means any arrangements such as are mentioned in section 71A, 72, 72A or 73;

"the relevant person" means the person (other than the financial institution) who entered into the arrangements in question."

5 In section 85 (liability for tax), after subsection (2) insert—

"(3) Where relief given in respect of a transaction entered into under alternative finance arrangements is withdrawn to any extent under any of paragraphs 6D, 6F, 6G and 6H of Schedule 4A (higher rate: alternative finance arrangements)—

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(a) subsection (1) does not apply in relation to the additional tax payable as a result of the withdrawal of the relief, and

(b) the relevant person is liable to pay that additional tax.

(4) In subsection (3) "the relevant person" means the person (other than the financial institution) who entered into the arrangements in question."

6 In section 86 (payment of tax), after subsection (2) insert—

"(2A) Tax payable as a result of a withdrawal of relief under any of paragraphs 6D, 6F, 6G and 6H of Schedule 4A (higher rate: alternative finance arrangements) must be paid not later than the filing date for the return relating to the withdrawal (see section 81ZA(1))."

7 In the table in section 122 (index of defined expressions), in second column of the entry for "settlement", after "paragraph 1(1)" insert " (except as otherwise expressly provided) ".

Application of amendments

8 The amendments made by paragraphs 1 to 7 have effect in relation to transactions with an effective date on or after the day on which this Act is passed.

Transactions to which section 29 of the Scotland Act 2012 applies

9 (1) In relation to transactions in relation to which section 29 of the Scotland Act 2012 (disapplication of UK stamp duty land tax) has effect, FA 2003 as amended by this Schedule has effect subject to the following further amendments.

(2) In section 81ZA, in subsection (6), in the definition of "alternative finance arrangements", omit "72, 72A".

(3) In Schedule 4A—

(a) in paragraph 6A—

(i) in sub-paragraph (1)(a), omit "section 72 (land in Scotland sold to financial institution and leased to person)",

(ii) omit sub-paragraph (2)(b),

(iii) in sub-paragraph (4), omit ", 72(3)", and

(iv) in sub-paragraph (6), omit ", 72",

(b) omit paragraph 6B,

(c) in paragraph 6C—

(i) in sub-paragraph (1), omit "or 6B ("the modifying paragraph")" and for "in the modifying paragraph" substitute " in paragraph 6A ", and

(ii) accordingly, in the heading omit "and 6B",

(d) in paragraph 6D—

(i) in sub-paragraph (1), omit "or 6B(3)",

(ii) in sub-paragraph (3)(a), omit "and (6)",

(iii) in sub-paragraph (5)(b), omit "or 72(1)(c)",

(iv) omit sub-paragraph (6), and

(v) in sub-paragraph (7), in the definition of "relevant person", omit ", 72(1), 72A(1)",

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(e) in paragraph 6E(4)(b), for "sub-paragraph (5)(a) or (6)(a) of paragraph 6D (as the case requires)" substitute " paragraph 6D(5)(a) ",

(f) in paragraph 6F—

(i) in sub-paragraph (1), omit "or 6B(3)", and

(ii) in sub-paragraph (7)(a), omit ", 72(1), 72A(1)",

(g) in paragraph 6G—

(i) in sub-paragraph (1), omit "or 6B(3)", and

(ii) in sub-paragraph (9)(b), omit "72(1), 72A(1)", and

(h) in paragraph 6H—

(i) in sub-paragraph (1), omit "or 6B(3), and

(ii) in sub-paragraph (8)(b), omit "72(1), 72A(1)".

SCHEDULE 41

Section 197

STAMP DUTY LAND TAX ON LEASES

Introduction

1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

Leases that continue after a fixed term

2 (1) In Schedule 17A (further provisions about leases), paragraph 3 (leases that continue after a fixed term) is amended as follows.

(2) In sub-paragraph (3)—

(a) after "continuation of the lease" insert " for a period (or further period) of one year ", and

(b) in paragraph (a), for "that term" substitute " that one year period ".

(3) After that sub-paragraph insert—

"(3A) But no tax or additional tax is payable in respect of a transaction as a result of the continuation of a lease for a period (or further period) of one year under sub-paragraph (2) if, during that one year period, the tenant under the lease is granted a new lease of the same or substantially the same premises in circumstances where paragraph 9A applies."

(4) After sub-paragraph (3A) insert—

"(3B) Sub-paragraph (2) is subject to paragraph 3A."

(5) In sub-paragraph (4), for the words from "the day" to the end substitute " the last day of the one year period for which the lease is continued or (as the case may be) further continued. "

(6) After sub-paragraph (5) insert—

"(6) Where—

(a) a lease would be treated as continuing for a period (or further period) of one year under sub-paragraph (2), but

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(b) (ignoring that sub-paragraph) the lease actually terminates at a time during that period,

the lease is to be treated as continuing under sub-paragraph (2) only until that time; and the references in sub-paragraphs (3) and (4) to that one year period are accordingly to be read as references to so much of that year as ends with that time."

3 After that paragraph insert—

"3A (1) This paragraph applies where—

(a) (ignoring this paragraph) paragraph 3 would apply to treat a lease ("the original lease") as if it were a lease for a fixed term one year longer than the original term,

(b) during that one year period the tenant under that lease is granted a new lease of the same or substantially the same premises,

(c) the term of the new lease begins during that one year period, and

(d) paragraph 9A (backdated lease granted to tenant holding over) does not apply.

(2) Paragraph 3 does not apply to treat the lease as continuing after the original term.

(3) The term of the new lease is treated for the purposes of this Part as beginning immediately after the original term.

(4) Any rent which, in the absence of this paragraph, would be payable under the original lease in respect of that one year period is to be treated as payable under the new lease (and paragraph 1A of Schedule 5 does not apply to it).

(5) Where the fixed term of a lease has previously been extended (on one or more occasions) under paragraph 3, this paragraph applies as if references to the original term were references to the fixed term as previously so extended."

4 In section 87 (interest on unpaid tax), in subsection (3)—

(a) after paragraph (aa) insert—

"(aaa) in the case of an amount payable under paragraph 3(3) of Schedule 17A (leases that continue after a fixed term) by reason of the continuation of a lease for a period (or further period) under paragraph 3(2) or (6) of that Schedule, the final day of the period (or further period)," and

(b) in paragraph (ab) omit "3(3) or" and "leases that continue after a fixed term and".

5 In section 119 (meaning of "effective date" of a transaction), in subsection (2), at the appropriate place in the list insert— " paragraph 3(4) of Schedule 17A (leases that continue after a fixed term), ".

Agreement for lease and assignment of agreement for lease

6 (1) Schedule 17A is amended as follows.

(2) In paragraph 12A (agreement for lease), for sub-paragraph (3) substitute—

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"(3) Where a lease ("the actual lease") is subsequently granted in pursuance of the agreement, the notional lease is to be treated for the purposes of this Part as if it were a lease granted—

(a) on the date the agreement was substantially performed,

(b) for a term which begins with that date and ends at the end of the term of the actual lease, and

(c) in consideration of the total rent payable over that term and any other consideration given for the notional lease or the actual lease.

(3A) Where sub-paragraph (3) applies the grant of the actual lease is disregarded for the purposes of this Part except section 81A (return or further return in consequence of later linked transaction).

(3B) For the purposes of section 81A—

(a) the grant of the notional lease and the grant of the actual lease are linked (whether or not they would be linked by virtue of section 108),

(b) the lessee under the actual lease (rather than the lessee under the notional lease) is liable for any tax or additional tax payable in respect of the notional lease as a result of sub-paragraph (3), and

(c) the reference in section 81A(1)(a) to "the purchaser under the earlier transaction" is to be read, in relation to the notional lease, as a reference to the lessee under the actual lease."

(3) In paragraph 19 (missives of let)—

(a) for sub-paragraph (2) substitute—

"(2) Where in Scotland there is a lease constituted by concluded missives of let ("the first lease") and at some later time a lease is executed ("the second lease"), the first lease is to be treated for the purposes of this Part as if it were a lease granted—

(a) on the date the missives of let were concluded,

(b) for a period which begins with that date and ends at the end of the period of the second lease, and

(c) in consideration of the total rent payable over that period and any other consideration given for the first lease or the second lease.

(2A) Where sub-paragraph (2) applies the grant of the second lease is disregarded for the purposes of this Part except section 81A (return or further return in consequence of later linked transaction).

(2B) For the purposes of section 81A—

(a) the grant of the first lease and the grant of the second lease are linked (whether or not they would be linked by virtue of section 108),

(b) the lessee under the second lease (rather than the lessee under the first lease) is liable for any tax or additional tax payable in respect of the first lease lease as a result of sub-paragraph (2), and

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(c) the reference in section 81A(1)(a) to "the purchaser under the earlier transaction" is to be read, in relation to the first lease, as a reference to the lessee under the second lease.",

(b) for sub-paragraph (4) substitute—

"(4) Where sub-paragraph (3) applies and at some later time a lease ("the actual lease") is executed, this Part applies as if the notional lease were a lease granted—

(a) on the date the agreement was substantially performed,

(b) for a period which begins with that date and ends at the end of the period of the actual lease, and

(c) in consideration of the total rent payable over that period and any other consideration given for the agreement or the actual lease.

(4A) Where sub-paragraph (4) applies the grant of the second lease is disregarded for the purposes of this Part except section 81A (return or further return in consequence of later linked transaction)."

(4B) For the purposes of section 81A—

(a) the grant of the notional lease and the grant of the actual lease are linked (whether or not they would be linked by virtue of section 108),

(b) the lessee under the actual lease (rather than the lessee under the notional lease) is liable for any tax or additional tax payable in respect of the notional lease as a result of sub-paragraph (4), and

(c) the reference in section 81A(1)(a) to "the purchaser under the earlier transaction" is to be read, in relation to the notional lease, as a reference to the lessee under the actual lease."

(4) Accordingly, in Schedule 25 to FA 2006, paragraphs 4 and 5 are omitted.

Abnormal rent increases

7 (1) In Schedule 17A, omit paragraphs 14 and 15 (abnormal increases in rent after fifth year).

(2) Accordingly, the following are also repealed—

(a) in Schedule 25 to FA 2006, paragraphs 7, 8 and 9(5), and

(b) in Schedule 3 to the Scotland Act 2012, paragraph 27(9).

Commencement

8 (1) The amendments made by paragraph 2(2), (3), (5) and (6) have effect in relation to any one year period for which a lease is continued, or further continued, which begins on or after the commencement day (including any period which would be one year but for paragraph 3(6) of Schedule 17A to FA 2003).

(2) The amendments made by paragraphs 2(4), 3 and 5 have effect if the one year period mentioned in paragraph 3A(1)(b) of Schedule 17A to FA 2003 begins on or after the commencement day.

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(3) The amendments made by paragraph 4 have effect in relation to amounts payable in consequence of any period for which a lease is continued, or further continued, which begins on or after the commencement day.

(4) The amendments made by paragraph 6 have effect if the effective date of the actual lease or, as the case may be, second lease falls on or after the commencement day.

(5) The amendments made by paragraph 7 have effect in relation to any increase in rent that takes effect on or after the commencement day.

(6) "The commencement day" means the day on which this Act is passed.

SCHEDULE 42

Section 200

CLIMATE CHANGE LEVY: SUPPLIES SUBJECT TO CARBON PRICE SUPPORT RATES ETC

PART 1

EARLIER PROVISION NOT TO HAVE EFFECT

1 (1) On and after 26 March 2013, Schedule 6 to FA 2000 (climate change levy) has effect as if neither—

(a) Schedule 20 to FA 2011, nor

(b) Parts 1 and 2 of Schedule 32 to FA 2012,

had ever been enacted.

(2) Accordingly—

(a) in FA 2011, section 78 and Schedule 20 are omitted, and

(b) in FA 2012, Parts 1 and 2 of Schedule 32 are omitted.

(3) The amendments made by sub-paragraph (2) are treated as having come into force on 26 March 2013.

PART 2

NEW PROVISION HAVING EFFECT FROM 1 APRIL 2013

New provision

2 Schedule 6 to FA 2000 (climate change levy) is amended as follows.

3 In paragraph 4 (definition of "taxable supply") in sub-paragraph (2)(b) after "24" insert " , 24A, 24B, 24C, 42D ".

4 In paragraph 5 (supplies of electricity) after sub-paragraph (2) insert—

"(2A) Levy is chargeable on a supply of electricity if—

(a) the supply is made by an exempt unlicensed electricity supplier who is an auto-generator or who is of a description prescribed by regulations made by the Treasury,

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(b) the electricity was produced in a generating station owned by the supplier using commodities which were the subject of a deemed supply under paragraph 24A or which would have been the subject of such a supply had the reference in paragraph 24A(1)(a) to Great Britain been a reference to the United Kingdom instead,

(c) the supply is not a deemed supply under paragraph 23(3), and

(d) the person to whom the supply is made is not an electricity utility."

5 In paragraph 6 (supplies of gas) in sub-paragraph (2A) after "24" insert " , 24A, 24B, 24C, 42D ".

6 (1) Paragraph 14 (exemption for supplies to electricity producers) is amended as follows.

(2) In sub-paragraphs (2)(b) and (3)(b) after "electricity" insert " in a small generating station ".

(3) After sub-paragraph (3) insert—

"(3ZA) Sub-paragraph (1) does not exempt a supply where the person to whom the supply is made—

(a) uses the commodity supplied in producing electricity in a stand-by generator, and

(b) uses the electricity produced otherwise than in exemption-retaining ways."

(4) After sub-paragraph (3A) insert—

"(3B) Paragraph 24A makes provision under which carbon price support rate commodities intended to be used in a generating station may be the subject of a deemed taxable supply (and, accordingly, this paragraph needs to be read subject to that paragraph)."

(5) Omit sub-paragraphs (4) and (5).

7 In paragraph 15 (exemption for supplies to combined heat and power stations) after sub-paragraph (4) insert—

"(4A) Paragraph 24B makes provision under which carbon price support rate commodities intended to be used in a combined heat and power station may be the subject of a deemed taxable supply (and, accordingly, this paragraph needs to be read subject to that paragraph)."

8 (1) Paragraph 17 (exemption: self-supplies by electricity producers) is amended as follows.

(2) After sub-paragraph (1) insert—

"(1A) The supply is exempt from levy if it is a supply of electricity produced in—

(a) a fully exempt combined heat and power station,

(b) a partly exempt combined heat and power station,

(c) a stand-by generator, or

(d) a small generating station.

(1B) Sub-paragraph (1A)(d) applies only if the producer is—

(a) an auto-generator, or

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(b) an exempt unlicensed electricity supplier of a description prescribed by regulations made by the Treasury."

(3) In sub-paragraph (2) for the words from "If" to "unless—" substitute " This paragraph does not exempt the supply if— ".

(4) Omit sub-paragraphs (3) and (4).

9 In paragraph 21 (regulations to avoid double charges to levy) after sub-paragraph (2) insert—

"(2A) In sub-paragraph (2)(b) "taxable supply" does not include a deemed supply under paragraph 24A, 24B, 24C or 42D."

10 In Part 2 after paragraph 24 insert—

"Deemed taxable supply: commodities to be used in producing electricity

24A (1) Sub-paragraph (2) applies if—

(a) a quantity of a carbon price support rate commodity is brought onto, or arrives at, a site in Great Britain at which a generating station is situated,

(b) that quantity of the commodity is intended to be used for producing electricity in the station,

(c) the station is neither a fully exempt combined heat and power station nor a partly exempt combined heat and power station, and

(d) the station is neither a small generating station nor a stand-by generator.

(2) For the purposes of this Schedule the owner of the station is deemed to make a taxable supply to himself of that quantity of the commodity.

(3) In sub-paragraph (1)(a) the reference to a commodity being brought onto, or arriving at, a site covers (in particular) gas in a gaseous state arriving at the site through a pipe.

(4) For the purposes of sub-paragraph (1) it does not matter—

(a) if the quantity of the commodity is not the subject of an actual supply made to the owner of the station, or

(b) if the commodity's availability for use in the station is subject to any condition.

Deemed taxable supply: commodities to be used in combined heat and power station

24B (1) Sub-paragraph (2) applies if—

(a) a quantity of a carbon price support rate commodity is brought onto, or arrives at, the CHPQA site of a fully exempt combined heat and power station or a partly exempt combined heat and power station in Great Britain,

(b) that quantity of the commodity is intended to be used in the station for producing outputs of the station, and

(c) the station is not a small generating station.

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(2) For the purposes of this Schedule the operator of the station is deemed to make a taxable supply to himself of that quantity of the commodity so far as that quantity is referable to the production of electricity.

(3) For the purposes of sub-paragraph (2) the extent to which a quantity of a commodity is referable to the production of electricity is to be determined in accordance with regulations under paragraph 24D(1).

(4) In sub-paragraph (1)(a) the reference to a commodity being brought onto, or arriving at, the CHPQA site of a station covers (in particular) gas in a gaseous state arriving at the CHPQA site through a pipe.

(5) In sub-paragraph (1)(b) "outputs" has the meaning given by paragraph 148(9).

(6) For the purposes of sub-paragraph (1) it does not matter—

(a) if the quantity of the commodity is not the subject of an actual supply made to the operator of the station, or

(b) if the commodity's availability for use in the station is subject to any condition.

(7) In this paragraph "CHPQA site", in relation to a fully exempt combined heat and power station or a partly exempt combined heat and power station, means the site of the scheme in relation to which the station's CHPQA certificate was issued.

24C (1) This paragraph applies if—

(a) a determination ("the initial determination") is made under regulations falling within paragraph 24B(3) that—

(i) none of a quantity of a carbon price support rate commodity is, or

(ii) a proportion of such a quantity is not,

referable to the production of electricity,

(b) as a result of the initial determination, the quantity or proportion of a quantity is determined not to be the subject of a deemed supply under paragraph 24B, and

(c) it is later determined that, contrary to the initial determination, the quantity or proportion of a quantity—

(i) was referable to the production of electricity, and

(ii) accordingly, should have been determined to be the subject of a deemed supply under paragraph 24B.

(2) For the purposes of this Schedule—

(a) the operator of the station in question is deemed to make a taxable supply to himself of the quantity or proportion of a quantity, and

(b) the amount payable by way of levy on the deemed supply is the amount which would have been payable in relation to the quantity or proportion of a quantity had it been determined to be the subject of a deemed supply as mentioned in sub-paragraph (1)(c)(ii).

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Power to make regulations giving effect to paragraphs 24A to 24C etc

24D (1) The Commissioners may by regulations make provision for giving effect to paragraphs 24A to 24C and 42A to 42D.

(2) Regulations under sub-paragraph (1) may, in particular, include provision—

(a) for determining whether a deemed supply under paragraph 24A or 24B is made;

(b) for determining the quantity of any commodity which is the subject of such a deemed supply;

(c) for determining whether paragraph 42C(2) applies in relation to a deemed supply under paragraph 24A or 24B and, if it does, the reduction in the relevant carbon price support rate.

(3) Regulations under sub-paragraph (1) may include—

(a) provision in respect of calculations, measurements, data and procedures to be made or used;

(b) provision that, so far as framed by reference to any document, is framed by reference to that document as from time to time in force."

11 After paragraph 38 insert—

"Deemed supplies under paragraph 24A, 24B, 24C or 42D

38A (1) A deemed supply under paragraph 24A or 24B is treated as taking place when the quantity of the commodity is brought onto, or arrives at, the site at which the station is situated or the CHPQA site of the station (as the case may be).

(2) A deemed supply under paragraph 24C or 42D is treated as taking place upon the later determination."

12 (1) Paragraph 39 (regulations as to time of supply) is amended as follows.

(2) In sub-paragraph (1)(c) after "24" insert " , 24A, 24B, 24C, 42D ".

(3) In sub-paragraph (3) after "supply)" insert " and 38A ".

13 In paragraph 42 (amount payable by way of levy) before sub-paragraph (2) insert—

"(1B) Sub-paragraph (1) does not apply to a deemed supply under paragraph 24A or 24B."

14 After paragraph 42 insert—

"42A (1) This paragraph applies to a deemed supply under paragraph 24A or 24B.

(2) The amount payable by way of levy on the deemed supply is the amount ascertained by applying the relevant carbon price support rate; and the levy payable on a fraction of a kilowatt hour, kilogram or gigajoule is that fraction of the levy payable on a kilowatt hour, kilogram or gigajoule.

(3) The carbon price support rates are as follows.

Carbon price support rate commodity	***Carbon price support rate***

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Any gas in a gaseous state that is of a kind supplied by a gas utility	£0.00091 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, in a liquid state	£0.01460 per kilogram
Any commodity falling within paragraph 3(1)(d) to (f)	£0.44264 per gigajoule

(4) Sub-paragraph (2) needs to be read with paragraphs 42B and 42C.

42B (1) This paragraph applies for the purposes of paragraph 42A(2) if the commodity deemed to be supplied is a quantity of a commodity falling within paragraph 3(1)(d) to (f).

(2) The number of gigajoules in the quantity supplied is to be determined by reference to the total gross calorific value of that quantity.

(3) Sub-paragraph (4) applies if there is included in that quantity any coal slurry taken from a slurry pit situated at the site of a coal mine (including a disused coal mine).

(4) The gross calorific value of the coal slurry is to be left out of account in determining the total gross calorific value of that quantity.

42C (1) Sub-paragraph (2) applies for the purposes of paragraph 42A(2) if, in the calendar year in which the deemed supply is treated as taking place, carbon capture and storage technology is operated in relation to carbon dioxide generated by the station in question in producing electricity.

(2) In relation to the deemed supply, only C% of the relevant carbon price support rate is to be applied (instead of the full rate).

(3) "C%" is 100% minus the station's carbon capture percentage for the calendar year.

(4) The station's "carbon capture percentage" for the calendar year is the percentage of the station's generated carbon dioxide for that year which, through the operation of the carbon capture and storage technology, is—

(a) captured, and

(b) then disposed of by way of permanent storage.

(5) The station's "generated carbon dioxide" for the calendar year is the amount of carbon dioxide generated in the year by the station from the use of carbon price support rate commodities in producing electricity.

(6) In this paragraph "carbon capture and storage technology" and "carbon dioxide" have the meaning given by section 7(3) and (4) of the Energy Act 2010.

(7) Sub-paragraph (8) applies for the purposes of sub-paragraph (4) in relation to any carbon dioxide if—

(a) the carbon dioxide is captured but then leaks out and therefore is not disposed of by way of permanent storage, but

(b) the leak does not occur—

(i) on the land on which the station is situated,

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(ii) on any other land under the control of the station's owner or a person connected with the station's owner, or

(iii) from any pipeline or other facility or installation which is operated by the station's owner or a person connected with the station's owner.

Section 1122 of the Corporation Tax Act 2010 ("connected" persons) applies for the purposes of paragraph (b).

(8) The carbon dioxide is to be treated as if it had been disposed of by way of permanent storage.

(9) If the percentage mentioned in sub-paragraph (4) is not a whole number, it is to be rounded to the nearest whole number (taking 0.5% as nearest to the next whole number).

42D (1) This paragraph applies if—

(a) an amount is determined to be payable by way of levy on a deemed supply of a quantity of a commodity under paragraph 24A or 24B, but

(b) it is later determined that that amount is too low.

(2) For the purposes of this Schedule—

(a) the person who made the deemed supply is deemed to make a further taxable supply to himself of the quantity of the commodity, and

(b) the amount payable by way of levy on that further deemed supply is—

(i) the total amount payable on the first deemed supply on the basis of the later determination mentioned in sub-paragraph (1)(b), less

(ii) the amount previously determined to be payable on the first deemed supply."

15 In paragraph 55 (notification of registrability) in sub-paragraph (1) after paragraph (a) insert—

"(aa) expects to be deemed to make a taxable supply to himself under paragraph 24A or 24B, or".

16 In paragraph 62 (tax credits) in sub-paragraph (1) after paragraph (b) insert—

"(ba) a quantity of a carbon price support rate commodity is the subject of a deemed supply under paragraph 24A or 24B but afterwards the quantity—

(i) is not used as mentioned in paragraph 24A(1)(b) or 24B(1)(b) (as the case may be), and

(ii) is removed from the site at which the station is situated or from the CHPQA site of the station (as the case may be);

(bb) after—

(i) a determination is made under regulations falling within paragraph 24B(3) that a quantity, or a proportion of a quantity, of a carbon price support rate commodity is referable to the production of electricity, and

(ii) it is accordingly determined that the quantity or proportion of a quantity is the subject of a deemed supply under paragraph 24B,

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it is determined that the quantity or proportion of a quantity was not referable to the production of electricity;

(bc) after an amount is determined to be payable by way of levy on a deemed supply under paragraph 24A or 24B, it is determined that that amount is too high;".

17 In paragraph 146 (regulations) in sub-paragraph (3)—

(a) for "14(3)," substitute " 5(2A), 14(2), ", and

(b) after "16," insert " 17(1B), ".

18 In paragraph 147 (definitions)—

(a) at the appropriate places, insert—

""carbon price support rate commodity" means any taxable commodity other than electricity;",

""CHPQA certificate" has the same meaning as in the Climate Change Levy (Combined Heat and Power Stations) Exemption Certificate Regulations 2001 (S.I. 2001/486);",

""exempt unlicensed electricity supplier" has the meaning given by paragraph 152A;",

""Great Britain" includes the territorial waters of the United Kingdom so far as adjacent to Great Britain;",

""small generating station" has the meaning given by paragraph 152B;", and

""stand-by generator" means a generating station which—

(a) is used to provide an emergency electricity supply to a building in the event of a failure of the building's usual electricity supply, and

(b) is not used for any other purpose;", and

(b) in the definition of "prescribed"—

(i) for "14(3)," substitute " 5(2A), 14(2), ", and

(ii) after "16(3)" insert " , 17(1B) ".

19 After paragraph 152 insert—

"Meaning of "exempt unlicensed electricity supplier"

152A(1) In this Schedule "exempt unlicensed electricity supplier" means a person—

(a) to whom an exemption from section 4(1)(c) of the Electricity Act 1989 (persons supplying electricity to premises) has been granted by an order under section 5 of that Act, or

(b) to whom an exemption from Article 8(1)(c) of the Electricity Supply (Northern Ireland) Order 1992 has been granted by an order under Article 9 of that Order,

except where the person is acting otherwise than for purposes connected with the carrying on of activities authorised by the exemption.

(2) Sub-paragraph (1) applies subject to—

(a) any direction under paragraph 151(1), and

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(b) any regulations under paragraph 151(2).

Meaning of "small generating station"

152B (1) In this Schedule "small generating station" means a generating station the capacity of which for producing electricity is no more than 2 megawatts.

(2) Sub-paragraph (3) applies if a relevant station ("station X") is one of a number of relevant stations which—

(a) are situated in the United Kingdom, and

(b) are owned by P or persons connected with P.

(3) In applying sub-paragraph (1) in relation to station X, the reference to the capacity of a generating station is to be read as a reference to the capacity of station X and all the other relevant stations mentioned in sub-paragraph (2) taken together.

(4) In sub-paragraphs (2) and (3) "relevant station" means a generating station which is neither an exempt CHP station nor a stand-by generator.

(5) For the purposes of sub-paragraph (2)(b)—

(a) "P" is the person who owns station X, and

(b) section 1122 of the Corporation Tax Act 2010 ("connected" persons) applies.

(6) Sub-paragraph (7) applies if the scheme in relation to which the CHPQA certificate of an exempt CHP station ("station Y") is issued covers other exempt CHP stations as well.

(7) In applying sub-paragraph (1) in relation to station Y, the reference to the capacity of a generating station is to be read as a reference to the capacity of station Y and all the other exempt CHP stations mentioned in sub-paragraph (6) taken together.

(8) In this paragraph "exempt CHP station" means a fully exempt combined heat and power station or a partly exempt combined heat and power station."

20 (1) Regulation 5 of the Climate Change Levy (Electricity and Gas) Regulations 2001 (S.I. 2001/1136) is amended as follows.

(2) In paragraph (1) for "paragraph 14(2) of the Act (exemption: certain supplies to electricity producers)" substitute " paragraphs 5(2A), 14(2) and 17(1B) of the Act (which contain references to exempt unlicensed electricity suppliers) ".

(3) In paragraph (2)(a) for "14(4)" substitute " 152A(1) ".

(4) The amendments made by this paragraph are to be treated as having been made by the Treasury under the powers to make regulations conferred by paragraphs 5(2A), 14(2) and 17(1B) of Schedule 6 to FA 2000.

Commencement

21 The amendments made by this Part of this Schedule are treated as having come into force on 26 March 2013.

***Changes to legislation:** Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

22 (1) The amendments made by paragraph 6(2) and (3) above have effect for the purpose of determining if a supply of gas or electricity is exempt from levy where the gas or electricity is actually supplied on or after 1 April 2013."Gas" means gas in a gaseous state that is of a kind supplied by a gas utility.

(2) Those amendments are to have effect for the purpose of determining if any other supply is exempt from levy where the supply is treated as taking place on or after 1 April 2013.

(3) The amendments made by paragraph 8 above have effect for the purpose of determining if a supply of electricity is exempt from levy where the electricity is caused to be consumed on or after 1 April 2013.

(4) The amendment made by paragraph 10 above has effect in relation to carbon price support rate commodities which are brought onto, or arrive at, sites on or after 1 April 2013.

PART 3

CARBON PRICE SUPPORT RATES FROM 1 APRIL 2014

23 (1) In paragraph 42A of Schedule 6 to FA 2000 (as inserted by paragraph 14 above) for sub-paragraph (3) substitute—

"(3) The carbon price support rates are as follows.

Carbon price support rate commodity	*Carbon price support rate*
Any gas in a gaseous state that is of a kind supplied by a gas utility	£0.00175 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, in a liquid state	£0.02822 per kilogram
Any commodity falling within paragraph 3(1)(d) to (f)	£0.85489 per gigajoule"

(2) The amendment made by this paragraph has effect in relation to supplies treated as taking place on or after 1 April 2014 but before 1 April 2015.

PART 4

CARBON PRICE SUPPORT RATES FROM 1 APRIL 2015

24 (1) In paragraph 42A of Schedule 6 to FA 2000 (as inserted by paragraph 14 above) for sub-paragraph (3) substitute—

"(3) The carbon price support rates are as follows.

Carbon price support rate commodity	*Carbon price support rate*
Any gas in a gaseous state that is of a kind supplied by a gas utility	£0.00334 per kilowatt hour

Changes to legislation: *Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Any petroleum gas, or other gaseous hydrocarbon, in a liquid state	£0.05307 per kilogram
Any commodity falling within paragraph 3(1)(d) to (f)	£1.62534 per gigajoule”

(2) The amendment made by this paragraph has effect in relation to supplies treated as taking place on or after 1 April 2015.

SCHEDULE 43

Section 209

GENERAL ANTI-ABUSE RULE: PROCEDURAL REQUIREMENTS

The GAAR Advisory Panel

1 (1) In this Part “the GAAR Advisory Panel” means the panel of persons established by the Commissioners for the purposes of the general anti-abuse rule.

(2) In this Schedule “the Chair” means any member of the GAAR Advisory Panel appointed by the Commissioners to chair it.

Meaning of “tax appeal”

F120 1A . . . . . .

Textual Amendments

F120 Sch. 43 para. 1A omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 10(2)**

Meaning of “designated HMRC officer”

2 In this Schedule a “designated HMRC officer” means an officer of Revenue and Customs who has been designated by the Commissioners for the purposes of the general anti-abuse rule.

Notice to taxpayer of proposed counteraction of tax advantage

3 (1) If a designated HMRC officer considers—

(a) that a tax advantage has arisen to a person (“the taxpayer”) from tax arrangements that are abusive, and

(b) that the advantage ought to be counteracted under section 209,

the officer must give the taxpayer a written notice to that effect.

(2) The notice must—

(a) specify the arrangements and the tax advantage,

(b) explain why the officer considers that a tax advantage has arisen to the taxpayer from tax arrangements that are abusive,

(c) set out the counteraction that the officer considers ought to be taken,

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(d) inform the taxpayer of the period under paragraph 4 for making representations, and

(e) explain the effect **[**F121of—

(i) paragraphs 5 and 6, and

(ii) sections 209(8) and (9) and 212A.**]**

(3) The notice may set out steps that the taxpayer may take to avoid the proposed counteraction.

Textual Amendments

F121 Words in Sch. 43 para. 3(2)(e) substituted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by Finance Act 2016 (c. 24), **s. 158(7)**

4 (1) If a notice is given to the taxpayer under paragraph 3, the taxpayer has 45 days beginning with the day on which the notice is given to send written representations in response to the notice to the designated HMRC officer.

(2) The designated officer may, on a written request made by the taxpayer, extend the period during which representations may be made.

Corrective action by taxpayer

[F122**4A**(1) If the taxpayer takes the relevant corrective action before the beginning of the closed period mentioned in section 209(8), the matter is not to be referred to the GAAR Advisory Panel.

(2) For the purposes of this Schedule the "relevant corrective action" is taken if (and only if) the taxpayer takes the steps set out in sub-paragraphs (3) and (4).

(3) The first step is that—

(a) the taxpayer amends a return or claim to counteract the tax advantage specified in the notice under paragraph 3, or

(b) F123... the taxpayer takes all necessary action to enter into an agreement with HMRC (in writing) for the purpose of relinquishing that advantage.

(4) The second step is that the taxpayer notifies HMRC—

(a) that the taxpayer has taken the first step, and

(b) of any additional amount which has or will become due and payable in respect of tax by reason of the first step being taken.

(5) Where the taxpayer takes the first step described in sub-paragraph (3)(b), HMRC may proceed as if the taxpayer had not taken the relevant corrective action if the taxpayer fails to enter into the written agreement.

(6) In determining the additional amount which has or will become due and payable in respect of tax for the purposes of sub-paragraph (4)(b), it is to be assumed that, where the taxpayer takes the necessary action as mentioned in sub-paragraph (3)(b), the agreement is then entered into.

(7) **[**F124Where a tax enquiry is in progress,**]** no enactment limiting the time during which amendments may be made to returns or claims operates to prevent the taxpayer taking the first step mentioned in sub-paragraph (3)(a) before the tax enquiry is closed F125....

Changes to legislation: *Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(8) No appeal may be brought, by virtue of a provision mentioned in sub-paragraph (9), against an amendment made by a closure notice in respect of a tax enquiry to the extent that the amendment takes into account an amendment made by the taxpayer to a return or claim in taking the first step mentioned in sub-paragraph (3)(a).

(9) The provisions are—

(a) section 31(1)(b) or (c) of TMA 1970,

(b) paragraph 9 of Schedule 1A to TMA 1970,

(c) paragraph 34(3) of Schedule 18 to FA 1998,

(d) paragraph 35(1)(b) of Schedule 10 to FA 2003, and

(e) paragraph 35(1)(b) of Schedule 33 to FA 2013.**]**

Textual Amendments

F122 Sch. 43 para. 4A inserted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by Finance Act 2016 (c. 24), **s. 158(8)**

F123 Words in Sch. 43 para. 4A(3)(b) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 10(3)**

F124 Words in Sch. 43 para. 4A(7) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 10(4)(a)**

F125 Words in Sch. 43 para. 4A(7) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 10(4)(b)**

Referral to GAAR Advisory Panel

[F126 4B Paragraphs 5 and 6 apply if the taxpayer does not take the relevant corrective action (see paragraph 4A) by the beginning of the closed period mentioned in section 209(8).**]**

Textual Amendments

F126 Sch. 43 para. 4B inserted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by Finance Act 2016 (c. 24), **s. 158(9)**

5 If no representations are made in accordance with paragraph 4, a designated HMRC officer must refer the matter to the GAAR Advisory Panel.

6 (1) If representations are made in accordance with paragraph 4, a designated HMRC officer must consider them.

(2) If, after considering them, the designated HMRC officer considers that the tax advantage ought to be counteracted under section 209, the officer must refer the matter to the GAAR Advisory Panel.

[F127 (3) The officer must, as soon as reasonably practicable after deciding whether or not the matter is to be referred to the GAAR Advisory Panel, give the taxpayer written notice of the decision.**]**

***Changes to legislation:** Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F127 Sch. 43 para. 6(3) inserted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(11)**

7 If the matter is referred to the GAAR Advisory Panel, the designated HMRC officer must at the same time provide it with—

(a) a copy of the notice given to the taxpayer under paragraph 3,

(b) a copy of any representations made in accordance with paragraph 4 and any comments that the officer has on those representations, and

(c) a copy of the notice given to the taxpayer under paragraph 8.

8 If the matter is referred to the GAAR Advisory Panel, the designated HMRC officer must at the same time give the taxpayer a notice which—

(a) specifies that the matter is being referred,

(b) is accompanied by a copy of any comments provided to the GAAR Advisory Panel under paragraph 7(b), and

(c) informs the taxpayer of the period under paragraph 9 for making representations, and of the requirement under that paragraph to send any representations to the officer.

9 (1) The taxpayer has 21 days beginning with the day on which a notice is given under paragraph 8 to send the GAAR Advisory Panel written representations about—

(a) the notice given to the taxpayer under paragraph 3, or

(b) any comments provided under paragraph 7(b).

(2) The GAAR Advisory Panel may, on a written request made by the taxpayer, extend the period during which representations may be made.

(3) The taxpayer must send a copy of any representations to the designated HMRC officer at the same time as the representations are sent to the GAAR Advisory Panel.

(4) If no representations were made in accordance with paragraph 4, the designated HMRC officer—

(a) may provide the GAAR Advisory Panel with comments on any representations made under this paragraph, and

(b) if comments are provided, must at the same time send a copy of them to the taxpayer.

Decision of GAAR Advisory Panel and opinion notices

10 (1) If the matter is referred to the GAAR Advisory Panel, the Chair must arrange for a sub-panel consisting of 3 members of the GAAR Advisory Panel (one of whom may be the Chair) to consider it.

(2) The sub-panel may invite the taxpayer or the designated HMRC officer (or both) to supply the sub-panel with further information within a period specified in the invitation.

(3) Invitations must explain the effect of sub-paragraph (4) or (5) (as appropriate).

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(4) If the taxpayer supplies information to the sub-panel under this paragraph, the taxpayer must at the same time send a copy of the information to the designated HMRC officer.

(5) If the designated HMRC officer supplies information to the sub-panel under this paragraph, the officer must at the same time send a copy of the information to the taxpayer.

11 (1) Where the matter is referred to the GAAR Advisory Panel, the sub-panel must produce—

(a) one opinion notice stating the joint opinion of all the members of the sub-panel, or

(b) two or three opinion notices which taken together state the opinions of all the members.

(2) The sub-panel must give a copy of the opinion notice or notices to—

(a) the designated HMRC officer, and

(b) the taxpayer.

(3) An opinion notice is a notice which states that in the opinion of the members of the sub-panel, or one or more of those members—

(a) the entering into and carrying out of the tax arrangements is a reasonable course of action in relation to the relevant tax provisions—

(i) having regard to all the circumstances (including the matters mentioned in subsections (2)(a) to (c) and (3) of section 207), and

(ii) taking account of subsections (4) to (6) of that section, or

(b) the entering into or carrying out of the tax arrangements is not a reasonable course of action in relation to the relevant tax provisions having regard to those circumstances and taking account of those subsections, or

(c) it is not possible, on the information available, to reach a view on that matter,

and the reasons for that opinion.

(4) For the purposes of the giving of an opinion under this paragraph, the arrangements are to be assumed to be tax arrangements.

(5) In this Part, a reference to any opinion of the GAAR Advisory Panel about any tax arrangements is a reference to the contents of any opinion notice about the arrangements.

Notice of final decision after considering opinion of GAAR Advisory Panel

12 (1) A designated HMRC officer who has received a notice or notices under paragraph 11 must, having considered any opinion of the GAAR Advisory Panel about the tax arrangements, give the taxpayer a written notice setting out whether the tax advantage arising from the arrangements is to be counteracted under the general anti-abuse rule.

(2) If the notice states that a tax advantage is to be counteracted, it must also set out—

(a) the adjustments required to give effect to the counteraction, and

(b) if relevant, any steps that the taxpayer is required to take to give effect to it.

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Notices may be given on assumption that tax advantage does arise

13 (1) A designated HMRC officer may give a notice, or do anything else, under this Schedule where the officer considers that a tax advantage might have arisen [F128]....

(2) Accordingly, any notice given by a designated HMRC officer under this Schedule may be expressed to be given on the assumption that the tax advantage does arise (without agreeing that it does).

Textual Amendments

F128 Words in Sch. 43 para. 13(1) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 10(5)**

[F129HMRC officers

Textual Amendments

F129 Sch. 43 para. 14 and cross-heading inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 10(6)**

14 Anything that may or must be done by a given designated HMRC officer under this Schedule may be done instead by any other designated HMRC officer.**]**

[[F130]SCHEDULE 43A

PROCEDURAL REQUIREMENTS: POOLING NOTICES AND NOTICES OF BINDING

Textual Amendments

F130 Sch. 43A inserted (15.9.2016 with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(2)**

Pooling notices

1 (1) This paragraph applies where a person has been given a notice under paragraph 3 of Schedule 43 **[**[F131], or paragraph 5 of Schedule 43D,**]** in relation to any tax arrangements (the "lead arrangements") and the condition in sub-paragraph (2) is met.

(2) The condition is that the period of 45 days mentioned in paragraph 4(1) of Schedule 43 has expired but no notice under paragraph 12 of Schedule 43 or paragraph 8 of Schedule 43B has yet been given in respect of the matter.

(3) If a designated HMRC officer considers—

(a) that a tax advantage has arisen to **[**[F132]a**]** person ("R") from tax arrangements **[**[F133](other than the lead arrangements)**]** that are abusive,

(b) that those tax arrangements ("R's arrangements") are equivalent to the lead arrangements, and

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(c) that the advantage ought to be counteracted under section 209,

the officer may give R a notice (a "pooling notice") **[**F134to that effect**]**.

[F135(3A) For the purposes of this Schedule and Schedule 43B, all the tax arrangements in relation to which pooling notices have been served in respect of the same lead arrangements are to be regarded as being in a "pool" together.**]**

F136(4) . . . . . .

F136(5) . . . . . .

(6) The officer may not give R a pooling notice if R has been given in respect of R's arrangements a notice under paragraph 3 of Schedule 43.

Textual Amendments

F131 Words in Sch. 43A para. 1(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 11(2)**

F132 Word in Sch. 43A para. 1(3)(a) substituted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **3(2)(a)(i)**

F133 Words in Sch. 43A para. 1(3)(a) inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **3(2)(a)(ii)**

F134 Words in Sch. 43A para. 1(3) substituted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **3(2)(b)**

F135 Sch. 43A para. 1(3A) inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **3(3)**

F136 Sch. 43A para. 1(4)(5) omitted (5.12.2017) by virtue of The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **3(4)**

Notice of proposal to bind arrangements to counteracted arrangements

2 (1) This paragraph applies where a counteraction notice has been given to a person in relation to any tax arrangements (the "counteracted arrangements") F137....

(2) If a designated HMRC officer considers—

(a) that a tax advantage has arisen to **[**F138a**]** person ("R") from tax arrangements **[**F139(other than the counteracted arrangements)**]** that are abusive,

(b) that those tax arrangements ("R's arrangements") are equivalent to the counteracted arrangements, and

(c) that the advantage ought to be counteracted under section 209,

the officer may give R a notice (a "notice of binding") in relation to R's arrangements.

(3) The officer may not give R a notice of binding if R has been given in respect of R's arrangements a notice under—

(a) paragraph 1, or

(b) paragraph 3 of Schedule 43.

(4) In this paragraph "counteraction notice" means a notice such as is mentioned in sub-paragraph (2) of paragraph 12 of Schedule 43 or sub-paragraph (3) of paragraph 8 of Schedule 43B (notice of final decision to counteract).

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Textual Amendments

F137 Words in Sch. 43A para. 2(1) omitted (5.12.2017) by virtue of The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **4(2)**

F138 Word in Sch. 43A para. 2(2)(a) substituted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **4(3)(a)**

F139 Words in Sch. 43A para. 2(2)(a) inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **4(3)(b)**

3 (1) The decision **[**F140of a designated HMRC officer**]** whether or not to give R a pooling notice or notice of binding must be taken, and any notice must be given, as soon as is reasonably practicable after **[**F141the officer**]** becomes aware of the relevant facts.

(2) A pooling notice or notice of binding must—

(a) specify the tax arrangements in relation to which the notice is given and the tax advantage,

(b) explain why the officer considers R's arrangements to be equivalent to the lead arrangements or the counteracted arrangements (as the case may be),

(c) explain why the officer considers that a tax advantage has arisen to R from tax arrangements that are abusive,

(d) set out the counteraction that the officer considers ought to be taken, and

(e) explain the effect of—

(i) paragraphs 4 to 10,

(ii) subsection (9) of section 209, and

(iii) section 212A.

(3) A pooling notice or notice of binding may set out steps that R may (subject to subsection (9) of section 209) take to avoid the proposed counteraction.

Textual Amendments

F140 Words in Sch. 43A para. 3(1) inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **5(a)**

F141 Words in Sch. 43A para. 3(1) substituted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **5(b)**

Corrective action by a notified taxpayer

4 (1) If a person to whom a pooling notice or notice of binding has been given takes the relevant corrective action in relation to the tax arrangements and tax advantage specified in the notice before the beginning of the closed period mentioned in section 209(9), the person is to be treated for the purposes of paragraphs **[**F142**6** to**]** 9 and Schedule 43B (generic referral of tax arrangements) as not having been given the notice in question (and accordingly the tax arrangements in question are no longer in the pool).

(2) For the purposes of this Schedule the "relevant corrective action" is taken if (and only if) the person takes the steps set out in sub-paragraphs (3) and (4).

(3) The first step is that—

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(a) the person amends a return or claim to counteract the tax advantage specified in the pooling notice or notice of binding, or

(b) F143... the person takes all necessary action to enter into an agreement with HMRC (in writing) for the purpose of relinquishing that advantage.

(4) The second step is that the person notifies HMRC—

(a) that the first step has been taken, and

(b) of any additional amount which has or will become due and payable in respect of tax by reason of the first step being taken.

(5) Where a person takes the first step described in sub-paragraph (3)(b), HMRC may proceed as if the person had not taken the relevant corrective action if the person fails to enter into the written agreement.

(6) In determining the additional amount which has or will become due and payable in respect of tax for the purposes of sub-paragraph (4)(b), it is to be assumed that, where the person takes the necessary action as mentioned in sub-paragraph (3)(b), the agreement is then entered into.

(7) **[**F144Where a tax enquiry is in progress,**]** no enactment limiting the time during which amendments may be made to returns or claims operates to prevent the person taking the first step mentioned in sub-paragraph (3)(a) before the tax enquiry is closed.

(8) No appeal may be brought, by virtue of a provision mentioned in sub-paragraph (9), against an amendment made by a closure notice in respect of a tax enquiry to the extent that the amendment takes into account an amendment made by the taxpayer to a return or claim in taking the first step mentioned in sub-paragraph (3)(a).

(9) The provisions are—

(a) paragraph 35(1)(b) of Schedule 33,

(b) section 31(1)(b) or (c) of TMA 1970,

(c) paragraph 9 of Schedule 1A to TMA 1970,

(d) paragraph 34(3) of Schedule 18 to FA 1998, and

(e) paragraph 35(1)(b) of Schedule 10 to FA 2003.

Textual Amendments

F142 Words in Sch. 43A para. 4(1) substituted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **6(2)**

F143 Words in Sch. 43A para. 4(3)(b) omitted (5.12.2017) by virtue of The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **6(3)**

F144 Words in Sch. 43A para. 4(7) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 11(3)**

Corrective action by lead taxpayer

F145 5 . . . . . .

***Changes to legislation:** Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F145 Sch. 43A para. 5 omitted (5.12.2017) by virtue of The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **7**

Opinion notices and right to make representations

6 (1) Sub-paragraph (2) applies where—

(a) a pooling notice is given to a person in relation to any tax arrangements, and

(b) an opinion notice (or opinion notices) under paragraph 11(2) of Schedule 43 about another set of tax arrangements in the pool **[**F146or the lead arrangements**]** ("the referred arrangements") is subsequently given to a designated HMRC officer.

(2) The officer must give the person a pooled arrangements opinion notice.

(3) No more than one pooled arrangements opinion notice may be given to a person in respect of the same tax arrangements.

(4) Where a designated HMRC officer gives a person a notice of binding, the officer must, at the same time, give the person a bound arrangements opinion notice.

Textual Amendments

F146 Words in Sch. 43A para. 6(1)(b) inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **8**

7 (1) In relation to a person who is, or has been, given a pooling notice, "pooled arrangements opinion notice" means a written notice which—

(a) sets out a report prepared by HMRC of any opinion of the GAAR Advisory Panel about the referred arrangements,

(b) explains the person's right to make representations falling within sub-paragraph (3), and

(c) sets out the period in which those representations may be made.

(2) In relation to a person who is given a notice of binding "bound arrangements opinion notice" means a written notice which—

(a) sets out a report prepared by HMRC of any opinion of the GAAR Advisory Panel about the counteracted arrangements (see paragraph 2(1)),

(b) explains the person's right to make representations falling within sub-paragraph (3), and

(c) sets out the period in which those representations may be made.

(3) A person who is given a pooled arrangements opinion notice or a bound arrangements opinion notice has 30 days beginning with the day on which the notice is given to make representations in any of the following categories—

(a) representations that no tax advantage has arisen to the person from the arrangements to which the notice relates;

(b) representations as to why the arrangements to which the notice relates are or may be materially different from—

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(i) the referred arrangements (in the case of a pooled arrangements opinion notice), or

(ii) the counteracted arrangements (in the case of a bound arrangements opinion notice).

(4) In sub-paragraph (3)(b) references to "arrangements" include any circumstances which would be relevant in accordance with section 207 to a determination of whether the tax arrangements in question are abusive.

Notice of final decision

8 (1) This paragraph applies where—

[F147(a) further to a pooling notice given under paragraph 1(3), a set of tax arrangements is in a pool relating to any lead arrangements, and**]**

(b) a designated HMRC officer has given a notice under paragraph 12 of Schedule 43 in relation to any other arrangements in the pool **[**F148or the lead arrangements**]** (the "referred arrangements").

(2) The officer must, having considered any opinion of the GAAR Advisory Panel about the referred arrangements and any representations made under paragraph 7(3) in relation to the arrangements mentioned in sub-paragraph (1)(a), give the person a written notice setting out whether the tax advantage arising from those arrangements is to be counteracted under the general anti-abuse rule.

Textual Amendments

F147 Sch. 43A para. 8(1)(a) substituted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **9(a)**

F148 Words in Sch. 43A para. 8(1)(b) inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **9(b)**

9 (1) This paragraph applies where—

(a) a person has been given a notice of binding under paragraph 2, and

(b) the period of 30 days for making representations under paragraph 7(3) has expired.

(2) A designated HMRC officer must, having considered any opinion of the GAAR Advisory Panel about the counteracted arrangements and any representations made under paragraph 7(3) in relation to the arrangements specified in the notice of binding, give the person a written notice setting out whether the tax advantage arising from the arrangements specified in the notice of binding is to be counteracted under the general anti-abuse rule.

10 If a notice under paragraph 8(2) or 9(2) states that a tax advantage is to be counteracted, it must also set out—

(a) the adjustments required to give effect to the counteraction, and

(b) if relevant, any steps the person concerned is required to take to give effect to it.

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"Equivalent arrangements"

11 (1) F149... Tax arrangements are "equivalent" to one another if they are substantially the same as one another having regard to—

(a) their substantive results,

(b) the means of achieving those results, and

(c) the characteristics on the basis of which it could reasonably be argued, in each case, that the arrangements are abusive tax arrangements under which a tax advantage has arisen to a person.

Textual Amendments

F149 Words in Sch. 43A para. 11 omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), **Sch. 14 para. 8**

Notices may be given on assumption that tax advantage does arise

12 (1) A designated HMRC officer may give a notice, or do anything else, under this Schedule where the officer considers that a tax advantage might have arisen F150....

(2) Accordingly, any notice given by a designated HMRC officer under this Schedule may be expressed to be given on the assumption that a tax advantage does arise (without conceding that it does).

Textual Amendments

F150 Words in Sch. 43A para. 12(1) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 11(4)**

⌈F151HMRC officers

Textual Amendments

F151 Sch. 43A para. 12A and cross-heading inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **10**

12A. Anything that may or must be done by a given designated HMRC officer under this Schedule may be done instead by any other designated HMRC officer.⌋

Power to amend

13 (1) The Treasury may by regulations amend this Schedule (apart from this paragraph).

(2) Regulations under sub-paragraph (1) may include—

(a) any amendment of this Part that is appropriate in consequence of an amendment by virtue of sub-paragraph (1);

(b) transitional provision.

(3) Regulations under sub-paragraph (1) are to be made by statutory instrument.

(4) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment in pursuance of a resolution of the House of Commons.⌋

Changes to legislation: *Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[F152SCHEDULE 43B

PROCEDURAL REQUIREMENTS: GENERIC REFERRAL OF TAX ARRANGEMENTS

Textual Amendments

F152 Sch. 43B inserted (15.9.2016 with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(3)**

Notice of proposal to make generic referral of tax arrangements

1 (1) Sub-paragraph (2) applies if—

[F153(a) further to pooling notices given under paragraph 1(3) of Schedule 43A, two or more sets of tax arrangements are in a pool relating to any lead arrangements,

(b) the person to whom the notice mentioned in paragraph 1(1) of Schedule 43A was given takes the relevant corrective action (as defined in paragraph 4A of Schedule 43) before—

(i) the end of the period of 75 days beginning with the day on which that notice was given, or

(ii) such later time as that person and HMRC may agree, and**]**

(c) no referral under paragraph 5 or 6 of Schedule 43 has been made in respect of any arrangements in the pool.

(2) A designated HMRC officer may determine that, in respect of each of the tax arrangements that are in the pool, there is to be given (to the person to whom the pooling notice in question was given) a written notice of a proposal to make a generic referral to the GAAR Advisory Panel in respect of the arrangements in the pool.

(3) Only one determination under sub-paragraph (2) may be made in relation to any one pool.

(4) The persons to whom those notices are given are "the notified taxpayers".

(5) A notice given to a person ("T") under sub-paragraph (2) must—

(a) specify the arrangements (the "specified arrangements") and the tax advantage (the "specified advantage") to which the notice relates,

(b) inform T of the period under paragraph 2 for making a proposal.

Textual Amendments

F153 Sch. 43B para. 1(1)(a)(b) substituted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **12(2)**

2 (1) T has 30 days beginning with the day on which the notice under paragraph 1 is given to propose to HMRC that it—

(a) should give T a notice under paragraph 3 of Schedule 43 **[**F154or paragraph 5 of Schedule 43D (as the case may be)**]** in respect of the arrangements to which the notice under paragraph 1 relates, and

(b) should not proceed with the proposal to make a generic referral to the GAAR Advisory Panel in respect of those arrangements.

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(2) If a proposal is made in accordance with sub-paragraph (1) a designated HMRC officer must consider it.

Textual Amendments

F154 Words in Sch. 43B para. 2(1)(a) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 12(2)**

Generic referral

3 (1) This paragraph applies where a designated HMRC officer has given notices to the notified taxpayers in accordance with paragraph 1(2).

(2) If none of the notified taxpayers has made a proposal under paragraph 2 by the end of the 30 day period mentioned in that paragraph, the officer must make a referral to the GAAR Advisory Panel in respect of the notified taxpayers and the arrangements which are specified arrangements in relation to them.

(3) If at least one of the notified taxpayers makes a proposal in accordance with paragraph 2, the designated HMRC officer must, after the end of that 30 day period, decide whether to—

(a) give a notice under paragraph 3 of Schedule 43 **[**F155or paragraph 5 of Schedule 43D (as the case may be)**]** in respect of one set of tax arrangements in the relevant pool **[**F156in relation to which such a proposal has been made**]**, or

(b) make a referral to the GAAR Advisory Panel in respect of the tax arrangements in the relevant pool.

F157(3A) **[** If under sub-paragraph (3)(a) a notice is given under paragraph 3 of Schedule 43 **[**F158or paragraph 5 of Schedule 43D**]** in respect of one set of tax arrangements but F159... the matter is not referred to the GAAR Advisory Panel, a designated officer must make a referral to the GAAR Advisory Panel in respect of the notified taxpayers and the arrangements which are specified arrangements in relation to them.**]**

(4) A referral under this paragraph is a "generic referral".

Textual Amendments

F155 Words in Sch. 43B para. 3(3)(a) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 12(3)(a)**

F156 Words in Sch. 43B para. 3(3)(a) inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **13(2)**

F157 Sch. 43B para. 3(3A) inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **13(3)**

F158 Words in Sch. 43B para. 3(3A) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 12(3)(b)**

F159 Words in Sch. 43B para. 3(3A) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 12(3)(c)**

4 (1) If a generic referral is made to the GAAR Advisory Panel, the designated HMRC officer must at the same time provide it with—

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(a) a general statement of the material characteristics of the specified arrangements, and

(b) a declaration that—

(i) the statement under paragraph (a) is applicable to all the specified arrangements, and

(ii) as far as HMRC is aware, nothing which is material to the GAAR Advisory Panel's consideration of the matter has been omitted.

(2) The general statement under sub-paragraph (1)(a) must—

(a) contain a factual description of the tax arrangements;

(b) set out HMRC's view as to whether the tax arrangements accord with established practice (when the arrangements were entered into);

(c) explain why it is the designated HMRC officer's view that a tax advantage of the nature described in the statement and arising from tax arrangements having the characteristics described in the statement would be a tax advantage arising from arrangements that are abusive;

(d) set out any matters the designated officer is aware of which may suggest that any view of HMRC or the designated HMRC officer expressed in the general statement is not correct;

(e) set out any other matters which the designated officer considers are required for the purposes of the exercise of the GAAR Advisory Panel's functions under paragraph 6.

5 If a generic referral is made the designated HMRC officer must at the same time give each of the notified taxpayers a notice which—

(a) specifies that a generic referral is being made, and

(b) is accompanied by a copy of the statement given to the GAAR Advisory Panel in accordance with paragraph 4(1)(a).

Decision of GAAR Advisory Panel and opinion notices

6 (1) If a generic referral is made to the GAAR Advisory Panel under paragraph 3, the Chair must arrange for a sub-panel consisting of 3 members of the GAAR Advisory Panel (one of whom may be the Chair) to consider it.

(2) The sub-panel must produce—

(a) one opinion notice stating the joint opinion of all the members of the sub-panel, or

(b) two or three opinion notices which taken together state the opinions of all the members.

(3) The sub-panel must give a copy of the opinion notice or notices to the designated HMRC officer.

(4) An opinion notice is a notice which states that in the opinion of the members of the sub-panel, or one or more of those members—

(a) the entering into and carrying out of tax arrangements such as are described in the general statement under paragraph 4(1)(a) is a reasonable course of action in relation to the relevant tax provisions,

(b) the entering into or carrying out of such tax arrangements is not a reasonable course of action in relation to the relevant tax provisions, or

(c) it is not possible, on the information available, to reach a view on that matter,

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and the reasons for that opinion.

(5) In forming their opinions for the purposes of sub-paragraph (4) members of the sub-panel must—

(a) have regard to all the matters set out in the statement under paragraph 4(1)(a),

(b) assume (unless the contrary is stated in the statement under paragraph 4(1)(a)) that the tax arrangements do not form part of any other arrangements,

(c) have regard to the matters mentioned in paragraphs (a) to (c) of section 207(2), and

(d) take account of subsections (4) to (6) of section 207.

(6) For the purposes of the giving of an opinion under this paragraph, the arrangements are to be assumed to be tax arrangements.

(7) In this Part, a reference to any opinion of the GAAR Advisory Panel in respect of a generic referral of any tax arrangements is a reference to the contents of any opinion notice given in relation to a generic referral in respect of the arrangements.

Notice of right to make representations

7 (1) Where a designated HMRC officer is given an opinion notice (or opinion notices) under paragraph 6, the officer must give each of the notified taxpayers a copy of the opinion notice (or notices) and a written notice which—

(a) explains the notified taxpayer's right to make representations falling within sub-paragraph (2), and

(b) sets out the period in which those representations may be made.

(2) A notified taxpayer ("T") who is given a notice under sub-paragraph (1) has 30 days beginning with the day on which the notice is given to make representations in any of the following categories—

(a) representations that no tax advantage has arisen from the specified arrangements;

(b) representations that T has already been given a notice under paragraph 6 of Schedule 43A in relation to the specified arrangements;

(c) representations that any matter set out in the statement under paragraph 4(1)(a) is materially inaccurate as regards the specified arrangements (having regard to all circumstances which would be relevant in accordance with section 207 to a determination of whether the tax arrangements in question are abusive).

Notice of final decision after considering opinion of GAAR Advisory Panel

8 (1) A designated HMRC officer who has received a copy of a notice or notices under paragraph 6(3) in respect of a generic referral must consider the case of each notified taxpayer in accordance with sub-paragraph (2).

(2) The officer must, having considered—

(a) any opinion of the GAAR Advisory Panel about the matters referred to it, and

(b) any representations made by the notified taxpayer under paragraph 7,

give to the notified taxpayer a written notice setting out whether the specified advantage is to be counteracted under the general anti-abuse rule.

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(3) If the notice states that a tax advantage is to be counteracted, it must also set out—

(a) the adjustments required to give effect to the counteraction, and

(b) if relevant, any steps that the taxpayer is required to take to give effect to it.

Notices may be given on assumption that tax advantage does arise

9 (1) A designated HMRC officer may give a notice, or do anything else, under this Schedule where the officer considers that a tax advantage might have arisen [F160]....

(2) Accordingly, any notice given by a designated HMRC officer under this Schedule may be expressed to be given on the assumption that a tax advantage does arise (without conceding that it does).

Textual Amendments

F160 Words in Sch. 43B para. 9(1) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 12(4)**

[F161HMRC officers

Textual Amendments

F161 Sch. 43B para. 9A and cross-heading inserted (5.12.2017) by The General Anti-Abuse Rule Procedure (Amendment) Regulations 2017 (S.I. 2017/1090), regs. 1, **14**

9A. Anything that may or must be done by a given designated HMRC officer under this Schedule may be done instead by any other designated HMRC officer**]**

Power to amend

10 (1) The Treasury may by regulations amend this Schedule (apart from this paragraph).

(2) Regulations under sub-paragraph (1) may include—

(a) any amendment of this Part that is appropriate in consequence of an amendment by virtue of sub-paragraph (1);

(b) transitional provision.

(3) Regulations under sub-paragraph (1) are to be made by statutory instrument.

(4) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment in pursuance of a resolution of the House of Commons.**]**

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[F162SCHEDULE 43C

PENALTY UNDER SECTION 212A [F163OR 212B]: SUPPLEMENTARY PROVISION

Textual Amendments

F162 Sch. 43C inserted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by Finance Act 2016 (c. 24), **s. 158(3)**

F163 Words in Sch. 43C heading inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(2)**

Value of the counteracted advantage: introduction

1 Paragraphs 2 to 4 set out how to calculate the "value of the counteracted advantage" for the purposes of [F164sections 212A and 212B].

Textual Amendments

F164 Words in Sch. 43C para. 1 substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(3)**

Value of the counteracted advantage: basic rule

2 [F165(1) The "value of the counteracted tax advantage" is—

(a) for a penalty under section 212A, the additional amount due or payable in respect of tax as a result of the counteraction mentioned in subsection (1)(d) of that section, and

(b) for a penalty under section 212B, the additional amount due or payable in respect of tax (by the partner in question) as a result of the counteraction mentioned in subsection (1)(b) of that section.]

(2) The reference in sub-paragraph (1) to the additional amount due and payable includes a reference to—

(a) an amount payable to HMRC having erroneously been paid by way of repayment of tax, and

(b) an amount which would be repayable by HMRC if the counteraction were not made.

(3) The following are ignored in calculating the value of the counteracted advantage—

(a) group relief, and

(b) any relief under section 458 of CTA 2010 (relief in respect of repayment etc of loan) which is deferred under subsection (5) of that section.

(4) For the purposes of this paragraph consequential adjustments under section 210 are regarded as part of the counteraction in question.

(5) If the counteraction affects [F166a] person's liability to two or more taxes, the taxes concerned are to be considered together for the purpose of determining the value of the counteracted advantage.

(6) This paragraph is subject to paragraphs 3 and 4.

Changes to legislation: *Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F165 Sch. 43C para. 2(1) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(4)(a)**

F166 Word in Sch. 43C para. 2(5) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(4)(c)**

Value of counteracted advantage: losses

3 (1) To the extent that the tax advantage [F167]... resulted in the wrong recording of a loss for the purposes of direct tax and the loss has been wholly used to reduce the amount due or payable in respect of tax, the value of the counteracted advantage is determined in accordance with paragraph 2.

(2) To the extent that the tax advantage resulted in the wrong recording of a loss for purposes of direct tax and the loss has not been wholly used to reduce the amount due or payable in respect of tax, the value of the counteracted advantage is—

(a) the value under paragraph 2 of so much of the tax advantage as results (or would in the absence of the counteraction result) from the part (if any) of the loss which was used to reduce the amount due or payable in respect of tax, plus

(b) 10% of the part of the loss not so used.

(3) Sub-paragraphs (1) and (2) apply both—

(a) to a case where no loss would have been recorded but for the tax advantage, and

(b) to a case where a loss of a different amount would have been recorded (but in that case sub-paragraphs (1) and (2) apply only to the difference between the amount recorded and the true amount).

(4) To the extent that the tax advantage creates or increases (or would in the absence of the counteraction create or increase) an aggregate loss recorded for a group of companies—

(a) the value of the counteracted advantage is calculated in accordance with this paragraph, and

(b) in applying paragraph 2 in accordance with sub-paragraphs (1) and (2), group relief may be taken into account (despite paragraph 2(3)).

(5) To the extent that the tax advantage results (or would in the absence of the counteraction result) in a loss, the value of it is nil where, because of the nature of the loss or the person's circumstances, there was no reasonable prospect of the loss being used to support a claim to reduce a tax liability (of any person).

Textual Amendments

F167 Words in Sch. 43C para. 3(1) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 32 para. 13(5)**

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Value of counteracted advantage: deferred tax

4 (1) To the extent that the tax advantage mentioned in section 212A **[**F168or 212B (as the case may be)**]** is a deferral of tax, the value of the counteracted advantage is—

(a) 25% of the amount of the deferred tax for each year of the deferral, or

(b) a percentage of the amount of the deferred tax, for each separate period of deferral of less than a year, equating to 25% per year,

or, if less, 100% of the amount of the deferred tax.

(2) This paragraph does not apply to a case to the extent that paragraph 3 applies.

Textual Amendments

F168 Words in Sch. 43C para. 4(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(6)**

Assessment of penalty

5 (1) Where a person is liable for a penalty under section 212A **[**F169or 212B (as the case may be)**]**, HMRC must assess the penalty.

(2) Where HMRC assess the penalty, HMRC must—

[F170(a) notify—

(i) where the penalty is under section 212A, the person who is liable for it;

(ii) where the penalty is under section 212B, the person who is liable for it and the responsible partner.**]**

(b) state in the notice a tax period in respect of which the penalty is assessed.

(3) A penalty under this paragraph must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(4) An assessment—

(a) is to be treated for procedural purposes as if it were an assessment to tax,

(b) may be enforced as if it were an assessment to tax, and

(c) may be combined with an assessment to tax.

[F171(5) An assessment of a penalty under this paragraph must be made before the end of the period of 12 months beginning with the date (or the latest of the dates) on which the counteraction mentioned in section 212A(1)(d) **[**F172or section 212B(1)(b) (as the case may be)**]** becomes final (within the meaning of section 210(8)).**]**

Textual Amendments

F169 Words in Sch. 43C para. 5(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(7)(a)**

F170 Sch. 43C para. 5(2)(a) substituted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(7)(b)**

F171 Sch. 43C para. 5(5) substituted for Sch. 43C para. 5(5)(6) (with effect in accordance with Sch. 14 paras. 14, 15 of the amending Act) by Finance Act 2020 (c. 14), **Sch. 14 para. 9**

F172 Words in Sch. 43C para. 5(5) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(7)(c)**

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Modifications etc. (not altering text)

C18 Sch. 43C para. 5(4)(b) excluded by 2014 c. 7, s. 10A(4) (as inserted (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(17)**)

Alteration of assessment of penalty

6 (1) After notification of an assessment has been given to a person under paragraph 5(2), the assessment may not be altered except in accordance with this paragraph or paragraph 7, or on appeal.

(2) A supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of the value of the counteracted advantage.

(3) An assessment may be revised as necessary if it operated by reference to an overestimate of the value of the counteracted advantage.

Revision of assessment following consequential relieving adjustment

7 (1) Sub-paragraph (2) applies where a person—

(a) is notified under section 210(7) of a consequential adjustment relating to a counteraction under section 209, and

(b) an assessment to a penalty in respect of that counteraction of which the person has been notified under paragraph 5(2) does not take account of that consequential adjustment.

(2) HMRC must make any alterations of the assessment that appear to HMRC to be just and reasonable in connection with the consequential amendment.

(3) Alterations under this paragraph may be made despite any time limit imposed by or under an enactment.

Aggregate penalties

8 (1) Sub-paragraph (3) applies where—

(a) two or more penalties are incurred by the same person and fall to be determined by reference to an amount of tax to which that person is chargeable,

(b) one of those penalties is incurred under section 212A **[**[F173]or 212B (as the case may be)**]**, and

(c) one or more of the other penalties are incurred under a relevant penalty provision.

(2) But sub-paragraph (3) does not apply if section 212(2) of FA 2014 (follower notices: aggregate penalties) applies in relation to the amount of tax in question.

(3) The aggregate of the amounts of the penalties mentioned in subsection (1)(b) and (c), so far as determined by reference to that amount of tax, must not exceed—

(a) the relevant percentage of that amount, or

(b) in a case where at least one of the penalties is under paragraph 5(2)(b) of, or sub-paragraph (3)(b), (4)(b) or (5)(b) of paragraph 6 of, Schedule 55 to

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FA 2009 **[**F174, or sub-paragraph (3)(b) or (5)(b) of paragraph 3 or paragraph 20(4) of Schedule 25 to FA 2021**]**, £300 (if greater).

(4) In the application of section 97A of TMA 1970 (multiple penalties) no account shall be taken of a penalty under section 212A **[**F175or 212B**]**.

(5) "Relevant penalty provision" means—

(a) Schedule 24 to FA 2007 (penalties for errors),

(b) Schedule 41 to FA 2008 (penalties: failure to notify etc),

(c) Schedule 55 to FA 2009 (penalties for failure to make returns etc),**[**F176 or**]**

(d) Part 5 of Schedule 18 to FA 2016 (penalty under serial tax avoidance regime) **[**F177, or

(e) Schedule 25 to FA 2021 (penalties for deliberately withholding information).**]**

(6) "The relevant percentage" means—

(a) 200% in a case where at least one of the penalties is determined by reference to the percentage in—

(i) paragraph 4(4)(c) of Schedule 24 to FA 2007,

(ii) paragraph 6(4)(a) of Schedule 41 to FA 2008, **[**F178or**]**

(iii) paragraph 6(3A)(c) of Schedule 55 to FA 2009, **[**F179or

(iv) paragraph 3(4)(c) of Schedule 25 to FA 2021,**]**

(b) 150% in a case where paragraph (a) does not apply and at least one of the penalties is determined by reference to the percentage in—

(i) paragraph 4(3)(c) of Schedule 24 to FA 2007,

(ii) paragraph 6(3)(a) of Schedule 41 to FA 2008, **[**F180or**]**

(iii) paragraph 6(3A)(b) of Schedule 55 to FA 2009, **[**F181or

(iv) paragraph 3(4)(b) of Schedule 25 to FA 2021,**]**

(c) 140% in a case where neither paragraph (a) nor paragraph (b) applies and at least one of the penalties is determined by reference to the percentage in—

(i) paragraph 4(4)(b) of Schedule 24 to FA 2007,

(ii) paragraph 6(4)(b) of Schedule 41 to FA 2008, **[**F182or**]**

(iii) paragraph 6(4A)(c) of Schedule 55 to FA 2009, **[**F183or

(iv) paragraph 3(6)(c) of Schedule 25 to FA 2021,**]**

(d) 105% in a case where at none of paragraphs (a), (b) and (c) applies and at least one of the penalties is determined by reference to the percentage in—

(i) paragraph 4(3)(b) of Schedule 24 to FA 2007,

(ii) paragraph 6(3)(b) of Schedule 41 to FA 2008, **[**F184or**]**

(iii) paragraph 6(4A)(b) of Schedule 55 to FA 2009, **[**F185and**][**F185or

(iv) paragraph 3(6)(b) of Schedule 25 to FA 2021, and**]**

(e) in any other case, 100%.

Textual Amendments

F173 Words in Sch. 43C para. 8(1)(b) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(8)(a)**

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F174 Words in Sch. 43C para. 8(3)(b) inserted (6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(a)**; S.I. 2024/440, reg. 2

F175 Words in Sch. 43C para. 8(4) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(8)(b)**

F176 Word in Sch. 43C para. 8(5) omitted (6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(b)(i)**; S.I. 2024/440, reg. 2

F177 Sch. 43C para. 8(5)(e) and word inserted (6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(b)(ii)**; S.I. 2024/440, reg. 2

F178 Word in Sch. 43C para. 8(6)(a)(ii) omitted (6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(c)(i)(a)**; S.I. 2024/440, reg. 2

F179 Sch. 43C para. 8(6)(a)(iv) and word inserted (6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(c)(i)(b)**; S.I. 2024/440, reg. 2

F180 Word in Sch. 43C para. 8(6)(b)(ii) omitted (6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(c)(ii)(a)**; S.I. 2024/440, reg. 2

F181 Sch. 43C para. 8(6)(b)(iv) and word inserted (6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(c)(ii)(b)**; S.I. 2024/440, reg. 2

F182 Word in Sch. 43C para. 8(6)(c)(ii) omitted (6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(c)(iii)(a)**; S.I. 2024/440, reg. 2

F183 Sch. 43C para. 8(6)(c)(iv) and word inserted (6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(c)(iii)(b)**; S.I. 2024/440, reg. 2

F184 Word in Sch. 43C para. 8(6)(d)(ii) omitted (6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(c)(iv)(a)**; S.I. 2024/440, reg. 2

F185 Words in Sch. 43C para. 8(6)(d)(iv) substituted (6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 42(c)(iv)(b)**; S.I. 2024/440, reg. 2

Modifications etc. (not altering text)

C19 Sch. 43C para. 8 modified by 2014 c. 7, s. 10A(6) (as inserted (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(17)**)

C20 Sch. 43C para. 8: power to modify conferred by 2014 c. 7, s. 10A(7) (as inserted (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(17)**)

Appeal against penalty

9 (1) A person may appeal against—

(a) the imposition of a penalty under section 212A **[**F186or 212B**]**, or

(b) the amount assessed under paragraph 5.

[F187(1A) Where the penalty is under section 212B, an appeal against it must be brought by the responsible partner.**]**

(2) An appeal under sub-paragraph (1)(a) may only be made on the grounds that the arrangements were not abusive or there was no tax advantage to be counteracted.

(3) An appeal under sub-paragraph (1)(b) may only be made on the grounds that the assessment was based on an overestimate of the value of the counteracted advantage (whether because the estimate was made by reference to adjustments which were not just and reasonable or for any other reason).

(4) An appeal under this paragraph must be made within the period of 30 days beginning with the day on which notification of the penalty is given under paragraph 5(2).

(5) An appeal under this paragraph is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision

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about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).

(6) Sub-paragraph (5) does not apply—

(a) so as to require a person to pay a penalty before an appeal against the assessment of the penalty is determined, or

(b) in respect of any other matter expressly provided for by this Part.

(7) On an appeal against the penalty the tribunal may affirm or cancel HMRC's decision.

(8) On an appeal against the amount of the penalty the tribunal may—

(a) affirm HMRC's decision, or

(b) substitute for HMRC's decision another decision that HMRC has power to make.

(9) In this paragraph "tribunal" means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of sub-paragraph (5)).

Textual Amendments

F186 Words in Sch. 43C para. 9(1)(a) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(9)(a)**

F187 Sch. 43C para. 9(1A) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(9)(b)**

Modifications etc. (not altering text)

C21 Sch. 43C para. 9(5) modified by 2014 c. 7, s. 10A(5) (as inserted (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(17)**)

Mitigation of penalties

10 (1) The Commissioners may in their discretion mitigate a penalty under section 212A **[**F188or 212B**]**, or stay or compound any proceedings for such a penalty.

(2) They may also, after judgment, further mitigate or entirely remit the penalty.

Textual Amendments

F188 Words in Sch. 43C para. 10(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(10)**

Interpretation

11 In this Schedule—

(a) a reference to an "assessment" to tax is to be interpreted, in relation to inheritance tax, as a reference to a determination;

(b) "direct tax" means—

(i) income tax,

(ii) capital gains tax,

(iii) corporation tax (including any amount chargeable as if it were corporation tax or treated as corporation tax),

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(iv) petroleum revenue tax, and

(v) diverted profits tax;

(c) a reference to a loss includes a reference to a charge, expense, deficit and any other amount which may be available for, or relied on to claim, a deduction or relief;

(d) a reference to a repayment of tax includes a reference to allowing a credit against tax or to a payment of a corporation tax credit;

(e) "corporation tax credit" means—

(i) an R&D tax credit under Chapter 2 or 7 of Part 13 of CTA 2009,

(ii) an R&D expenditure credit under Chapter 6A of Part 3 of CTA 2009,

(iii) a land remediation tax credit or life assurance company tax credit under Chapter 3 or 4 respectively of Part 14 of CTA 2009,

(iv) a film tax credit under Chapter 3 of Part 15 of CTA 2009,

(v) a television tax credit under Chapter 3 of Part 15A of CTA 2009,

(vi) a video game tax credit under Chapter 3 of Part 15B of CTA 2009,

(vii) a theatre tax credit under section 1217K of CTA 2009,

(viii) an orchestra tax credit under Chapter 3 of Part 15D of CTA 2009, or

(ix) a first-year tax credit under Schedule A1 to CAA 2001;

(f) "tax period" means a tax year, accounting period or other period in respect of which tax is charged;

(g) a reference to giving a document to HMRC includes a reference to communicating information to HMRC in any form and by any method (whether by post, fax, email, telephone or otherwise),

(h) a reference to giving a document to HMRC includes a reference to making a statement or declaration in a document.**]**

[F189SCHEDULE 43D

Section 209

THE GAAR AND PARTNERSHIPS

Textual Amendments

F189 Sch. 43D inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 1**

PART 1

GENERAL

Introductory

1 (1) This Schedule makes provision about the operation of the general anti-abuse rule in relation to partnerships.

(2) This Schedule applies where—

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(a) a return is made under section 12AA of TMA 1970 (a "section 12AA partnership return"), or

(b) a return is made in accordance with regulations under paragraph 10 of Schedule A1 to TMA 1970 (a "Schedule A1 partnership return").

Meaning of "the responsible partner"

2 In this Schedule, "the responsible partner" means—

(a) in relation to the making of a section 12AA partnership return, the person who delivered the return or their successor (within the meaning of section 12AA(11) of TMA 1970);

(b) in relation to the making of a Schedule A1 partnership return, the nominated partner (within the meaning of paragraph 5 of Schedule A1 to TMA 1970).

Partnership return made on basis that tax advantage arises

3 (1) For the purposes of this Schedule, a partnership return is regarded as made on the basis that a particular tax advantage arises (or might arise) to a partner from particular arrangements if—

(a) it is made on the basis that an increase or reduction in one or more of the amounts mentioned in section 12AB(1) of TMA 1970 (amounts in the partnership statement in a partnership return) results (or might result) from those arrangements, and

(b) that increase or reduction results (or might result) in that tax advantage for the partner.

(2) In sub-paragraph (1) and in the following provisions of this Schedule "partnership return" means a section 12AA partnership return or a Schedule A1 partnership return.

PART 2

PROTECTIVE GAAR NOTICES

Power to give protective GAAR notice to responsible partner

4 (1) If an officer of Revenue and Customs considers, in relation to a partnership—

(a) that a partnership return has been made on the basis that a tax advantage arises (or might arise) to one or more partners from tax arrangements that are abusive, and

(b) that, on the assumption that the advantage does arise from tax arrangements that are abusive, it ought to be counteracted under section 209,

the officer may give a written notice to that effect (a "protective GAAR notice") to the responsible partner.

(2) Subsections (2) to (9) of section 209AA apply in relation to a protective GAAR notice given under this paragraph as they apply in relation to a protective GAAR notice given under that section, subject to the modifications in sub-paragraphs (3) and (4).

(3) Section 209AA(3) is to be read as if—

(a) for "a return made by the person, and" there were substituted " the partnership return ", and

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(b) paragraph (b) were omitted.

(4) Section 209AA(8) is to be read as if, for "212A", there were substituted " 212B ".

PART 3

NOTICES OF PROPOSED COUNTERACTION

Power to give notice of proposed counteraction to responsible partner

5 (1) If a designated HMRC officer considers that, in relation to a partnership—

(a) a partnership return has been made on the basis that a tax advantage has arisen to one or more partners from tax arrangements that are abusive, and

(b) the tax advantage ought to be counteracted under section 209,

the officer may give the responsible partner a written notice under this paragraph.

(2) A partner who appears to a designated HMRC officer to fall within sub-paragraph (1)(a) is a "relevant partner" for the purposes of this Part of this Schedule.

(3) The notice must—

(a) specify each relevant partner, the arrangements and the tax advantage,

(b) explain why the officer considers that a tax advantage has arisen to each relevant partner from tax arrangements that are abusive,

(c) set out the counteraction that the officer considers ought to be taken,

(d) inform the responsible partner of the period for making representations under paragraph 4 of Schedule 43, and

(e) explain the effect of—

(i) paragraphs 5 and 6 of Schedule 43, and

(ii) sections 209(8) and 212B.

(4) The notice may set out steps that may be taken to avoid the proposed counteraction.

(5) If, after the notice has been given, it appears to a designated HMRC officer that the tax advantage has not in fact arisen to a partner specified in the notice, the officer must amend the notice accordingly.

(6) Where a designated HMRC officer so amends a notice—

(a) it is treated as having been given in the amended form, and

(b) the officer may take such other steps as the officer considers appropriate.

Effect of giving a notice under paragraph 5

6 Where an officer gives a notice under paragraph 5 in respect of a tax advantage, this Part of this Act has effect in relation to the tax advantage with the modifications in paragraph 7.

Modifications to Schedule 43

7 (1) Schedule 43 (procedural requirements) has effect with the following modifications.

(2) Schedule 43 is to be read as if paragraphs 1A and 3 were omitted.

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(3) References to a notice given under paragraph 3 of Schedule 43 are to be read as if they were to a notice given under paragraph 5 of this Schedule.

(4) In paragraphs 4 and 6 to 12, references to the taxpayer are to be read as if they were to the responsible partner.

(5) Schedule 43 is to be read as if, for paragraphs 4A and 4B (and the headings before those paragraphs), there were substituted—

"Corrective action taken by the responsible partner

4A (1) Where, in respect of a partnership—

(a) a designated HMRC officer gives a notice under paragraph 5 of Schedule 43D in respect of a tax advantage arising to one or more partners,

(b) the closed period mentioned in section 209(8) has not begun, and

(c) the responsible partner—

(i) amends a partnership return or claim to counteract the tax advantage, and

(ii) notifies HMRC of that fact,

the matter is not to be referred to the GAAR Advisory Panel.

(2) Where a tax enquiry is in progress, no enactment limiting the time during which amendments may be made to returns or claims operates to prevent the responsible partner taking the action mentioned in sub-paragraph (1)(c)(i) and (ii) before the enquiry is closed.

(3) No appeal may be brought, by virtue of a provision mentioned in sub-paragraph (4), against an amendment made by a closure notice in respect of a tax enquiry, to the extent that the amendment takes into account an amendment made by the responsible partner to a return or claim as mentioned in sub-paragraph (1)(c).

(4) The provisions are—

(a) section 31(1)(b) or (c) of TMA 1970,

(b) paragraph 9 of Schedule 1A to TMA 1970.

Corrective action by relevant partners

4B (1) Where, in respect of a partnership—

(a) a designated HMRC officer gives a notice under paragraph 5 of Schedule 43D in respect of a tax advantage arising to one or more partners,

(b) the closed period mentioned in section 209(8) has not begun, and

(c) a partner mentioned in paragraph (a) takes all necessary action to enter into an agreement with HMRC (in writing) for the purpose of relinquishing the tax advantage,

the partner is not to be treated as a relevant partner for the purposes of Part 3 of Schedule 43D.

(2) As soon as is practicable after the beginning of the closed period, the notice given under paragraph 5 of Schedule 43D must be amended by a designated

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HMRC officer so each partner to whom sub-paragraph (1) applies is no longer specified in it.

(3) Where a notice is amended in accordance with sub-paragraph (2), the notice is treated as having been given in the amended form.

(4) If a partner to whom sub-paragraph (1) applies fails to enter into the written agreement, HMRC may proceed as if that sub-paragraph had not applied in relation to the partner (and accordingly, as if the partner were a relevant partner).

Referral to GAAR Advisory Panel

4C Paragraph 5 and 6 apply if, immediately before the beginning of the closed period mentioned in section 209(8)—

(a) the responsible partner has not taken the action described in paragraph 4A(1)(c), and

(b) there is at least one relevant partner."

Notices may be given on assumption that tax advantage does arise

8 (1) A designated HMRC officer may give a notice, or do anything else, under this Part of this Schedule where the officer considers that a tax advantage might have arisen.

(2) Accordingly, any notice given by a designated HMRC officer under paragraph 5 may be expressed to be given on the assumption that the tax advantage does arise (without agreeing that it does).

HMRC officers

9 Anything that may or must be done by a given designated HMRC officer under this Part of this Schedule may be done instead by any other designated HMRC officer.

PART 4

POOLING NOTICES AND NOTICES OF BINDING

Power to give pooling notice or notice of binding to responsible partner

10 (1) If a designated HMRC officer—

(a) has the power to give to a person ("R") a pooling notice under paragraph 1(3) or a notice of binding under paragraph 2(2) of Schedule 43A in respect of a tax advantage arising from tax arrangements ("R's arrangements"), and

(b) considers that a partnership return has been made on the basis that the tax advantage has arisen to R, or to R and one or more of R's partners, from R's arrangements,

the officer may give the pooling notice or notice of binding to the responsible partner under this paragraph.

(2) A partner (including R) who appears to a designated HMRC officer to fall within sub-paragraph (1)(b) is a "relevant partner" for the purposes of this Part of this Schedule.

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(3) If, after the notice has been given, it appears to a designated HMRC officer that the tax advantage has not in fact arisen to a partner specified in the notice, the officer must amend the notice accordingly.

(4) Where a designated HMRC officer so amends the notice—

(a) it is treated as having been given in the amended form, and

(b) the officer may take such other steps as the officer considers appropriate.

(5) The officer may not give a pooling notice under this paragraph if a notice under paragraph 5 has been given in respect of R's arrangements.

(6) The officer may not give a notice of binding under this paragraph if, in respect of R's arrangements, one of the following notices has been given—

(a) a pooling notice under this paragraph, or

(b) a notice under paragraph 5.

Effect of giving notice under paragraph 10

11 Where a pooling notice or notice of binding is given to the responsible partner under paragraph 10, this Part of this Act has effect in relation to the tax advantage with the modifications in paragraphs 12 and 13.

Modifications to Schedule 43A

12 (1) Schedule 43A (procedural requirements: pooling notices and notices of binding) has effect with the following modifications.

(2) Paragraph 1 is to be read as if, in sub-paragraph (3A), after "lead arrangements" there were inserted " (whether under this Schedule or Schedule 43D) ".

(3) Paragraph 3 is to be read as if—

(a) in sub-paragraph (2)(a), after "specify" there were inserted " each relevant partner, ",

(b) in sub-paragraph (2)(c), for "R" there were substituted " each relevant partner ", and

(c) in sub-paragraph (3), for "R may" there were substituted " may be taken ".

(4) Schedule 43A is to be read as if, for paragraph 4 (and the heading before it), there were substituted—

"Corrective action by responsible partner

4 (1) Where, in respect of a partnership—

(a) a designated HMRC officer gives a pooling notice or notice of binding under paragraph 10 of Schedule 43D in respect of a tax advantage arising to one or more partners,

(b) the closed period mentioned in section 209(9) has not begun, and

(c) the responsible partner—

(i) amends a partnership return or claim to counteract the tax advantage, and

(ii) notifies HMRC of that fact,

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the responsible partner is treated for the purposes of paragraphs 6 to 9 and Schedule 43B as not having been given the notice in question.

(2) Where a tax enquiry is in progress, no enactment limiting the time during which amendments may be made to returns or claims operates to prevent the responsible partner taking the action mentioned in sub-paragraph (1) before the enquiry is closed.

(3) No appeal may be brought, by virtue of a provision mentioned in sub-paragraph (4), against an amendment made by a closure notice in respect of a tax enquiry, to the extent that the amendment takes into account an amendment made by the responsible partner to a return or claim as mentioned in sub-paragraph (1)(c).

(4) The provisions are—

(a) section 31(1)(b) or (c) of TMA 1970,

(b) paragraph 9 of Schedule 1A to TMA 1970.

Corrective action by relevant partners

4A (1) Where, in respect of a partnership—

(a) a designated HMRC officer gives a pooling notice or notice of binding under paragraph 10 of Schedule 43D in respect of a tax advantage arising to one or more partners,

(b) the closed period mentioned in section 209(9) has not begun, and

(c) a partner mentioned in paragraph (a) takes all necessary action to enter into an agreement with HMRC (in writing) for the purpose of relinquishing the tax advantage,

the partner is not to be treated as a relevant partner for the purposes of Part 4 of Schedule 43D.

(2) As soon as is practicable after the beginning of the closed period, the pooling notice or notice of binding must be amended by a designated HMRC officer so each partner to whom sub-paragraph (1) applies is no longer specified in it.

(3) Where a notice is amended in accordance with sub-paragraph (2), the notice is treated for the purposes of paragraphs 6 to 9 and Schedule 43B as having been given in the amended form.

(4) If a partner to whom sub-paragraph (1) applies fails to enter into the written agreement, HMRC may proceed as if that sub-paragraph had not applied in relation to the partner (and accordingly, as if the partner were a relevant partner).”

(5) Paragraph 7(3)(a) is to be read as if “to the person” were omitted.

(6) Paragraph 8(1) is to be read as if for “paragraph 1(3)” there were substituted “ paragraph 10 of Schedule 43D. ”

(7) Paragraph 10(b) is to be read as if for “the person concerned” there were substituted “ the responsible partner ”.

(8) Paragraph 9(1)(a) is to be read as if for “paragraph 2” there were substituted “ paragraph 10 of Schedule 43D ”.

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(9) Paragraph 11(c) is to be read as if "to a person" were omitted.

Modifications to Schedule 43B

13 (1) Schedule 43B to FA 2013 (procedural requirements: generic referral of tax arrangements) has effect with the modifications in sub-paragraph (2).

(2) Paragraph 1 is to be read as if—

(a) in sub-paragraph (1)(a), for "paragraph 1(3) of Schedule 43A" there were substituted " paragraph 10 of Schedule 43D ",

(b) for the words before sub-paragraph (b)(i), there were substituted " the relevant corrective action has been taken before ", and

(c) after sub-paragraph (5), there were inserted—

"(6) For the purposes of sub-paragraph (1)(b) the "relevant corrective action" is taken if (and only if) in respect of the tax advantage arising out of the lead arrangements—

(a) the responsible partner has taken the action mentioned in paragraph 4A(1)(c) of Schedule 43, or

(b) each of the relevant partners in question have taken the action described in paragraph 4B(1)(c) of that Schedule."

Notices may be given on assumption that tax advantage does arise

14 (1) A designated HMRC officer may give a notice, or do anything else, under this Part of this Schedule where the officer considers that a tax advantage might have arisen.

(2) Accordingly, any notice given by a designated HMRC officer under paragraph 10 may be expressed to be given on the assumption that the tax advantage does arise (without agreeing that it does).

HMRC officers

15 Anything that may or must be done by a given designated HMRC officer under this Part of this Schedule may be done instead by any other designated HMRC officer.**]**

SCHEDULE 44

Section 216

TRUSTS WITH VULNERABLE BENEFICIARY

Inheritance Tax Act 1984

1 IHTA 1984 is amended as follows.

2 (1) Section 71A (trusts for bereaved minors) is amended as follows.

(2) For subsection (3)(c)(ii) substitute—

"(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor."

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

"(za) the trustees' having powers that enable them to apply otherwise than for the benefit of the bereaved minor amounts (whether consisting of income or capital, or both) not exceeding the annual limit,".

(4) After subsection (4) insert—

"(4A) For the purposes of this section and section 71B, the "annual limit" is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the period in question.

(4B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(4C) The Treasury may by order made by statutory instrument—

(a) specify circumstances in which subsection (4)(za) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in subsection (4A).

(4D) An order under subsection (4C) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

(4E) A statutory instrument containing an order under subsection (4C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

3 (1) Section 71B (charge to tax on property to which section 71A applies) is amended as follows.

(2) In subsection (1), after "(2)" insert " , (2B) ".

(3) After subsection (2) insert—

"(2A) Subsection (2B) applies in a case in which—

(a) an amount is paid or applied otherwise than for the benefit of the bereaved minor, and

(b) the exemptions provided by subsection (2) of this section and subsections (3) and (4) of section 70 do not apply.

(2B) In such a case, tax is not charged under this section in respect of whichever is the lower of the following amounts—

(a) the amount paid or applied, and

(b) the annual limit."

4 (1) Section 71D (age 18-to-25 trusts) is amended as follows.

(2) For subsection (6)(c)(ii) substitute—

"(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B."

(3) After that subsection insert—

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"(6A) Where the income arising from the settled property is held on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), paragraphs (b) and (c) of subsection (6) have effect as if for "living and under the age of 25," there were substituted "under the age of 25 and the income arising from the settled property is held on trust for B,".

(4) In subsection (7), before paragraph (a) insert—

"(za) the trustees' having powers that enable them to apply otherwise than for the benefit of B amounts (whether consisting of income or capital, or both) not exceeding the annual limit,".

(5) After that subsection insert—

"(7A) For the purposes of this section and section 71E, the "annual limit" is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the period in question.

(7B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(7C) The Treasury may by order made by statutory instrument—

(a) specify circumstances in which subsection (7)(za) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in subsection (7A).

(7D) An order under subsection (7C) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

(7E) A statutory instrument containing an order under subsection (7C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

5 (1) Section 71E (charge to tax on property to which section 71D applies) is amended as follows.

(2) In subsection (1), for "(4)" substitute " (4A) ".

(3) After subsection (4) insert—

"(4A) If an amount is paid or applied otherwise than for the benefit of B and the exemptions provided by subsections (2) to (4) do not apply, tax is not charged under this section in respect of whichever is the lower of the following amounts—

(a) the amount paid or applied, and

(b) the annual limit."

6 (1) Section 89 (trusts for disabled persons) is amended as follows.

(2) For subsection (1)(b) substitute—

"(b) which secure that, if any of the settled property or income arising from it is applied during the disabled person's life for the benefit of a beneficiary, it is applied for the benefit of the disabled person."

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(3) For subsection (3) substitute—

"(3) The trusts on which the settled property is held are not to be treated as falling outside subsection (1) by reason only of—

(a) the trustees' having powers that enable them to apply otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(3A) For the purposes of this section, the "annual limit" is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the period in question.

(3B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(3C) The Treasury may by order made by statutory instrument—

(a) specify circumstances in which subsection (3)(a) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in subsection (3A).

(3D) An order under subsection (3C) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

(3E) A statutory instrument containing an order under subsection (3C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

(4) In subsection (4), for the words following "into settlement," substitute " was a disabled person ".

(5) For subsections (5) and (6) substitute—

"(4A) In this section "disabled person" has the meaning given by Schedule 1A to the Finance Act 2005."

7 (1) Section 89A (self-settlement by person with condition expected to lead to disability) is amended as follows.

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(2) In subsection (1)(b), for the words following "A becoming" substitute " a person falling within any paragraph of the definition of "disabled person" in paragraph 1 of Schedule 1A to the Finance Act 2005 ".

(3) In subsection (2), after "settled property" insert " or income arising from it ".

(4) For subsections (5) and (6) substitute—

"(5) For the purposes of subsection (1)(b), assume—

(a) that A will meet any conditions as to residence or presence that are required to establish entitlement to the allowance, payment or increased pension in question,

(b) that there will be no provision made by regulations under any of the following—

(i) sections 67(1) and (2), 72(8), 104(3) and 113(2) of SSCBA 1992,

(ii) sections 67(1) and (2), 72(8), 104(3) and 113(2) of SSCB(NI)A 1992, and

(iii) sections 85 and 86 of WRA 2012 and the corresponding provision having effect in Northern Ireland, and

(c) that A will not be prevented from receiving the allowance, payment or increased pension in question by any of the following—

(i) section 113(1) of SSCBA 1992,

(ii) section 113(1) of SSCB(NI)A 1992,

(iii) section 87 of WRA 2012 and the corresponding provision having effect in Northern Ireland,

(iv) articles 61 and 64 of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686),

(v) article 53 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606), and

(vi) article 42 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517)."

(5) Before subsection (7) insert—

"(6A) The trusts on which the settled property is held are not to be treated as falling outside subsection (2) by reason only of—

(a) the trustees' having powers that enable them to apply otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

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(e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(6B) For the purposes of this section, the "annual limit" is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the period in question.

(6C) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(6D) The Treasury may by order made by statutory instrument—

(a) specify circumstances in which subsection (6A)(a) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in subsection (6B).

(6E) An order under subsection (6D) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

(6F) A statutory instrument containing an order under subsection (6D) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

(6) For subsection (8) substitute—

"(8) In this section—

"SSCBA 1992" means the Social Security Contributions and Benefits Act 1992,

"SSCB(NI)A 1992" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992, and

"WRA 2012" means the Welfare Reform Act 2012."

(7) In the heading, for the words following "**person**" substitute " **expected to fall within the definition of "disabled person"** ".

8 (1) Section 89B (meaning of "disabled person's interest") is amended as follows.

(2) For subsection (2) substitute—

"(2) In subsection (1)(c) "disabled person" has the meaning given by Schedule 1A to the Finance Act 2005."

(3) After that subsection insert—

"(2A) Where the income arising from the settled property is held on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), subsection (1)(d)(v) has effect as if for "A's life" there were substituted " the period during which the income from the property is held on trust for A "."

9 (1) The amendments made by paragraphs 2 to 8 have effect in relation to property transferred into settlement on or after 8 April 2013.

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(2) Nothing in paragraphs 6 to 8 is to be read as preventing property transferred into a relevant settlement on or after 8 April 2013 from being property to which section 89 or 89A of IHTA 1984 applies.

10 (1) In section 89B (meaning of "disabled person's interest"), in subsection (1)(c) after "2006" insert " if the trusts on which the settled property is held secure that, if any of the settled property is applied during the disabled person's life for the benefit of a beneficiary, it is applied for the benefit of the disabled person ".

(2) After that section insert—

"**89C Disabled person's interest: powers of advancement etc**

(1) The trusts on which settled property is held are not to be treated for the purposes of section 89B(1)(c) or (d) (meaning of "disabled person's interest": cases involving an interest in possession) as failing to secure that the settled property is applied for the benefit of a beneficiary by reason only of—

(a) the trustees' having powers that enable them to apply otherwise than for the benefit of the beneficiary amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(2) For the purposes of this section, the "annual limit" is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the period in question.

(3) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(4) The Treasury may by order made by statutory instrument—

(a) specify circumstances in which subsection (1)(a) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in subsection (2).

(5) An order under subsection (4) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

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(6) A statutory instrument containing an order under subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

(3) The amendments made by this paragraph have effect in relation to property transferred into settlement on or after the day on which this Act is passed.

(4) Nothing in this paragraph is to be read as preventing property transferred into a settlement to which sub-paragraph (5) applies from being settled property for the purposes of section 89B(1)(c) or (d) of IHTA 1984.

(5) This sub-paragraph applies to a settlement—

(a) created before the day on which this Act is passed the trusts of which have not been altered on or after that day, or

(b) arising on or after the day on which this Act is passed under the will of a testator, if—

(i) the will was executed before the day on which this Act is passed and its provisions, so far as relating to the settlement, have not been altered on or after that day, or

(ii) the will was executed or confirmed on or after the day on which this Act is passed and its provisions, so far as relating to the settlement, are in the same terms as those contained in a will executed by the same testator before that day.

Taxation of Chargeable Gains Act 1992

11 TCGA 1992 is amended as follows.

12 (1) Section 169D (exceptions to rules on gifts to settlor-interested settlements etc) is amended as follows.

(2) For subsection (3) substitute—

"(3) The first condition is that, immediately after the making of the disposal, the settled property is held on trusts which secure that, during the lifetime of a disabled person—

(a) if any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person's benefit, and

(b) either—

(i) the disabled person is entitled to all of the income (if there is any) arising from any of the property, or

(ii) if any such income is applied for the benefit of a beneficiary, it is applied for the disabled person's benefit."

(3) After subsection (4) insert—

"(4A) Where the income arising from the settled property is held on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), subsection (3) has effect as if the reference to the lifetime of a disabled person were a reference to the period during which the income is held on trust for the disabled person.

(4B) The trusts on which the settled property is held are not to be treated as falling outside subsection (3) by reason only of—

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(a) the trustees' having powers that enable them to apply in any tax year otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(4C) For the purposes of this section, the "annual limit" for a tax year is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the tax year in question.

(4D) The Treasury may by order—

(a) specify circumstances in which subsection (4B)(a) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in subsection (4C).

(4E) An order under subsection (4D) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

(4F) A statutory instrument containing an order under subsection (4D) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

(4) For subsections (7) to (9) substitute—

"(7) In this section "disabled person" has the meaning given by Schedule 1A to the Finance Act 2005."

(5) Omit subsection (10).

(6) The amendments made by this paragraph have effect in relation to disposals to the trustees of a settlement on or after 8 April 2013.

(7) But if the settlement is a relevant settlement, nothing in this paragraph is to be read as preventing section 169D(2) of TCGA 1992 from applying in relation to the disposal.

13 (1) Paragraph 1 of Schedule 1 (application of exempt amount and reporting limits in cases involving settled property) is amended as follows.

(2) In sub-paragraph (1)—

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(a) for "mentally disabled person or a person in receipt of attendance allowance or of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate" substitute " disabled person ", and

(b) for paragraphs (a) and (b) substitute—

"(a) if any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person's benefit, and

(b) either—

(i) the disabled person is entitled to all of the income (if there is any) arising from any of the property, or

(ii) if any such income is applied for the benefit of a beneficiary, it is applied for the disabled person's benefit,".

(3) After that sub-paragraph insert—

"(1A) The trusts on which settled property is held are not to be treated as falling outside sub-paragraph (1) by reason only of—

(a) the trustees' having powers that enable them to apply in any tax year otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(1B) For the purposes of this paragraph, the "annual limit" for a tax year is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the tax year in question.

(1C) The Treasury may by order—

(a) specify circumstances in which sub-paragraph (1A)(a) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in sub-paragraph (1B).

(1D) An order under sub-paragraph (1C) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

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(1E) A statutory instrument containing an order under sub-paragraph (1C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

(4) In sub-paragraph (2), for the words from the beginning to "that sub-paragraph" substitute " The reference in sub-paragraph (1) ".

(5) In sub-paragraph (6), for the definitions of "mentally disabled person", "attendance allowance" and "disability living allowance" substitute—

""disabled person" has the meaning given by Schedule 1A to the Finance Act 2005; and".

(6) The amendments made by this paragraph have effect in relation to the tax year 2013-14 and subsequent tax years.

(7) But if the settlement is a relevant settlement, nothing in this paragraph is to be read as preventing sections 3(1) to (5C) and 3A of TCGA 1992 from applying in relation to the settlement as provided by paragraph 1(1) of Schedule 1 to that Act.

Finance Act 2005

14 FA 2005 is amended as follows.

15 (1) Section 34 (disabled persons) is amended as follows.

(2) In subsection (2), for paragraph (b) substitute—

"(b) either—

(i) that the disabled person is entitled to all the income (if there is any) arising from any of the property, or

(ii) if any such income is applied for the benefit of a beneficiary, it is applied for the benefit of the disabled person."

(3) For subsection (3) substitute—

"(3) The trusts on which property is held are not to be treated as failing to secure that the conditions in subsection (2) are met by reason only of—

(a) the trustees' having powers that enable them to apply in any tax year otherwise than for the benefit of the disabled person amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or

(f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

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(3B) For the purposes of this section, the "annual limit" for a tax year is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the tax year in question.

(3C) The Treasury may by order made by statutory instrument—

(a) specify circumstances in which subsection (3)(a) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in subsection (3B).

(3D) An order under subsection (3C) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

(3E) A statutory instrument containing an order under subsection (3C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

16 (1) Section 35 (relevant minors) is amended as follows.

(2) For subsection (3)(c)(ii) substitute—

"(ii) if any such income is applied for the benefit of a beneficiary, it is applied for the benefit of the relevant minor."

(3) For subsection (4) substitute—

"(4) Trusts to which subsection (2) applies are not to be treated as failing to secure that the conditions in subsection (3) are met by reason only of—

(a) the trustees' having powers that enable them to apply in any tax year otherwise than for the benefit of the relevant minor amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(b) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(c) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(d) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(e) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(f) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (b) to (e).

(4B) For the purposes of this section, the "annual limit" for a tax year is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the tax year in question.

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(4C) The Treasury may by order made by statutory instrument—

(a) specify circumstances in which subsection (4)(a) is, or is not, to apply in relation to a trust, and

(b) amend the definition of "the annual limit" in subsection (4B).

(4D) An order under subsection (4C) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

(4E) A statutory instrument containing an order under subsection (4C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons."

17 For section 38 substitute—

"**38 Meaning of "disabled person"**

In this Chapter "disabled person" has the meaning given by Schedule 1A."

18 The amendments made by paragraphs 15 to 17 have effect for the tax year 2013-14 and subsequent tax years.

19 After Schedule 1 insert—

"SCHEDULE 1A

Section 38

MEANING OF "DISABLED PERSON"

"Disabled person"

1 "Disabled person" means—

(a) a person who by reason of mental disorder within the meaning of the Mental Health Act 1983 is incapable of administering his or her property or managing his or her affairs,

(b) a person in receipt of attendance allowance,

(c) a person in receipt of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate,

(d) a person in receipt of personal independence payment by virtue of entitlement to the daily living component,

(e) a person in receipt of an increased disablement pension,

(f) a person in receipt of constant attendance allowance, or

(g) a person in receipt of armed forces independence payment.

Attendance allowance

2 A person is to be treated as a disabled person under paragraph 1(b) if he or she satisfies HMRC that he or she would be entitled to receive attendance allowance but for—

(a) the conditions as to residence and presence prescribed under section 64(1) of SSCBA 1992 or section 64(1) of SSCB(NI)A 1992,

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(b) provision made by regulations under section 67(1) or (2) of SSCBA 1992 or section 67(1) or (2) of SSCB(NI)A 1992 (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in hospital or is provided with certain accommodation), or

(c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

Disability living allowance

3 A person is to be treated as a disabled person under paragraph 1(c) if he or she satisfies HMRC that he or she would be entitled to receive a disability living allowance by virtue of entitlement to the care component at the highest or middle rate but for—

(a) the conditions as to residence and presence prescribed under section 71(6) of SSCBA 1992 or section 71(6) of SSCB(NI)A 1992,

(b) provision made by regulations under section 72(8) of SSCBA 1992 or section 72(8) of SSCB(NI)A 1992 (no payment of disability allowance for persons for whom certain accommodation is provided), or

(c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

Personal independence payment

4 A person is to be treated as a disabled person under paragraph 1(d) if he or she satisfies HMRC that he or she would be entitled to receive personal independence payment by virtue of entitlement to the daily living component but for—

(a) the conditions as to residence and presence prescribed under section 77(3) of WRA 2012 or the corresponding provision having effect in Northern Ireland,

(b) provision made by regulations under section 85 of WRA 2012 (exclusion of certain care home residents) or the corresponding provision having effect in Northern Ireland,

(c) provision made by regulations under section 86 of WRA 2012 (exclusion of certain hospital in-patients) or the corresponding provision having effect in Northern Ireland, or

(d) section 87 of WRA 2012 (exclusion of prisoners and detainees) or the corresponding provision having effect in Northern Ireland.

Increased disablement pension

5 A person is to be treated as a disabled person under paragraph 1(e) if he or she satisfies HMRC that he or she would be entitled to receive an increased disablement pension but for—

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(a) conditions as to residence and presence that have effect in relation to increased disablement pension by virtue of regulations under section 104(3) of SSCBA 1992 or section 104(3) of SSCB(NI)A 1992 (application of attendance allowance provisions),

(b) provision made under section 67(1) or (2) of SSCBA 1992 or section 67(1) or (2) of SSCB(NI)A 1992 (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in hospital or is provided with certain accommodation) that has effect in relation to increased disablement pension by virtue of such regulations, or

(c) section 113(1) of SSCBA 1992 or section 113(1) of SSCB(NI)A 1992 or provision made by regulations under section 113(2) of SSCBA 1992 or section 113(2) of SSCB(NI)A 1992 (general provisions as to disqualification and suspension).

Constant attendance allowance

6 A person is to be treated as a disabled person under paragraph 1(f) if he or she satisfies HMRC that he or she would be entitled to receive constant attendance allowance but for—

(a) article 61 (residence outside United Kingdom) or article 64 (maintenance in hospital or institution) of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686), or

(b) article 53 (maintenance in hospital or institution) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606).

Armed forces independence payment

7 A person is to be treated as a disabled person under paragraph 1(g) if he or she satisfies HMRC that he or she would be entitled to receive armed forces independence payment but for article 42 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517) (cessation of payment on admission to Royal Hospital, Chelsea).

Interpretation

8 In this Schedule—

"armed forces independence payment" means armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004,

"attendance allowance" means an allowance under section 64 of SSCBA 1992 or section 64 of SSCB(NI)A 1992,

"constant attendance allowance" means an allowance under—

(a) article 14 of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686), or

(b) article 8 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606),

"disability living allowance" means a disability living allowance under section 71 of SSCBA 1992 or section 71 of SSCB(NI)A 1992,

"HMRC" means Her Majesty's Revenue and Customs,

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"increased disablement pension" means an increase of disablement pension under—

(a) section 104 of SSCBA 1992, or

(b) section 104 of SSCB(NI)A 1992,

"personal independence payment" means personal independence payment under—

(a) WRA 2012, or

(b) the corresponding provision having effect in Northern Ireland,

"SSCBA 1992" means the Social Security Contributions and Benefits Act 1992,

"SSCB(NI)A 1992" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992,

"WRA 2012" means the Welfare Reform Act 2012."

Interpretation: relevant settlement

20 (1) In this Schedule, "relevant settlement" means—

(a) a settlement created before 8 April 2013 the trusts of which have not been altered on or after that date, or

(b) a settlement arising on or after 8 April 2013 under the will of a testator, if—

(i) the will was executed before 8 April 2013 and its provisions, so far as relating to the settlement, have not been altered on or after that date, or

(ii) the will was executed or confirmed on or after 8 April 2013 and its provisions, so far as relating to the settlement, are in the same terms as those contained in a will executed by the same testator before that date.

(2) In this Schedule a reference to a will includes a reference to a codicil.

SCHEDULE 45

Section 218

STATUTORY RESIDENCE TEST

PART 1

THE RULES

Introduction

1 (1) This Part of this Schedule sets out the rules for determining for the purposes of relevant tax whether individuals are resident or not resident in the UK.

(2) The rules are referred to collectively as "the statutory residence test".

(3) The rules do not apply in determining for the purposes of relevant tax whether individuals are resident or not resident in England, Wales, Scotland or Northern Ireland specifically (rather than in the UK as a whole).

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(4) "Relevant tax" means—

(a) income tax,

(b) capital gains tax, and

(c) (so far as the residence status of individuals is relevant to them) inheritance tax and corporation tax.

(5) Key concepts used in the rules are defined in Part 2 of this Schedule.

Interpretation of enactments

2 (1) In enactments relating to relevant tax, a reference to being resident (or not resident) in the UK is, in the case of individuals, a reference to being resident (or not resident) in the UK in accordance with the statutory residence test.

(2) Sub-paragraph (1) applies even if the reference relates to the tax liability of an actual or deemed person that is not an individual (for example, where the liability of another person depends on the residence status of an individual).

(3) An individual who, in accordance with the statutory residence test, is resident (or not resident) in the UK "for" a tax year is taken for the purposes of any enactment relating to relevant tax to be resident (or not resident) there at all times in that tax year.

(4) But see Part 3 of this Schedule (split year treatment) for cases where the effect of sub-paragraph (3) is relaxed in certain circumstances.

(5) This Schedule has effect subject to any express provision to the contrary in (or falling to be recognised and acknowledged in law by virtue of) any enactment.

The basic rule

3 An individual ("P") is resident in the UK for a tax year ("year X") if—

(a) the automatic residence test is met for that year, or

(b) the sufficient ties test is met for that year.

4 If neither of those tests is met for that year, P is not resident in the UK for that year.

The automatic residence test

5 The automatic residence test is met for year X if P meets—

(a) at least one of the automatic UK tests, and

(b) none of the automatic overseas tests.

The automatic UK tests

6 There are 4 automatic UK tests.

7 The first automatic UK test is that P spends at least 183 days in the UK in year X.

8 (1) The second automatic UK test is that—

(a) P has a home in the UK during all or part of year X,

(b) that home is one where P spends a sufficient amount of time in year X, and

(c) there is at least one period of 91 (consecutive) days in respect of which the following conditions are met—

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(i) the 91-day period in question occurs while P has that home,

(ii) at least 30 days of that 91-day period fall within year X, and

(iii) throughout that 91-day period, condition A or condition B is met or a combination of those conditions is met.

(2) Condition A is that P has no home overseas.

(3) Condition B is that—

(a) P has one or more homes overseas, but

(b) each of those homes is a home where P spends no more than a permitted amount of time in year X.

(4) In relation to a home of P's in the UK, P "spends a sufficient amount of time" there in year X if there are at least 30 days in year X when P is present there on that day for at least some of the time (no matter how short a time).

(5) In relation to a home of P's overseas, P "spends no more than a permitted amount of time" there in year X if there are fewer than 30 days in year X when P is present there on that day for at least some of the time (no matter how short a time).

(6) In sub-paragraphs (4) and (5)—

(a) a reference to 30 days is to 30 days in aggregate, whether the days are consecutive or intermittent, and

(b) a reference to P being present at the home is to P being present there at a time when it is a home of P's (so presence there on any other occasion, for example to look round the property with a view to buying it, is to be disregarded).

(7) Sub-paragraph (1)(c) is satisfied so long as there is a period of 91 days in respect of which the conditions described there are met, even if those conditions are in fact met for longer than that.

(8) If P has more than one home in the UK—

(a) each of those homes must be looked at separately to see if the second automatic UK test is met, and

(b) the second automatic UK test is then met so long as it is met in relation to at least one of those homes.

Modifications etc. (not altering text)

C22 Sch. 45 para. 8 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(3)**

9 (1) The third automatic UK test is that—

(a) P works sufficient hours in the UK, as assessed over a period of 365 days,

(b) during that period, there are no significant breaks from UK work,

(c) all or part of that period falls within year X,

(d) more than 75% of the total number of days in the 365-day period on which P does more than 3 hours' work are days on which P does more than 3 hours' work in the UK, and

(e) at least one day which falls in both that period and year X is a day on which P does more than 3 hours' work in the UK.

(2) Take the following steps to work out, for any given period of 365 days, whether P works "sufficient hours in the UK" as assessed over that period—

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Step 1 Identify any days in the period on which P does more than 3 hours' work overseas, including ones on which P also does work in the UK on the same day. The days so identified are referred to as "disregarded days".

Step 2 Add up (for all employments held and trades carried on by P) the total number of hours that P works in the UK during the period, but ignoring any hours that P works in the UK on disregarded days. The result is referred to as P's "net UK hours".

Step 3 Subtract from 365—

(a) the total number of disregarded days, and

(b) any days that are allowed to be subtracted, in accordance with the rules in paragraph 28 of this Schedule, to take account of periods of leave and gaps between employments.

The result is referred to as the "reference period".

Step 4 Divide the reference period by 7. If the answer is more than 1 and is not a whole number, round down to the nearest whole number. If the answer is less than 1, round up to 1.

Step 5 Divide P's net UK hours by the number resulting from step 4.

If the answer is 35 or more, P is considered to work "sufficient hours in the UK" as assessed over the 365-day period in question.

(3) This paragraph does not apply to P if—

(a) P has a relevant job on board a vehicle, aircraft or ship at any time in year X, and

(b) at least 6 of the trips that P makes in year X as part of that job are cross-border trips that either begin in the UK, end in the UK or begin and end in the UK.

10 (1) The fourth automatic UK test is that—

(a) P dies in year X,

(b) for each of the previous 3 tax years, P was resident in the UK by virtue of meeting the automatic residence test,

(c) even assuming P were not resident in the UK for year X, the tax year preceding year X would not be a split year as respects P (see Part 3 of this Schedule),

(d) when P died, either—

(i) P's home was in the UK, or

(ii) P had more than one home and at least one of them was in the UK, and

(e) if P had a home overseas during all or part of year X, P did not spend a sufficient amount of time there in year X.

(2) In relation to a home of P's overseas, P "spent a sufficient amount of time" there in year X if—

(a) there were at least 30 days in year X when P was present there on that day for at least some of the time (no matter how short a time), or

(b) P was present there for at least some of the time (no matter how short a time) on each day of year X up to and including the day on which P died.

(3) In sub-paragraph (2)—

(a) the reference to 30 days is to 30 days in aggregate, whether the days were consecutive or intermittent, and

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(b) the reference to P being present at the home is to P being present there at a time when it was a home of P's.

(4) If P had more than one home overseas—

(a) each of those homes must be looked at separately to see if the requirement of sub-paragraph (1)(e) is met, and

(b) that requirement is then met so long as it is met in relation to each of them.

The automatic overseas tests

11 There are 5 automatic overseas tests.

12 The first automatic overseas test is that—

(a) P was resident in the UK for one or more of the 3 tax years preceding year X,

(b) the number of days in year X that P spends in the UK is less than 16, and

(c) P does not die in year X.

13 The second automatic overseas test is that—

(a) P was resident in the UK for none of the 3 tax years preceding year X, and

(b) the number of days that P spends in the UK in year X is less than 46.

14 (1) The third automatic overseas test is that—

(a) P works sufficient hours overseas, as assessed over year X,

(b) during year X, there are no significant breaks from overseas work,

(c) the number of days in year X on which P does more than 3 hours' work in the UK is less than 31, and

(d) the number of days in year X falling within sub-paragraph (2) is less than 91.

(2) A day falls within this sub-paragraph if—

(a) it is a day spent by P in the UK, but

(b) it is not a day that is treated under paragraph 23(4) as a day spent by P in the UK.

(3) Take the following steps to work out whether P works "sufficient hours overseas" as assessed over year X—

Step 1 Identify any days in year X on which P does more than 3 hours' work in the UK, including ones on which P also does work overseas on the same day. The days so identified are referred to as "disregarded days".

Step 2 Add up (for all employments held and trades carried on by P) the total number of hours that P works overseas in year X, but ignoring any hours that P works overseas on disregarded days. The result is referred to as P's "net overseas hours".

Step 3 Subtract from 365 (or 366 if year X includes 29 February)—

(a) the total number of disregarded days, and

(b) any days that are allowed to be subtracted, in accordance with the rules in paragraph 28 of this Schedule, to take account of periods of leave and gaps between employments.

The result is referred to as the "reference period".

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Step 4 Divide the reference period by 7. If the answer is more than 1 and is not a whole number, round down to the nearest whole number. If the answer is less than 1, round up to 1.

Step 5 Divide P's net overseas hours by the number resulting from step 4.

If the answer is 35 or more, P is considered to work "sufficient hours overseas" as assessed over year X.

(4) This paragraph does not apply to P if—

(a) P has a relevant job on board a vehicle, aircraft or ship at any time in year X, and

(b) at least 6 of the trips that P makes in year X as part of that job are cross-border trips that either begin in the UK, end in the UK or begin and end in the UK.

15 (1) The fourth automatic overseas test is that—

(a) P dies in year X,

(b) P was resident in the UK for neither of the 2 tax years preceding year X or, alternatively, P's case falls within sub-paragraph (2), and

(c) the number of days that P spends in the UK in year X is less than 46.

(2) P's case falls within this sub-paragraph if—

(a) P was not resident in the UK for the tax year preceding year X, and

(b) the tax year before that was a split year as respects P because the circumstances of the case fell within Case 1, Case 2 or Case 3 (see Part 3 of this Schedule).

16 (1) The fifth automatic overseas test is that—

(a) P dies in year X,

(b) P was resident in the UK for neither of the 2 tax years preceding year X because P met the third automatic overseas test for each of those years or, alternatively, P's case falls within sub-paragraph (2), and

(c) P would meet the third automatic overseas test for year X if paragraph 14 were read with the relevant modifications.

(2) P's case falls within this sub-paragraph if—

(a) P was not resident in the UK for the tax year preceding year X because P met the third automatic overseas test for that year, and

(b) the tax year before that was a split year as respects P because the circumstances of the case fell within Case 1 (see Part 3 of this Schedule).

(3) The relevant modifications of paragraph 14 are—

(a) in sub-paragraph (1)(a) and (b) and sub-paragraph (3), for "year X" read "the period from the start of year X up to and including the day before the day of P's death", and

(b) in step 3 of sub-paragraph (3), for "365 (or 366 if year X includes 29 February)" read "the number of days in the period from the start of year X up to and including the day before the day of P's death".

The sufficient ties test

17 (1) The sufficient ties test is met for year X if—

(a) P meets none of the automatic UK tests and none of the automatic overseas tests, but

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(b) P has sufficient UK ties for that year.

(2) "UK ties" is defined in Part 2 of this Schedule.

(3) Whether P has "sufficient" UK ties for year X will depend on—

(a) whether P was resident in the UK for any of the previous 3 tax years, and

(b) the number of days that P spends in the UK in year X.

(4) The Tables in paragraphs 18 and 19 show how many ties are sufficient in each case.

Sufficient UK ties

18 The Table below shows how many UK ties are sufficient in a case where P was resident in the UK for one or more of the 3 tax years preceding year X—

Days spent by P in the UK in year X	***Number of ties that are sufficient***
More than 15 but not more than 45	At least 4
More than 45 but not more than 90	At least 3
More than 90 but not more than 120	At least 2
More than 120	At least 1

19 The Table below shows how many UK ties are sufficient in a case where P was resident in the UK for none of the 3 tax years preceding year X—

Days spent by P in the UK in year X	***Number of ties that are sufficient***
More than 45 but not more than 90	All 4
More than 90 but not more than 120	At least 3
More than 120	At least 2

20 (1) If P dies in year X, paragraph 18 has effect as if the words "More than 15 but" were omitted from the first column of the Table.

(2) In addition to that modification, if the death occurs before 1 March in year X, paragraphs 18 and 19 have effect as if each number of days mentioned in the first column of the Table were reduced by the appropriate number.

(3) The appropriate number is found by multiplying the number of days, in each case, by—

$$\frac{A}{12}$$

where "A" is the number of whole months in year X after the month in which P dies.

(4) If, for any number of days, the appropriate number is not a whole number, the appropriate number is to be rounded up or down as follows—

(a) if the first figure after the decimal point is 5 or more, round the appropriate number up to the nearest whole number,

(b) otherwise, round it down to the nearest whole number.

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PART 2

KEY CONCEPTS

Introduction

21 This Part of this Schedule defines some key concepts for the purposes of this Schedule.

Days spent

22 (1) If P is present in the UK at the end of a day, that day counts as a day spent by P in the UK.

(2) But it does not do so in the following two cases.

(3) The first case is where—

(a) P only arrives in the UK as a passenger on that day,

(b) P leaves the UK the next day, and

(c) between arrival and departure, P does not engage in activities that are to a substantial extent unrelated to P's passage through the UK.

(4) The second case is where—

(a) P would not be present in the UK at the end of that day but for exceptional circumstances beyond P's control that prevent P from leaving the UK, and

(b) P intends to leave the UK as soon as those circumstances permit.

(5) Examples of circumstances that may be "exceptional" are—

(a) national or local emergencies such as war, civil unrest or natural disasters, and

(b) a sudden or life-threatening illness or injury.

(6) For a tax year—

(a) the maximum number of days to which sub-paragraph (2) may apply in reliance on sub-paragraph (4) is limited to 60, and

(b) accordingly, once the number of days within sub-paragraph (4) reaches 60 (counting forward from the start of the tax year), any subsequent days within that sub-paragraph, whether involving the same or different exceptional circumstances, will count as days spent by P in the UK.

Modifications etc. (not altering text)
C23 Sch. 45 para. 22 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(4)**

23 (1) If P is not present in the UK at the end of a day, that day does not count as a day spent by P in the UK.

(2) This is subject to the deeming rule.

(3) The deeming rule applies if—

(a) P has at least 3 UK ties for a tax year,

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(b) the number of days in that tax year when P is present in the UK at some point in the day but not at the end of the day ("qualifying days") is more than 30, and

(c) P was resident in the UK for at least one of the 3 tax years preceding that tax year.

(4) The deeming rule is that, once the number of qualifying days in the tax year reaches 30 (counting forward from the start of the tax year), each subsequent qualifying day in the tax year is to be treated as a day spent by P in the UK.

(5) The deeming rule does not apply for the purposes of sub-paragraph (3)(a) (so, in deciding for those purposes whether P has a 90-day tie, qualifying days in excess of 30 are not to be treated as days spent by P in the UK).

Modifications etc. (not altering text)
C24 Sch. 45 para. 23 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(5)**

Days spent "in" a period

24 Any reference to a number of days spent in the UK "in" a given period is a reference to the total number of days spent there (in aggregate) in that period, whether continuously or intermittently.

Home

25 (1) A person's home could be a building or part of a building or, for example, a vehicle, vessel or structure of any kind.

(2) Whether, for a given building, vehicle, vessel, structure or the like, there is a sufficient degree of permanence or stability about P's arrangements there for the place to count as P's home (or one of P's homes) will depend on all the circumstances of the case.

(3) But somewhere that P uses periodically as nothing more than a holiday home or temporary retreat (or something similar) does not count as a home of P's.

(4) A place may count as a home of P's whether or not P holds any estate or interest in it (and references to "having" a home are to be read accordingly).

(5) Somewhere that was P's home does not continue to count as such merely because P continues to hold an estate or interest in it after P has moved out (for example, if P is in the process of selling it or has let or sub-let it, having set up home elsewhere).

Work

26 (1) P is considered to be "working" (or doing "work") at any time when P is doing something—

(a) in the performance of duties of an employment held by P, or

(b) in the course of a trade carried on by P (alone or in partnership).

(2) In deciding whether something is being done in the performance of duties of an employment, regard must be had to whether, if value were received by P for doing the thing, it would fall within the definition of employment income in section 7 of ITEPA 2003.

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(3) In deciding whether something is being done in the course of a trade, regard must be had to whether, if expenses were incurred by P in doing the thing, the expenses could be deducted in calculating the profits of the trade for income tax purposes.

(4) Time spent travelling counts as time spent working—

(a) if the cost of the journey could, if it were incurred by P, be deducted in calculating P's earnings from that employment under section 337, 338, 340 or 342 of ITEPA 2003 or, as the case may be, in calculating the profits of the trade under ITTOIA 2005, or

(b) to the extent that P does something else during the journey that would itself count as work in accordance with this paragraph.

(5) Time spent undertaking training counts as time spent working if—

(a) in the case of an employment held by P, the training is provided or paid for by the employer and is undertaken to help P in performing duties of the employment, and

(b) in the case of a trade carried on by P, the cost of the training could be deducted in calculating the profits of the trade for income tax purposes.

(6) Sub-paragraphs (4) and (5) have effect without prejudice to the generality of sub-paragraphs (2) and (3).

(7) Assume for the purposes of sub-paragraphs (2) to (5) that P is someone who is chargeable to income tax under ITEPA 2003 or ITTOIA 2005.

(8) A voluntary post for which P has no contract of service does not count as an employment for the purposes of this Schedule.

Location of work

27 (1) Work is done where it is actually done, regardless of where the employment is held or the trade is carried on by P.

(2) But work done by way of or in the course of travelling to or from the UK by air or sea or via a tunnel under the sea is assumed to be done overseas even during the part of the journey in or over the UK.

(3) For these purposes, travelling to or from the UK is taken to—

(a) begin when P boards the aircraft, ship or train that is bound for a destination in the UK or (as the case may be) overseas, and

(b) end when P disembarks from that aircraft, ship or train.

(4) This paragraph is subject to express provisions in this Schedule about the location of work done by people with relevant jobs on board vehicles, aircraft or ships.

Rules for calculating the reference period

28 (1) This paragraph applies in calculating the "reference period" (which is a step taken in determining whether P works "sufficient hours in the UK" or "sufficient hours overseas" as assessed over a given period of days).

(2) The number of days in the given period may be reduced to take account of—

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(a) reasonable amounts of annual leave or parenting leave taken by P during the period (for all employments held and trades carried on by P during the period, whether in the UK or overseas),

(b) absences from work at times during the period when P is on sick leave and cannot reasonably be expected to work as a result of the illness or injury in question, and

(c) non-working days embedded within a block of leave for which a reduction is made under paragraph (a) or (b).

(3) But no reduction may be made in respect of any day that is a "disregarded day" (see paragraphs 9(2) and 14(3) in Part 1 of this Schedule).

(4) For any particular employment or trade, "reasonable" amounts of annual leave or parenting leave are to be assessed having regard to (among other things)—

(a) the nature of the work, and

(b) the country or countries where P is working.

(5) Non-working days are "embedded within" a block of leave only if there are, as part of that block of leave—

(a) at least 3 consecutive days of leave taken before the non-working day or series of non-working days in question, and

(b) at least 3 consecutive days of leave taken after the non-working day or series of non-working days in question.

(6) A "non-working day" is any day of the week, month or year on which P—

(a) is not normally expected to work (according to P's contract of employment or usual pattern of work), and

(b) does not in fact work.

(7) In calculating the reductions to be made under sub-paragraph (2)—

(a) if it turns out, after applying sub-paragraph (3), that the reasonable amounts of annual leave or parenting leave or, as the case may be, the absences from work on sick leave do not add up (across the period) to a whole number of days, the number in that case is to be rounded down to the nearest whole number, but

(b) any such rounding is to be ignored for the purposes of sub-paragraph (2)(c).

(8) If—

(a) P changes employment during the given period,

(b) there is a gap between the two employments, and

(c) P does not work at all at any time between the two employments,

the number of days in the given period may be reduced by the number of days in that gap.

(9) But—

(a) if the gap lasts for more than 15 days, only 15 days may be subtracted, and

(b) if there is more than one change of employment during the period, the maximum number of days that may be subtracted under sub-paragraph (8) for all the gaps in total is 30.

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Modifications etc. (not altering text)
C25 Sch. 45 para. 28(2) modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(6)**

Significant breaks from UK or overseas work

29 (1) There is a "significant break from UK work" if at least 31 days go by and not one of those days is—

(a) a day on which P does more than 3 hours' work in the UK, or

(b) a day on which P would have done more than 3 hours' work in the UK but for being on annual leave, sick leave or parenting leave.

(2) There is a "significant break from overseas work" if at least 31 days go by and not one of those days is—

(a) a day on which P does more than 3 hours' work overseas, or

(b) a day on which P would have done more than 3 hours' work overseas but for being on annual leave, sick leave or parenting leave.

Modifications etc. (not altering text)
C26 Sch. 45 para. 29 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(7)**

Relevant jobs on board vehicles, aircraft or ships

30 (1) P has a "relevant" job on board a vehicle, aircraft or ship if condition A and condition B are met.

(2) Condition A is that P either—

(a) holds an employment, the duties of which consist of duties to be performed on board a vehicle, aircraft or ship while it is travelling, or

(b) carries on a trade, the activities of which consist of work to be done or services to be provided on board a vehicle, aircraft or ship while it is travelling.

(3) Condition B is that substantially all of the trips made in performing those duties or carrying on those activities are ones that involve crossing an international boundary at sea, in the air or on land (referred to as "cross-border trips").

(4) Sub-paragraph (2)(b) is not satisfied unless, in order to do the work or provide the services, P has to be present (in person) on board the vehicle, aircraft or ship while it is travelling.

(5) Duties or activities of a purely incidental nature are to be ignored in deciding whether the duties of an employment or the activities of a trade consist of duties or activities of a kind described in sub-paragraph (2)(a) or (b).

UK ties

31 (1) What counts as a "UK tie" depends on whether P was resident in the UK for one or more of the 3 tax years preceding year X.

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(2) If P was resident in the UK for one or more of those 3 tax years, each of the following types of tie counts as a UK tie—

(a) a family tie,

(b) an accommodation tie,

(c) a work tie,

(d) a 90-day tie, and

(e) a country tie.

(3) Otherwise, each of the following types of tie counts as a UK tie—

(a) a family tie,

(b) an accommodation tie,

(c) a work tie, and

(d) a 90-day tie.

(4) In order to have the requisite number of UK ties for year X, each tie of P's must be of a different type.

Family tie

32 (1) P has a family tie for year X if—

(a) in year X, a relevant relationship exists at any time between P and another person, and

(b) that other person is someone who is resident in the UK for year X.

(2) A relevant relationship exists at any time between P and another person if at the time—

(a) P and the other person are husband and wife or civil partners and, in either case, are not separated,

(b) P and the other person are living together **[**[F190]as if they were a married couple or**]** civil partners, or

(c) the other person is a child of P's and is under the age of 18.

(3) P does not have a family tie for year X by virtue of sub-paragraph (2)(c) if P sees the child in the UK on fewer than 61 days (in total) in—

(a) year X, or

(b) if the child turns 18 during year X, the part of year X before the day on which the child turns 18.

(4) A day counts as a day on which P sees the child if P sees the child in person for all or part of the day.

(5) "Separated" means separated—

(a) under an order of a court of competent jurisdiction,

(b) by deed of separation, or

(c) in circumstances where the separation is likely to be permanent.

Textual Amendments

F190 Words in Sch. 45 para. 32(2)(b) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 36(2)**

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Modifications etc. (not altering text)
C27 Sch. 45 para. 32 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(8)**

33 (1) This paragraph applies in deciding for the purposes (only) of paragraph 32(1)(b) whether a person with whom P has a relevant relationship (a "family member") is someone who is resident in the UK for year X.

(2) A family tie based on the fact that a family member has, by the same token, a relevant relationship with P is to be disregarded in deciding whether that family member is someone who is resident in the UK for year X.

(3) A family member falling within sub-paragraph (4) is to be treated as being not resident in the UK for year X if the number of days that he or she spends in the UK in the part of year X outside term-time is less than 21.

(4) A family member falls within this sub-paragraph if he or she—

(a) is a child of P's who is under the age of 18,

(b) is in full-time education in the UK at any time in year X, and

(c) is resident in the UK for year X but would not be so resident if the time spent in full-time education in the UK in that year were disregarded.

(5) In sub-paragraph (4)—

(a) references to full-time education in the UK are to full-time education at a university, college, school or other educational establishment in the UK, and

(b) the reference to the time spent in full-time education in the UK is to the time spent there during term-time.

(6) For the purposes of this paragraph, half-term breaks and other breaks when teaching is not provided during a term are considered to form part of "term-time".

Accommodation tie

34 (1) P has an accommodation tie for year X if—

(a) P has a place to live in the UK,

(b) that place is available to P during year X for a continuous period of at least 91 days, and

(c) P spends at least one night at that place in that year.

(2) If there is a gap of fewer than 16 days between periods in year X when a particular place is available to P, that place is to be treated as continuing to be available to P during the gap.

(3) P is considered to have a "place to live" in the UK if—

(a) P's home or at least one of P's homes (if P has more than one) is in the UK, or

(b) P has a holiday home or temporary retreat (or something similar) in the UK, or

(c) accommodation is otherwise available to P where P can live when P is in the UK.

(4) Accommodation may be "available" to P even if P holds no estate or interest in it and even if P has no legal right to occupy it.

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(5) If the accommodation is the home of a close relative of P's, sub-paragraph (1)(c) has effect as if for "at least one night" there were substituted " a total of at least 16 nights ".

(6) A "close relative" is—

(a) a parent or grandparent,

(b) a brother or sister,

(c) a child aged 18 or over, or

(d) a grandchild aged 18 or over,

in each case, including by half-blood or by marriage or civil partnership.

Modifications etc. (not altering text)

C28 Sch. 45 para. 34 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(9)**

Work tie

35 (1) P has a work tie for year X if P works in the UK for at least 40 days (whether continuously or intermittently) in year X.

(2) For these purposes, P works in the UK for a day if P does more than 3 hours' work in the UK on that day.

Modifications etc. (not altering text)

C29 Sch. 45 para. 35 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(10)**

36 (1) This paragraph applies for the purposes of paragraph 35.

(2) It applies in cases where P has a relevant job on board a vehicle, aircraft or ship.

(3) When making a cross-border trip as part of that job—

(a) if the trip begins in the UK, P is assumed to do more than 3 hours' work in the UK on the day on which it begins,

(b) if the trip ends in the UK, P is assumed to do fewer than 3 hours' work in the UK on the day on which it ends.

(4) Those assumptions apply regardless of how late in the day the trip begins or ends (even if it begins or ends just before midnight).

(5) For the purposes of sub-paragraph (3)(a), it does not matter whether the trip ends on that same day.

(6) A day that falls within both paragraph (a) and paragraph (b) of sub-paragraph (3) is to be treated as if it fell only within paragraph (a).

(7) In the case of a cross-border trip to or from the UK that is undertaken in stages—

(a) the day on which the trip begins or, as the case may be, ends is the day on which the stage of the trip that involves crossing the UK border begins or ends, and

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(b) accordingly, any day on which a stage is undertaken by P solely within the UK must (if it lasts for more than 3 hours) be counted separately as a day on which P does more than 3 hours' work in the UK.

90-day tie

37 P has a 90-day tie for year X if P has spent more than 90 days in the UK in—

(a) the tax year preceding year X,

(b) the tax year preceding that tax year, or

(c) each of those tax years separately.

Modifications etc. (not altering text)

C30 Sch. 45 para. 37 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(11)**

Country tie

38 (1) P has a country tie for year X if the country in which P meets the midnight test for the greatest number of days in year X is the UK.

(2) If—

(a) P meets the midnight test for the same number of days in year X in two or more countries, and

(b) that number is the greatest number of days for which P meets the midnight test in any country in year X,

P has a country tie for year X if one of those countries is the UK.

(3) P meets the "midnight test" in a country for a day if P is present in that country at the end of that day.

Modifications etc. (not altering text)

C31 Sch. 45 para. 38 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(12)**

PART 3

SPLIT YEAR TREATMENT

Introduction

39 This Part of this Schedule—

(a) explains when, as respects an individual, a tax year is a split year,

(b) defines the overseas part and the UK part of a split year, and

(c) amends certain enactments to provide for special charging rules in cases involving split years.

40 (1) The effect of a tax year being a split year is to relax the effect of paragraph 2(3) (which treats individuals who are UK resident "for" a tax year as being UK resident at all times in that year).

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(2) When and how the effect of paragraph 2(3) is relaxed is defined in the special charging rules introduced by the amendments made by this Part.

(3) Subject to those special charging rules (and any other special charging rules for split years that may be introduced in the future), nothing in this Part alters an individual's residence status for a tax year or affects his or her liability to tax.

41 This Part—

(a) does not apply in determining the residence status of personal representatives, and

(b) applies to only a limited extent in determining the residence status of the trustees of a settlement (see section 475 of ITA 2007 and section 69 of TCGA 1992, as amended by this Part).

42 The existence of special charging rules for cases involving split years is not intended to affect any question as to whether an individual would fall to be regarded under double taxation arrangements as a resident of the UK.

Definition of a "split year"

43 (1) As respects an individual, a tax year is a "split year" if—

(a) the individual is resident in the UK for that year, and

(b) the circumstances of the case fall within—

(i) Case 1, Case 2 or Case 3 (cases involving actual or deemed departure from the UK), or

(ii) Case 4, Case 5, Case 6, Case 7 or Case 8 (cases involving actual or deemed arrival in the UK).

(2) The 8 Cases are described in paragraphs 44 to 51.

(3) In those paragraphs, the individual is referred to as "the taxpayer" and the tax year as "the relevant year".

(4) In applying Part 2 of this Schedule to those paragraphs, for "P" read "the taxpayer".

Case 1: starting full-time work overseas

44 (1) The circumstances of a case fall within Case 1 if they are as described in sub-paragraphs (2) to (4).

(2) The taxpayer was resident in the UK for the previous tax year (whether or not it was a split year).

(3) There is at least one period (consisting of one or more days) that—

(a) begins with a day that—

(i) falls within the relevant year, and

(ii) is a day on which the taxpayer does more than 3 hours' work overseas,

(b) ends with the last day of the relevant year, and

(c) satisfies the overseas work criteria.

(4) The taxpayer is not resident in the UK for the next tax year because the taxpayer meets the third automatic overseas test for that year (see paragraph 14).

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(5) A period "satisfies the overseas work criteria" if—

(a) the taxpayer works sufficient hours overseas, as assessed over that period,

(b) during that period, there are no significant breaks from overseas work,

(c) the number of days in that period on which the taxpayer does more than 3 hours' work in the UK does not exceed the permitted limit, and

(d) the number of days in that period falling within sub-paragraph (6) does not exceed the permitted limit.

(6) A day falls within this sub-paragraph if—

(a) it is a day spent by the taxpayer in the UK, but

(b) it is not a day that is treated under paragraph 23(4) as a day spent by the taxpayer in the UK.

(7) To work out whether the taxpayer works "sufficient hours overseas" as assessed over a given period, apply paragraph 14(3) but with the following modifications—

(a) for "P" read "the taxpayer",

(b) for "year X" read "the period under consideration",

(c) for "365 (or 366 if year X includes 29 February)" read "the number of days in the period under consideration", and

(d) in paragraph 28(9)(b), as it applies for the purposes of step 3, for "30" read "the permitted limit".

(8) The permitted limit is—

(a) for sub-paragraphs (5)(c) and (7)(d), the number found by reducing 30 by the appropriate number, and

(b) for sub-paragraph (5)(d), the number found by reducing 90 by the appropriate number.

(9) The appropriate number is the result of—

$$A \times \frac{B}{12}$$

where—

"A" is—

(a) 30, for sub-paragraphs (5)(c) and (7)(d), or

(b) 90, for sub-paragraph (5)(d), and

"B" is the number of whole months in the part of the relevant year before the day mentioned in sub-paragraph (3)(a).

Case 2: the partner of someone starting full-time work overseas

45 (1) The circumstances of a case fall within Case 2 if they are as described in sub-paragraphs (2) to (6).

(2) The taxpayer was resident in the UK for the previous tax year (whether or not it was a split year).

(3) The taxpayer has a partner whose circumstances fall within Case 1 for—

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(a) the relevant year, or
(b) the previous tax year.

(4) On a day in the relevant year, the taxpayer moves overseas so the taxpayer and the partner can continue to live together while the partner is working overseas.

(5) In the part of the relevant year beginning with the deemed departure day—
(a) the taxpayer has no home in the UK at any time, or has homes in both the UK and overseas but spends the greater part of the time living in the overseas home, and
(b) the number of days that the taxpayer spends in the UK does not exceed the permitted limit.

(6) The taxpayer is not resident in the UK for the next tax year.

(7) If sub-paragraph (3)(a) applies, the "deemed departure day" is the later of—
(a) the day mentioned in sub-paragraph (4), and
(b) the first day of what is, for the partner, the overseas part of the relevant year as defined for Case 1 (see paragraph 53).

(8) If sub-paragraph (3)(b) applies, the "deemed departure day" is the day mentioned in sub-paragraph (4).

(9) The permitted limit is the number found by reducing 90 by the appropriate number.

(10) The appropriate number is the result of—

$$A \times \frac{B}{12}$$

where—

"A" is 90, and

"B" is the number of whole months in the part of the relevant year before the deemed departure day.

Case 3: ceasing to have a home in the UK

46 (1) The circumstances of a case fall within Case 3 if they are as described in sub-paragraphs (2) to (6).

(2) The taxpayer was resident in the UK for the previous tax year (whether or not it was a split year).

(3) At the start of the relevant year the taxpayer had one or more homes in the UK but—
(a) there comes a day in the relevant year when P ceases to have any home in the UK, and
(b) from then on, P has no home in the UK for the rest of that year.

(4) In the part of the relevant year beginning with the day mentioned in sub-paragraph (3)(a), the taxpayer spends fewer than 16 days in the UK.

(5) The taxpayer is not resident in the UK for the next tax year.

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(6) At the end of the period of 6 months beginning with the day mentioned in sub-paragraph (3)(a), the taxpayer has a sufficient link with a country overseas.

(7) The taxpayer has a "sufficient link" with a country overseas if and only if—

(a) the taxpayer is considered for tax purposes to be a resident of that country in accordance with its domestic laws, or

(b) the taxpayer has been present in that country (in person) at the end of each day of the 6-month period mentioned in sub-paragraph (6), or

(c) the taxpayer's only home is in that country or, if the taxpayer has more than one home, they are all in that country.

Case 4: starting to have a home in the UK only

47 (1) The circumstances of a case fall within Case 4 if they are as described in sub-paragraphs (2) to (4).

(2) The taxpayer was not resident in the UK for the previous tax year.

(3) At the start of the relevant year, the taxpayer did not meet the only home test, but there comes a day in the relevant year when that ceases to be the case and the taxpayer then continues to meet the only home test for the rest of that year.

(4) For the part of the relevant year before that day, the taxpayer does not have sufficient UK ties.

(5) The "only home test" is met if—

(a) the taxpayer has only one home and that home is in the UK, or

(b) the taxpayer has more than one home and all of them are in the UK.

(6) Paragraphs 17 to 20 (and Part 2 of this Schedule so far as it relates to those paragraphs) apply for the purposes of sub-paragraph (4) with the following adjustments—

(a) references in those paragraphs and that Part to year X are to be read as references to the part of the relevant year mentioned in sub-paragraph (4), and

(b) each number of days mentioned in the first column of the Table in paragraphs 18 and 19 is to be reduced by the appropriate number.

(7) The appropriate number is found by multiplying the number of days, in each case, by—

$$\frac{A}{12}$$

where "A" is the number of whole months in the part of the relevant year beginning with the day mentioned in sub-paragraph (3).

(8) Sub-paragraph (6)(a) does not apply to the references to year X in paragraphs 32(1)(b) and 33 of this Schedule (which relate to the residence status of family members) so those references must continue to be read as references to year X.

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Case 5: starting full-time work in the UK

48 (1) The circumstances of a case fall within Case 5 if they are as described in sub-paragraphs (2) and (3).

(2) The taxpayer was not resident in the UK for the previous tax year.

(3) There is at least one period of 365 days in respect of which the following conditions are met—

(a) the period begins with a day that—

(i) falls within the relevant year, and

(ii) is a day on which the taxpayer does more than 3 hours' work in the UK,

(b) in the part of the relevant year before the period begins, the taxpayer does not have sufficient UK ties,

(c) the taxpayer works sufficient hours in the UK, as assessed over the period,

(d) during the period, there are no significant breaks from UK work, and

(e) at least 75% of the total number of days in the period on which the taxpayer does more than 3 hours' work are days on which the taxpayer does more than 3 hours' work in the UK.

(4) To work out whether the taxpayer works "sufficient hours in the UK" as assessed over a given period, apply paragraph 9(2) but for "P" read "the taxpayer".

(5) Paragraphs 17 to 20 (and Part 2 of this Schedule so far as it relates to those paragraphs) apply for the purposes of sub-paragraph (3)(b) with the following adjustments—

(a) references in those paragraphs and that Part to year X are to be read as references to the part of the relevant year mentioned in sub-paragraph (3)(b), and

(b) each number of days mentioned in the first column of the Table in paragraphs 18 and 19 is to be reduced by the appropriate number.

(6) The appropriate number is found by multiplying the number of days, in each case, by—

$$\frac{A}{12}$$

where "A" is the number of whole months in the part of the relevant year beginning with the day on which the 365-day period in question begins.

(7) Sub-paragraph (5)(a) does not apply to the references to year X in paragraphs 32(1)(b) and 33 of this Schedule (which relate to the residence status of family members) so those references must continue to be read as references to year X.

Case 6: ceasing full-time work overseas

49 (1) The circumstances of a case fall within Case 6 if they are as described in sub-paragraphs (2) to (4).

(2) The taxpayer—

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(a) was not resident in the UK for the previous tax year because the taxpayer met the third automatic overseas test for that year (see paragraph 14), but

(b) was resident in the UK for one or more of the 4 tax years immediately preceding that year.

(3) There is at least one period (consisting of one or more days) that—

(a) begins with the first day of the relevant year,

(b) ends with a day that—

(i) falls within the relevant year, and

(ii) is a day on which the taxpayer does more than 3 hours' work overseas, and

(c) satisfies the overseas work criteria.

(4) The taxpayer is resident in the UK for the next tax year (whether or not it is a split year).

(5) A period "satisfies the overseas work criteria" if—

(a) the taxpayer works sufficient hours overseas, as assessed over that period,

(b) during that period, there are no significant breaks from overseas work,

(c) the number of days in that period on which the taxpayer does more than 3 hours' work in the UK does not exceed the permitted limit, and

(d) the number of days in that period falling within sub-paragraph (6) does not exceed the permitted limit.

(6) A day falls within this sub-paragraph if—

(a) it is a day spent by the taxpayer in the UK, but

(b) it is not a day that is treated under paragraph 23(4) as a day spent by the taxpayer in the UK.

(7) To work out whether the taxpayer works "sufficient hours overseas" as assessed over a given period, apply paragraph 14(3) but with the following modifications—

(a) for "P" read "the taxpayer",

(b) for "year X" read "the period under consideration",

(c) for "365 (or 366 if year X includes 29 February)" read "the number of days in the period under consideration", and

(d) in paragraph 28(9)(b), as it applies for the purposes of step 3, for "30" read "the permitted limit".

(8) The permitted limit is—

(a) for sub-paragraphs (5)(c) and (7)(d), the number found by reducing 30 by the appropriate number, and

(b) for sub-paragraph (5)(d), the number found by reducing 90 by the appropriate number.

(9) The appropriate number is the result of—

$$A \times \frac{B}{12}$$

where—

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"A" is—

(a) 30, for sub-paragraphs (5)(c) and (7)(d), or

(b) 90, for sub-paragraph (5)(d), and

"B" is the number of whole months in the part of the relevant year after the 365-day period in question ends.

Case 7: the partner of someone ceasing full-time work overseas

50 (1) The circumstances of a case fall within Case 7 if they are as described in sub-paragraphs (2) to (6).

(2) The taxpayer was not resident in the UK for the previous tax year.

(3) The taxpayer has a partner whose circumstances fall within Case 6 for—

(a) the relevant year, or

(b) the previous tax year.

(4) On a day in the relevant year, the taxpayer moves to the UK so the taxpayer and the partner can continue to live together on the partner's return or relocation to the UK.

(5) In the part of the relevant year before the deemed arrival day—

(a) the taxpayer has no home in the UK at any time, or has homes in both the UK and overseas but spends the greater part of the time living in the overseas home, and

(b) the number of days that the taxpayer spends in the UK does not exceed the permitted limit.

(6) The taxpayer is resident in the UK for the next tax year (whether or not it is a split year).

(7) If sub-paragraph (3)(a) applies, the "deemed arrival day" is the later of—

(a) the day mentioned in sub-paragraph (4), and

(b) the first day of what is, for the partner, the UK part of the relevant year as defined for Case 6 (see paragraph 54).

(8) If sub-paragraph (3)(b) applies, the "deemed arrival day" is the day mentioned in sub-paragraph (4).

(9) The permitted limit is the number found by reducing 90 by the appropriate number.

(10) The appropriate number is the result of—

$$A \times \frac{B}{12}$$

where—

"A" is 90, and

"B" is the number of whole months in the part of the relevant year beginning with the deemed arrival day.

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Case 8: starting to have a home in the UK

51 (1) The circumstances of a case fall within Case 8 if they are as described in sub-paragraphs (2) to (5).

(2) The taxpayer was not resident in the UK for the previous tax year.

(3) At the start of the relevant year, the taxpayer had no home in the UK but—

(a) there comes a day when, for the first time in that year, the taxpayer does have a home in the UK, and

(b) from then on, the taxpayer continues to have a home in the UK for the rest of that year and for the whole of the next tax year.

(4) For the part of the relevant year before the day mentioned in sub-paragraph (3)(a), the taxpayer does not have sufficient UK ties.

(5) The taxpayer is resident in the UK for the next tax year and that tax year is not a split year as respects the taxpayer.

(6) Paragraphs 17 to 20 (and Part 2 of this Schedule so far as it relates to those paragraphs) apply for the purposes of sub-paragraph (4) with the following adjustments—

(a) references in those paragraphs and that Part to year X are to be read as references to the part of the relevant year mentioned in sub-paragraph (4), and

(b) each number of days mentioned in the first column of the Table in paragraphs 18 and 19 is to be reduced by the appropriate number.

(7) The appropriate number is found by multiplying the number of days, in each case, by—

$$\frac{A}{12}$$

where "A" is the number of whole months in the part of the relevant year beginning with the day mentioned in sub-paragraph (3)(a).

(8) Sub-paragraph (6)(a) does not apply to the references to year X in paragraphs 32(1)(b) and 33 of this Schedule (which relate to the residence status of family members) so those references must continue to be read as references to year X.

General rules for construing Cases 1 to 8

52 (1) This paragraph applies for the purposes of paragraphs 44 to 51.

(2) A reference to "the previous tax year" is to the tax year preceding the relevant year.

(3) A reference to "the next tax year" is to the tax year following the relevant year.

(4) "Partner", in relation to the taxpayer, means—

(a) a husband or wife or civil partner, **[**F191or**]**

(b) if the taxpayer and another person are living together **[**F192as if they were a married couple or civil partners**]**, that other person, F193...

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F193(c) . . . . . .

(5) If calculation of the appropriate number results in a number of days that is not a whole number, the appropriate number is to be rounded up or down as follows—

(a) if the first figure after the decimal point is 5 or more, round the appropriate number up to the nearest whole number,

(b) otherwise, round it down to the nearest whole number.

Textual Amendments

F191 Word in Sch. 45 para. 52(4)(a) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 36(3)(a)**

F192 Words in Sch. 45 para. 52(4)(b) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 36(3)(b)**

F193 Sch. 45 para. 52(4)(c) and word omitted (2.12.2019) by virtue of The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 36(3)(c)**

The overseas part

53 (1) "The overseas part" of a split year is the part of that year defined below—

(a) for the Case in question, or

(b) if the taxpayer's circumstances fall within more than one Case, for the Case which has priority (see paragraphs 54 and 55).

(2) For Case 1, the overseas part is—

(a) if there is only one period falling within paragraph 44(3), the part beginning with the first day of that period, and

(b) if there is more than one such period, the part beginning with the first day of the longest of those periods.

(3) For Case 2, the overseas part is the part beginning with the deemed departure day as defined in paragraph 45(7) and (8).

(4) For Case 3, the overseas part is the part beginning with the day mentioned in paragraph 46(3)(a).

(5) For Case 4, the overseas part is the part before the day mentioned in paragraph 47(3).

(6) For Case 5, the overseas part is—

(a) if there is only one period falling within paragraph 48(3), the part before that period begins, and

(b) if there is more than one such period, the part before the first of those periods begins.

(7) For Case 6, the overseas part is—

(a) if there is only one period falling within paragraph 49(3), the part ending with the last day of that period, and

(b) if there is more than one such period, the part ending with the last day of the longest of those periods.

(8) For Case 7, the overseas part is the part before the deemed arrival day as defined in paragraph 50(7) and (8).

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(9) For Case 8, the overseas part is the part before the day mentioned in paragraph 51(3)(a).

Priority between Cases 1 to 3

54 (1) This paragraph applies to determine which Case has priority where the taxpayer's circumstances for the relevant year fall within two or all of the following—

Case 1 (starting full-time work overseas);

Case 2 (the partner of someone starting full-time work overseas);

Case 3 (ceasing to have a home in the UK).

(2) Case 1 has priority over Case 2 and Case 3.

(3) Case 2 has priority over Case 3.

Priority between Cases 4 to 8

55 (1) This paragraph applies to determine which Case has priority where the taxpayer's circumstances for the relevant year fall within two or more of the following—

Case 4 (starting to have a home in the UK only);

Case 5 (starting full-time work in the UK);

Case 6 (ceasing full-time work overseas);

Case 7 (the partner of someone ceasing full-time work overseas);

Case 8 (starting to have a home in the UK).

(2) In this paragraph "the split year date" in relation to a Case means the final day of the part of the relevant year defined in paragraph 53(5) to (9) for that Case.

(3) If Case 6 applies—

(a) if Case 5 also applies and the split year date in relation to Case 5 is earlier than the split year date in relation to Case 6, Case 5 has priority;

(b) otherwise, Case 6 has priority.

(4) If Case 7 (but not Case 6) applies—

(a) if Case 5 also applies and the split year date in relation to Case 5 is earlier than the split year date in relation to Case 7, Case 5 has priority;

(b) otherwise, Case 7 has priority

(5) If two or all of Cases 4, 5 and 8 apply (but neither Case 6 nor Case 7), the Case which has priority is the one with the earliest split year date.

(6) But if, in a case to which sub-paragraph (5) applies, two or all of the Cases which apply share the same split year date and that date is the only, or earlier, split year date of the Cases which apply, the Cases with that split year date are to be treated as having priority.

The UK part

56 "The UK part" of a split year is the part of that year that is not the overseas part.

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Special charging rules for employment income

57 ITEPA 2003 is amended as follows.

58 (1) In section 15 (earnings for year when employee UK resident), for subsection (1) substitute—

"(1) This section applies to general earnings for a tax year for which the employee is UK resident except that, in the case of a split year, it does not apply to any part of those earnings that is excluded.

(1A) General earnings are "excluded" if they—

(a) are attributable to the overseas part of the split year, and

(b) are neither—

(i) general earnings in respect of duties performed in the United Kingdom, nor

(ii) general earnings from overseas Crown employment subject to United Kingdom tax."

(2) After subsection (3) insert—

"(4) Any attribution required for the purposes of subsection (1A)(a) is to be done on a just and reasonable basis.

(5) The following provisions of Chapter 5 of this Part apply for the purposes of subsection (1A)(b) as for the purposes of section 27(2)—

(a) section 28 (which defines "general earnings from overseas Crown employment subject to United Kingdom tax"), and

(b) sections 38 to 41 (which contain rules for determining the place of performance of duties of employment).

(6) Subject to any provision made in an order under section 28(5) for the purposes of subsection (1A)(b), provisions made in an order under that section for the purposes of section 27(2) apply for the purposes of subsection (1A)(b) too."

59 In section 22 (chargeable overseas earnings for year when remittance basis applies and employee outside section 26), for subsection (7) substitute—

"(7) Section 15(1) does not apply to general earnings within subsection (1)."

60 (1) Section 23 (calculation of "chargeable overseas earnings") is amended as follows.

(2) In subsection (3), for step 1 substitute—

"Step 1 Identify—

(a) in the case of a tax year that is not a split year, the full amount of the overseas earnings for that year, and

(b) in the case of a split year, so much of the full amount of the overseas earnings for that year as is attributable to the UK part of the year."

(3) In that subsection, in step 2, for "those earnings" substitute " the earnings identified under step 1 ".

(4) After that subsection insert—

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"(4) Any attribution required for the purposes of step 1 or step 2 in subsection (3) is to be done on a just and reasonable basis."

61 (1) Section 24 (limit on chargeable overseas earnings where duties of associated employment performed in UK) is amended as follows.

(2) After subsection (2) insert—

"(2A) If the tax year is a split year as respects the employee, subsection (2) has effect as if for "the aggregate earnings for that year from all the employments concerned" there were substituted " so much of the aggregate earnings for that year from all the employments concerned as is attributable to the UK part of that year "."

(3) After subsection (3) insert—

"(3A) Any attribution required for the purposes of subsection (2A) is to be done on a just and reasonable basis."

62 (1) Section 26 (foreign earnings for year when remittance basis applies and employee meets section 26A requirement) is amended as follows.

(2) In subsection (1), for the words from "if the general earnings" to the end substitute "if the general earnings meet all of the following conditions—

(a) they are neither—

(i) general earnings in respect of duties performed in the United Kingdom, nor

(ii) general earnings from overseas Crown employment subject to United Kingdom tax, and

(b) if the tax year is a split year as respects the employee, they are attributable to the UK part of the year."

(3) After subsection (5) insert—

"(5A) Any attribution required for the purposes of subsection (1)(b) is to be done on a just and reasonable basis."

(4) For subsection (6) substitute—

"(6) Section 15(1) does not apply to general earnings within subsection (1)."

63 In section 232 (giving effect to mileage allowance relief), after subsection (6) insert—

"(6A) If the earnings from which a deduction allowed under this section is deductible include earnings that are "excluded" within the meaning of section 15(1A)—

(a) the amount of the deduction allowed is a proportion of the amount that would be allowed under this section if the tax year were not a split year, and

(b) that proportion is equal to the proportion that the part of the earnings that is not "excluded" bears to the total earnings."

64 (1) Section 329 (deduction from earnings not to exceed earnings) is amended as follows.

(2) After subsection (1) insert—

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"(1A) If the earnings from which a deduction allowed under this Part is deductible include earnings that are "excluded" within the meaning of section 15(1A)—

(a) the amount of the deduction allowed is a proportion of the amount that would be allowed under this Part if the tax year were not a split year, and

(b) that proportion is equal to the proportion that the part of the earnings that is not "excluded" bears to the total earnings."

(3) In subsection (2), after "those earnings" insert " (or, in a case within subsection (1A), the part of those earnings that is not "excluded") ".

(4) In subsection (3), after "the earnings" insert " (or, in a case within subsection (1A), the part of the earnings that is not "excluded") ".

65 (1) Section 394 (charge on employer-financed retirement benefits) is amended as follows.

(2) In subsection (4C), omit "or" at the end of paragraph (b) and after that paragraph insert—

"(ba) an amount which would count as employment income of the employee or former employee under that Chapter but for the application of section 554Z5 (overlap with earlier relevant step), or".

(3) In that subsection, for paragraph (c) substitute—

"(c) an amount which would be within paragraph (a), (b) or (ba) apart from—

(i) the employee or former employee having been non-UK resident for any tax year, or

(ii) any tax year having been a split year as respects the employee or former employee."

66 (1) Section 421E (income relating to securities: exclusions about residence etc) is amended as follows.

(2) For subsection (1) substitute—

"(1) Chapters 2, 3 and 4 do not apply in relation to employment-related securities if the acquisition occurs in a tax year that is not a split year as respects the employee and—

(a) the earnings from the employment for that tax year are not general earnings to which section 15, 22 or 26 applies (earnings for year when employee UK resident), or

(b) had there been any earnings from the employment for that tax year, they would not have been general earnings to which any of those sections applied.

(1A) Chapters 2, 3 and 4 do not apply in relation to employment-related securities if the acquisition occurs in the UK part of a tax year that is a split year as respects the employee and—

(a) the earnings from the employment attributable to that part of the year are not general earnings to which section 15, 22 or 26 applies, or

(b) had there been any earnings from the employment attributable to that part of the year, they would not have been general earnings to which any of those sections applied.

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(1B) Chapters 2, 3 and 4 do not apply in relation to employment-related securities if the acquisition occurs in the overseas part of a tax year that is a split year as respects the employee."

(3) After subsection (2) insert—

"(2A) But Chapters 3A to 3D do apply in relation to employment-related securities in relation to which they are disapplied by subsection (2) if—

(a) the acquisition takes place in the overseas part of a tax year that is a split year as respects the employee,

(b) the tax year is a split year because the circumstances of the case fall within Case 1, Case 2 or Case 3 as described in Part 3 of Schedule 45 to FA 2013 (split year treatment: cases involving actual or deemed departure from the United Kingdom), and

(c) had it not been a split year—

(i) the earnings from the employment for that tax year (or some of them) would have been general earnings to which section 15, 22 or 26 applied, or

(ii) if there had been any earnings from the employment for that tax year, they (or some of them) would have been general earnings to which any of those sections applied."

67 In section 474 (cases where Chapter 5 of Part 7 does not apply), for subsection (1) substitute—

"(1) This Chapter (apart from sections 473 and 483) does not apply in relation to an employment-related securities option if the acquisition occurs in a tax year that is not a split year as respects the employee and—

(a) the earnings from the employment are not general earnings to which section 15, 22 or 26 applies (earnings for year when employee UK resident), or

(b) had there been any earnings from the employment, they would not have been general earnings to which any of those sections applied.

(1A) This Chapter (apart from sections 473 and 483) does not apply in relation to an employment-related securities option if the acquisition occurs in the UK part of a tax year that is a split year as respects the employee and—

(a) the earnings from the employment attributable to that part of the year are not general earnings to which section 15, 22 or 26 applies (earnings for year when employee UK resident), or

(b) had there been any earnings from the employment attributable to that part of the year, they would not have been general earnings to which any of those sections applied.

(1B) This Chapter (apart from sections 473 and 483) does not apply in relation to an employment-related securities option if the acquisition occurs in the overseas part of a tax year that is a split year as respects the employee."

68 (1) Section 554Z4 (residence issues) is amended as follows.

(2) For subsections (3) to (5) substitute—

"(3) Subsection (4) applies if the value of the relevant step, or a part of it, is "for"—

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(a) a tax year for which A is non-UK resident, or

(b) a tax year that is a split year as respects A.

(4) The value, or the part of it, is to be reduced—

(a) in a case within subsection (3)(a), by so much of the value, or the part of it, as is not in respect of UK duties, and

(b) in a case within subsection (3)(b), by so much of the value, or the part of it, as is both—

(i) attributable to the overseas part of the tax year, and

(ii) not in respect of UK duties.

(5) The extent to which—

(a) the value, or the part of it, is not in respect of UK duties, or

(b) so much of the value, or the part of it, as is attributable to the overseas part of the tax year is not in respect of UK duties,

is to be determined on a just and reasonable basis."

(3) After subsection (5) insert—

"(5A) Any attribution required for the purposes of subsection (4)(b)(i) is to be done on a just and reasonable basis.

(5B) "UK duties" means duties performed in the United Kingdom."

69 In section 554Z6 (overlap with certain earnings), in subsection (1)(a), after "UK resident" insert " (and, in the case of a tax year that is a split year as respects A, are not "excluded" by virtue of section 15(1A)(a) and (b)(i)) ".

70 In section 554Z9 (remittance basis: A is ordinarily UK resident), in subsection (5)—

(a) in paragraph (b), after "that income" insert " (or of so much of it as is attributable to the UK part of the relevant tax year, if it was a split year as respects A) ", and

(b) in paragraph (c), after "tax year" insert " (or the UK part of it) ".

71 (1) Section 554Z10 (remittance basis: A is not ordinarily resident) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

"(a) the value of the relevant step, or a part of it, is "for" a tax year ("the relevant tax year") as determined under section 554Z4,".

(3) For subsection (2) substitute—

"(2) The overseas portion of (as the case may be)—

(a) A's employment income by virtue of section 554Z2(1), or

(b) the relevant part of A's employment income by virtue of that section,

is "taxable specific income" in a tax year so far as the overseas portion is remitted to the United Kingdom in that year."

(4) After that subsection insert—

"(2A) The overseas portion" of A's employment income by virtue of section 554Z2(1), or of the relevant part of that income, is so much of that income, or of the relevant part of it, as is not in respect of UK duties.

(2B) "UK duties" means duties performed in the United Kingdom."

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(5) In subsection (3), for "this purpose" substitute " the purposes of this section ".

(6) For subsection (4) substitute—

"(4) The extent to which—

(a) the employment income, or the relevant part of it, is not in respect of UK duties, or

(b) so much of the employment income, or of the relevant part of it, as is attributable to the UK part of the relevant tax year is not in respect of UK duties,

is to be determined on a just and reasonable basis."

Special charging rules for pension income

72 (1) Section 575 of ITEPA 2003 (foreign pensions: taxable pension income) is amended as follows.

(2) In subsection (1), after "subsections" insert " (1A), ".

(3) After that subsection insert—

"(1A) If the person liable for the tax under this Part is an individual and the tax year is a split year as respects that individual, the taxable pension income for the tax year is the full amount of the pension income arising in the UK part of the year, subject to subsections (2) and (3) and section 576A."

F194(4) . . . . . .

Textual Amendments

F194 Sch. 45 para. 72(4) omitted (with effect in accordance with Sch. 3 para. 2(6) of the amending Act) by virtue of Finance Act 2017 (c. 10), **Sch. 3 para. 2(4)(d)**

PAYE income

73 (1) Section 690 of ITEPA 2003 (employee non-residents etc) is amended as follows.

(2) In subsection (1), omit "only".

(3) After that subsection insert—

"(1A) This section also applies in relation to an employee in a tax year if it appears to an officer of Revenue and Customs that—

(a) the tax year is likely to be a split year as respects the employee, and

(b) the employee works or will work in the United Kingdom and also works or is likely to work outside the United Kingdom."

Special charging rules for trading income

74 ITTOIA 2005 is amended as follows.

75 In section 6 (territorial scope of charge to tax), after subsection (2) insert—

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"(2A) If the tax year is a split year as respects a UK resident individual, this section has effect as if, for the overseas part of that year, the individual were non-UK resident."

76 (1) Section 17 (effect of becoming or ceasing to be UK resident) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies if—

(a) an individual carries on a trade otherwise than in partnership, and

(b) there is a change of residence.

(1A) For the purposes of this section there is a "change of residence" if—

(a) the individual becomes or ceases to be UK resident, or

(b) a tax year is, as respects the individual, a split year.

(1B) The change of residence occurs—

(a) in a case falling within subsection (1A)(a), at the start of the tax year for which the individual becomes or ceases to be UK resident, and

(b) in a case falling within subsection (1A)(b), at the start of whichever of the UK part or the overseas part of the tax year is the later part."

(3) In subsection (2), at the beginning insert " If this section applies and the individual does not actually cease permanently to carry on the trade immediately before the change of residence occurs, ".

77 In section 243 (post-cessation receipts: extent of charge to tax), after subsection (5) insert—

"(6) If the tax year is a split year as respects a UK resident individual, this section has effect as if, for the overseas part of that year, the individual were non-UK resident."

78 In section 849 (calculation of firm's profits or losses), after subsection (3) insert—

"(3A) For any tax year that is a split year as respects the partner, this section has effect as if the partner were non-UK resident in the overseas part of the year."

79 (1) Section 852 (carrying on by partner of notional trade) is amended as follows.

(2) For subsection (6) substitute—

"(6) If there is a change of residence, the partner is treated as permanently ceasing to carry on one notional trade when that change of residence occurs and starting to carry on another immediately afterwards."

(3) After subsection (7) insert—

"(8) Subsections (1A) and (1B) of section 17 apply for the purposes of subsection (6)."

80 (1) Section 854 (carrying on by partner of notional business) is amended as follows.

(2) For subsection (5) substitute—

"(5) If there is a change of residence, the partner is treated as permanently ceasing to carry on one notional business when that change of residence occurs and starting to carry on another immediately afterwards."

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(3) After that subsection insert—

"(5A) Subsections (1A) and (1B) of section 17 apply for the purposes of subsection (5)."

Special charging rules for property income

81 In section 270 of ITTOIA 2005 (profits of property businesses: income charged), after subsection (2) insert—

"(3) If, as respects an individual carrying on an overseas property business, the tax year is a split year—

(a) tax is charged under this Chapter on so much of the profits referred to in subsection (1) as arise in the UK part of the tax year, and

(b) the portion of the profits arising in the overseas part of the tax year is, accordingly, not chargeable to tax under this Chapter.

(4) In determining how much of the profits arise in the UK part of the tax year—

(a) determine first how much of the non-CAA profits arise in the UK part by apportioning the non-CAA profits between the UK part and the overseas part on a just and reasonable basis, and

(b) then adjust the portion of the non-CAA profits arising in the UK part by deducting any CAA allowances for the year and adding any CAA charges for the year.

(5) In subsection (4)—

"CAA allowances" means allowances treated under section 250 or 250A of CAA 2001 (capital allowances for overseas property businesses) as an expense of the business;

"CAA charges" means charges treated under either of those sections as a receipt of the business;

"non-CAA profits" means profits before account is taken of any CAA allowances or CAA charges."

Special charging rules for savings and investment income

82 Part 4 of ITTOIA 2005 (savings and investment income) is amended as follows.

83 In section 368 (territorial scope of charges in respect of savings and investment income), after subsection (2) insert—

"(2A) If income arising to an individual who is UK resident arises in the overseas part of a split year, it is to be treated for the purposes of this section as arising to a non-UK resident."

84 In section 465 (person liable for tax on gains from life insurance etc: individuals), after subsection (1) insert—

"(1A) But if the tax year is a split year as respects the individual, the individual is not liable for tax under this Chapter in respect of gains arising in the overseas part of that year (subject to section 465B)."

85 In section 467 (person liable: UK resident trustees), in subsection (4), after paragraph (a) insert—

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"(aa) is UK resident but the gain arises in the overseas part of a tax year that is, as respects the person who created the trusts, a split year,".

86 (1) Section 528 (reduction in amount charged under Chapter 9 of Part 4: non-UK resident policy holders) is amended as follows.

(2) The amendments made by sub-paragraphs (3) to (6) apply to section 528 as substituted by paragraph 3 of Schedule 8 to this Act, and have effect in relation to policies and contracts in relation to which that section as so substituted has effect.

(3) In subsection (1)(b), for the words from "on which" to the end substitute " that are foreign days ".

(4) After subsection (1) insert—

"(1A) Foreign days" are—

(a) days falling within any tax year for which the individual is not UK resident, and

(b) days falling within the overseas part of any tax year that is a split year as respects the individual."

(5) In subsection (3), in the definition of "A", for "days falling within subsection (1)(b)" substitute " foreign days ".

(6) In subsection (8), for "subsection (1)(b)" substitute " subsection (1A)(a) and (b) ".

(7) The amendments made by sub-paragraphs (8) to (10) apply to section 528 as in force immediately before the substitution mentioned in sub-paragraph (2) so far as that section as so in force continues to have effect after the substitution.

(8) In subsection (1), for the words from "the policy holder" to the end substitute " there are one or more days in the policy period that are foreign days. "

(9) After that subsection insert—

"(1A) Foreign days" are—

(a) days on which the policy holder is not UK resident, and

(b) days falling within the overseas part of any tax year that is a split year as respects the policy holder (if the policy holder is an individual)."

(10) In subsection (3), in the definition of "A", for the words from "on which" to the end substitute " in the policy period that are foreign days, and ".

87 (1) Section 528A (reduction in amount charged on basis of non-UK residence of deceased person), as inserted by paragraph 3 of Schedule 8 to this Act, is amended as follows.

(2) In subsection (1)(b), for the words from "on which" to the end substitute " that were foreign days ".

(3) In subsection (2)—

(a) in paragraph (b), for the words from "on which" to the end substitute " that were foreign days, and ", and

(b) for paragraph (c), substitute—

"(c) the deceased died—

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(i) in a tax year for which the deceased was UK resident but not one that was a split year as respects the deceased, or

(ii) in the UK part of a tax year that was a split year as respects the deceased."

(4) After that subsection insert—

"(2A) Foreign days" are—

(a) days falling within any tax year for which the deceased was not UK resident, and

(b) days falling within the overseas part of any tax year that was a split year as respects the deceased."

(5) In subsection (4), in the definition of "A", for the words from "are days falling" to the end substitute " were foreign days, and ".

(6) In subsection (8), for "subsection (1)(b) or (2)(b)" substitute " subsection (2A)(a) and (b) ".

88 (1) Section 536 (top slicing relieved liability: one chargeable event) is amended as follows.

(2) The amendment made by sub-paragraph (3) applies to section 536 as amended by paragraph 5 of Schedule 8 to this Act, and has effect in accordance with paragraph 7 of that Schedule.

(3) For subsection (7) substitute—

"(7) If in the case of the individual the gain is reduced under section 528—

(a) divide the number of foreign days in the material interest period (as determined in accordance with that section, including subsections (7) and (8)) by 365,

(b) if the result is not a whole number, round it down to the nearest whole number, and

(c) reduce N, for steps 1 and 3 in subsection (1), by the number found by applying paragraphs (a) and (b)."

(4) The amendment made by sub-paragraph (5) applies to section 536 as in force immediately before it is amended by paragraph 5 of Schedule 8 to this Act, so far as that section as so in force continues to have effect after it is so amended.

(5) For subsection (7) substitute—

"(7) If the gain is from such a policy—

(a) divide the number of foreign days in the policy period (as defined in section 528) by 365,

(b) if the result is not a whole number, round it down to the nearest whole number, and

(c) reduce N, for steps 1 and 3 in subsection (1), by the number found by applying paragraphs (a) and (b)."

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Special charging rules for miscellaneous income

89 In section 577 (territorial scope of charges in respect of miscellaneous income), after subsection (2) insert—

"(2A) If income arising to an individual who is UK resident arises in the overseas part of a split year, it is to be treated for the purposes of this section as arising to a non-UK resident."

Special charging rules for relevant foreign income charged on remittance basis

90 In section 832 of ITTOIA 2005 (relevant foreign income charged on remittance basis), for subsection (2) substitute—

"(2) For any tax year for which the individual is UK resident, income tax is charged on the full amount of so much (if any) of the relevant foreign income as is remitted to the United Kingdom—

(a) in that year, or

(b) in the UK part of that year, if that year is a split year as respects the individual."

91 (1) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) is amended as follows in consequence of the amendment made by the preceding paragraph.

(2) In section 726 (non-UK domiciled individuals to whom remittance basis applies), after subsection (4) insert—

"(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b)."

(3) In section 730 (non-UK domiciled individuals to whom remittance basis applies), after subsection (4) insert—

"(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b)."

(4) In section 735 (non-UK domiciled individuals to whom remittance basis applies), after subsection (4) insert—

"(5) In the application of section 832 of ITTOIA 2005 to the foreign deemed income, subsection (2) of that section has effect with the omission of paragraph (b)."

Special charging rules for capital gains

92 TCGA 1992 is amended as follows.

93 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.

(2) After subsection (1A) (inserted by Schedule 46 to this Act) insert—

"(1B) If the year is a split year as respects an individual, the individual is not chargeable to capital gains tax in respect of any chargeable gains accruing to the individual in the overseas part of that year.

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(1C) But subsection (1B)—

(a) does not apply to chargeable gains in respect of which the individual would have been chargeable to capital gains tax under section 10, had the individual been not resident in the UK for the year, and

(b) is without prejudice to section 10A."

(3) In subsection (2)—

(a) after "the year of assessment" insert " or, where subsection (1B) applies, the UK part of that year ", and

(b) in paragraph (a), after "that year of assessment" insert " or that part (as the case may be) ".

94 (1) Section 3A (reporting limits) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after "year of assessment" insert " or, if that year is a split year as respects the individual, the UK part of that year ", and

(b) in paragraph (b), after "in that year" insert " or, as the case may be, that part of the year ".

(3) In subsection (2), after "year of assessment" insert " (or the UK part of such a year) ".

95 (1) Section 12 (non-UK domiciled individuals to whom remittance basis applies) is amended as follows.

(2) After subsection (2) insert—

"(2A) If that tax year is a split year as respects the individual, the chargeable gains are treated as accruing to the individual in the part of the year (the overseas part or the UK part) in which the foreign chargeable gains are so remitted."

(3) In subsection (3), after "that year" insert " or, where applicable, that part of the year ".

96 In section 13 (attribution of gains to members of non-resident companies), after subsection (3) insert—

"(3A) Subsection (2) does not apply in the case of a participator who is an individual if—

(a) the tax year in which the chargeable gain accrues to the company is a split year as respects the participator, and

(b) the chargeable gain accrues to the company in the overseas part of that year."

97 In section 16 (computation of losses), after subsection (3) insert—

"(3A) If the person is an individual and the year is a split year as respects that individual, subsection (3) also applies to a loss accruing to the individual in the overseas part of that year."

98 In section 16ZB (individual who has made election under section 16ZA: foreign chargeable gains remitted in tax year after tax year in which accrue), in subsection (1)(c), after "tax year" insert " or a part of the applicable tax year ".

99 (1) Section 16ZC (individual who has made election under section 16ZA and to whom remittance basis applies) is amended as follows.

(2) In subsection (3)—

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(a) in paragraph (a), after "that year" insert " or, if that year is a split year as respects the individual, in the UK part of that year ", and

(b) in paragraph (b), after "that year" insert " or they are so remitted in that year but it is a split year as respects the individual and they are so remitted in the overseas part of the year ".

(3) In subsection (7), in the definition of "relevant allowable losses", after "tax year" insert " or a part of the tax year ".

100 In section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements), in subsection (4)(a), after "the year" insert " or if, as respects the settlor, the year is a split year, in the UK part of that year ".

F195 101 . . . . . .

Textual Amendments

F195 Sch. 45 para. 101 omitted (with effect in accordance with Sch. 10 para. 1(13) of the amending Act) by virtue of Finance Act 2018 (c. 3), **Sch. 10 para. 1(11)**

Trustees of a settlement

102 In section 69 of TCGA 1992 (trustees of settlements), after subsection (2D) insert—

"(2DA) A trustee who is resident in the United Kingdom for a tax year is to be treated for the purposes of subsections (2A) and (2B) as if he or she were not resident in the United Kingdom for that year if—

(a) the trustee is an individual,

(b) the individual becomes or ceases to be a trustee of the settlement during the tax year,

(c) that year is a split year as respects the individual, and

(d) in that year, the only period when the individual is a trustee of the settlement falls wholly within the overseas part of the year.

(2DB) Subsection (2DA) is subject to subsection (2D) and, accordingly, an individual who is treated under subsection (2DA) as not resident is, in spite of that, to be regarded as resident whenever the individual acts as mentioned in subsection (2D)."

103 In section 475 of ITA 2007 (residence of trustees), after subsection (6) insert—

"(7) Subsection (8) applies if—

(a) an individual becomes or ceases to be a trustee of the settlement during a tax year,

(b) that year is a split year as respects the individual, and

(c) the only period in that year when the individual is a trustee of the settlement falls wholly within the overseas part of the year.

(8) The individual is to be treated for the purposes of subsections (4) and (5) as if he or she had been non-UK resident for the year (and hence for the period in that year when he or she was a trustee of the settlement).

(9) But subsection (8) is subject to subsection (6) and, accordingly, an individual who is treated under subsection (8) as having been non-UK resident is, in

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spite of that, to be treated as UK resident whenever the individual acts as mentioned in subsection (6)."

Definitions in enactments relating to income tax and CGT

104 (1) Section 288 of TCGA 1992 (interpretation) is amended as follows.

(2) In subsection (1), insert the following definition in the appropriate place—

""split year", as respects an individual, means a tax year that, as respects that individual, is a split year within the meaning of Part 3 of Schedule 45 to the Finance Act 2013 (statutory residence test: split year treatment);".

(3) After subsection (1ZA) insert—

"(1ZB) A reference in this Act to "the overseas part" or "the UK part" of a split year is to be read in accordance with Part 3 of Schedule 45 to the Finance Act 2013 (statutory residence test: split year treatment)."

105 In Part 2 of Schedule 1 to ITEPA 2003 (index of defined expressions), insert the following entries in the appropriate places—

"the overseas part	section 989 of ITA 2007",
"split year	section 989 of ITA 2007", and
"the UK part	section 989 of ITA 2007".

106 In Part 2 of Schedule 4 to ITTOIA 2005 (index of defined expressions), insert the following entries in the appropriate places—

"the overseas part	section 989 of ITA 2007",
"split year	section 989 of ITA 2007", and
"the UK part	section 989 of ITA 2007".

107 In section 989 of ITA 2007 (definitions for purposes of Income Tax Acts), insert the following definitions in the appropriate places—

""the overseas part", in relation to a split year, has the meaning given in Part 3 of Schedule 45 to FA 2013 (statutory residence test: split year treatment);",

""split year", in relation to an individual, means a tax year that, as respects that individual, is a split year within the meaning of Part 3 of Schedule 45 to FA 2013 (statutory residence test: split year treatment);", and

""the UK part", in relation to a split year, has the meaning given in Part 3 of Schedule 45 to FA 2013 (statutory residence test: split year treatment);".

108 In Schedule 4 to that Act (index of defined expressions), insert the following entries in the appropriate places—

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"the overseas part	section 989",
"split year	section 989", and
"the UK part	section 989".

PART 4

ANTI-AVOIDANCE

Introduction

109 This Part of this Schedule—

(a) explains when an individual is to be regarded for the purposes of certain enactments as temporarily non-resident,

(b) defines the year of departure and the period of return for the purposes of those enactments,

(c) makes consequential amendments to certain enactments containing special rules for temporary non-residents, and

(d) inserts some more special rules for temporary non-residents in certain cases.

Meaning of temporarily non-resident

110 (1) An individual is to be regarded as "temporarily non-resident" if—

(a) the individual has sole UK residence for a residence period,

(b) immediately following that period (referred to as "period A"), one or more residence periods occur for which the individual does not have sole UK residence,

(c) at least 4 out of the 7 tax years immediately preceding the year of departure were either—

(i) a tax year for which the individual had sole UK residence, or

(ii) a split year that included a residence period for which the individual had sole UK residence, and

(d) the temporary period of non-residence is 5 years or less.

(2) Terms used in sub-paragraph (1) are defined below.

Residence periods

111 In relation to an individual, a "residence period" is—

(a) a tax year that, as respects the individual, is not a split year, or

(b) the overseas part or the UK part of a tax year that, as respects the individual, is a split year.

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Sole UK residence

112 (1) An individual has "sole UK residence" for a residence period consisting of an entire tax year if—

(a) the individual is resident in the UK for that year, and

(b) there is no time in that year when the individual is Treaty non-resident.

(2) An individual has "sole UK residence" for a residence period consisting of part of a split year if—

(a) the residence period is the UK part of that year, and

(b) there is no time in that part of the year when the individual is Treaty non-resident.

(3) An individual is "Treaty non-resident" at any time if at the time the individual falls to be regarded as resident in a country outside the UK for the purposes of double taxation arrangements having effect at the time.

Temporary period of non-residence

113 In relation to an individual, "the temporary period of non-residence" is the period between—

(a) the end of period A, and

(b) the start of the next residence period after period A for which the individual has sole UK residence.

Year of departure

114 "The year of departure" is the tax year consisting of or including period A.

Period of return

115 "The period of return" is the first residence period after period A for which the individual has sole UK residence.

Consequential amendments: income tax

116 In ITEPA 2003, for section 576A substitute—

"**576A Temporary non-residents**

(1) This section applies if a person is temporarily non-resident.

(2) Any relevant withdrawals within subsection (3) are to be treated for the purposes of section 575 as if they arose in the period of return.

(3) A relevant withdrawal is within this subsection if—

(a) it is paid to the person in the temporary period of non-residence, and

(b) ignoring this section, it is not chargeable to tax under this Part (or would not be if a DTR claim were made in respect of it).

(4) A "relevant withdrawal" is an amount paid under a relevant non-UK scheme that—

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(a) is paid to the person in respect of a flexible drawdown arrangement relating to the person under the scheme, and

(b) would, if the scheme were a registered pension scheme, be "income withdrawal" or "dependants' income withdrawal" within the meaning of paragraphs 7 and 21 of Schedule 28 to FA 2004.

(5) If section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the person for the year of return, any relevant withdrawal within subsection (3) that was remitted to the United Kingdom in the temporary period of non-residence is to be treated as remitted to the United Kingdom in the period of return.

(6) This section does not apply to a relevant withdrawal if—

(a) it is paid to or in respect of a relieved member of the scheme and is not referable to the member's UK tax-relieved fund under the scheme, or

(b) it is paid to or in respect of a transfer member of the scheme and is not referable to the member's relevant transfer fund under the scheme.

(7) Nothing in any double taxation relief arrangements is to be read as preventing the person from being chargeable to income tax in respect of any relevant withdrawal treated by virtue of this section as arising in the period of return (or as preventing a charge to that tax from arising as a result).

(8) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when a person is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(9) In this section—

"double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010;

"DTR claim" means a claim for relief under section 6 of that Act;

"flexible drawdown arrangement" means an arrangement to which section 165(3A) or 167(2A) of FA 2004 applies;

"remitted to the United Kingdom" has the same meaning as in Chapter A1 of Part 14 of ITA 2007;

"the year of return" means the tax year that consists of or includes the period of return.

(10) The following expressions have the meaning given in Schedule 34 to FA 2004—

"relevant non-UK scheme" (see paragraph 1(5));

"relieved member" (see paragraph 1(7));

"transfer member" (see paragraph 1(8));

"member's UK tax-relieved fund" (see paragraph 3(2));

"member's relevant transfer fund" (see paragraph 4(2))."

117 In ITEPA 2003, for section 579CA substitute—

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"**579CA Temporary non-residents**

(1) This section applies if a person is temporarily non-resident.

(2) Any relevant withdrawals within subsection (3) are to be treated for the purposes of section 579B as if they accrued in the period of return.

(3) A relevant withdrawal is within this subsection if—

(a) it is paid to the person in the temporary period of non-residence, and

(b) ignoring this section, it is not chargeable to tax under this Part (or would not be if a DTR claim were made in respect of it).

(4) A "relevant withdrawal" is any income withdrawal or dependants' income withdrawal paid to the person under a registered pension scheme in respect of a flexible drawdown arrangement relating to the person under the scheme.

(5) Nothing in any double taxation relief arrangements is to be read as preventing the person from being chargeable to income tax in respect of any relevant withdrawal treated by virtue of this section as accruing in the period of return (or as preventing a charge to that tax from arising as a result).

(6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when a person is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(7) In this section—

"double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010;

"DTR claim" means a claim for relief under section 6 of that Act;

"flexible drawdown arrangement" means an arrangement to which section 165(3A) or 167(2A) of FA 2004 applies."

118 In ITTOIA 2005, for section 832A substitute—

"**832A Section 832: temporary non-residents**

(1) This section applies if an individual is temporarily non-resident.

(2) Treat any of the individual's relevant foreign income within subsection (3) that is remitted to the United Kingdom in the temporary period of non-residence as remitted to the United Kingdom in the period of return.

(3) Relevant foreign income is within this subsection if—

(a) it is relevant foreign income for the UK part of the year of departure or an earlier tax year, and

(b) section 832 applies to it.

(4) Any apportionment required for the purposes of subsection (3)(a) is to be done on a just and reasonable basis.

(5) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being chargeable to income tax in respect of

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any relevant foreign income treated by virtue of this section as remitted to the United Kingdom in the period of return (or as preventing a charge to that tax from arising as a result).

(6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(7) In this section, "double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010."

Consequential amendments: capital gains tax

119 In TCGA 1992, for section 10A substitute—

"**10A Temporary non-residents**

(1) This section applies if an individual ("the taxpayer") is temporarily non-resident.

(2) The taxpayer is chargeable to capital gains tax as if gains and losses within subsection (3) were chargeable gains or, as the case may be, losses accruing to the taxpayer in the period of return.

(3) The gains and losses within this subsection are—

(a) chargeable gains and losses that accrued to the taxpayer in the temporary period of non-residence,

(b) chargeable gains that would be treated under section 13 as having accrued to the taxpayer in that period if the residence assumption were made,

(c) losses that would be allowable in the taxpayer's case under section 13(8) in that period if that assumption were made, and

(d) chargeable gains that would be treated under section 86 as having accrued to the taxpayer in a tax year falling wholly in that period if the taxpayer had been resident in the United Kingdom for that year.

(4) The residence assumption is—

(a) that the taxpayer had been resident in the United Kingdom for the tax year in which the gain or loss accrued to the company, or

(b) if that tax year was a split year as respects the taxpayer, that the gain or loss had accrued to the company in the UK part of it.

(5) But—

(a) a gain is not within subsection (3) if, ignoring this section, the taxpayer is chargeable to capital gains tax in respect of it (and could not cease to be so chargeable by making a claim under section 6 of TIOPA 2010), and

(b) a loss is not within subsection (3) if the test in paragraph (a) would be met if it were a gain.

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(6) Subsection (2) is subject to sections 10AA and 86A.

(7) To determine the losses mentioned in subsection (3)(c)—

(a) calculate separately, for each tax year falling wholly or partly in the temporary period of non-residence, the portion of sum A that does not exceed sum B, and

(b) add up all those portions.

(8) For the purposes of subsection (7)—

"sum A" is the aggregate of the losses that were not available in accordance with section 13(8) for reducing gains accruing to the taxpayer by virtue of section 13 in the relevant tax year, but would have been available if the residence assumption had been made, and

"sum B" is the amount of the gains that did not accrue to the taxpayer by virtue of section 13 in that tax year but would have so accrued if that assumption had been made.

(9) If section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the taxpayer for the year of return, any foreign chargeable gains falling within subsection (3) by virtue of paragraph (a) of that subsection that were remitted to the United Kingdom at any time in the temporary period of non-residence are to be treated as remitted to the United Kingdom in the period of return.

(10) Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance) explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(11) In this section—

"foreign chargeable gains" has the meaning given by section 12(4);

"remitted to the United Kingdom" has the same meaning as in Chapter A1 of Part 14 of ITA 2007;

"the year of return" means the tax year that consists of or includes the period of return.

10AA Section 10A: supplementary

(1) Section 10A(2) does not apply to a gain or loss accruing on the disposal by the taxpayer of an asset if—

(a) the asset was acquired by the taxpayer in the temporary period of non-residence,

(b) it was so acquired otherwise than by means of a relevant disposal that by virtue of section 58, 73 or 258(4) is treated as having been a disposal on which neither a gain nor a loss accrued,

(c) the asset is not an interest created by or arising under a settlement, and

(d) the amount or value of the consideration for the acquisition of the asset by the taxpayer does not fall, by reference to any relevant

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disposal, to be treated as reduced under section 23(4)(b) or (5)(b), 152(1)(b), 153(1)(b), 162(3)(b) or 247(2)(b) or (3)(b).

(2) "Relevant disposal" means a disposal of an asset acquired by the person making the disposal at a time when that person was resident in the United Kingdom and was not Treaty non-resident.

(3) Subsection (1) does not apply if—

(a) the gain is one that (ignoring section 10A) would fall to be treated by virtue of section 116(10) or (11), 134 or 154(2) or (4) as accruing on the disposal of the whole or part of another asset, and

(b) that other asset meets the requirements of paragraphs (a) to (d) of subsection (1), but the asset in respect of which the gain actually accrued or would actually accrue does not.

(4) Nothing in any double taxation relief arrangements is to be read as preventing the taxpayer from being chargeable to capital gains tax in respect of any chargeable gains treated under section 10A as accruing to the taxpayer in the period of return (or as preventing a charge to that tax from arising as a result).

(5) Nothing in any enactment imposing any limit on the time within which an assessment to capital gains tax may be made prevents any assessment for the year of departure from being made in the taxpayer's case at any time before the end of the second anniversary of the 31 January next following the year of return (as defined in section 10A)."

120 For section 86A of TCGA 1992 substitute—

"**86A Attribution of gains to settlor in section 10A cases**

(1) Subsection (3) applies if—

(a) chargeable gains of an amount equal to the amount referred to in section 86(1)(e) for a tax year ("year A") are treated under section 10A as accruing to a settlor under section 86 in the period of return,

(b) there are amounts on which beneficiaries of the settlement are charged to tax under section 87 or 89(2) for one or more tax years, each of which is earlier than the year of return, and

(c) those amounts are in respect of matched capital payments received by the beneficiaries.

(2) A "matched" capital payment is a capital payment, all or part of which is matched under section 87A with the section 2(2) amount for year A.

(3) The amount of the chargeable gains mentioned in subsection (1)(a) for year A that are treated under section 10A as accruing to the settlor under section 86 in the period of return is to be reduced by the appropriate amount.

(4) The appropriate amount is—

(a) the sum of the amounts mentioned in subsection (1)(c) to the extent that the matched capital payments are matched under section 87A with the section 2(2) amount for year A, or

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(b) if the property comprised in the settlement has at any time included property not originating from the settlor, so much (if any) of that sum as, on a just and reasonable apportionment, is properly referable to the settlor.

(5) If a reduction falls to be made under subsection (3) for the year of return, the deduction to be made in accordance with section 87(4)(b) for the settlement for that year must not be made until—

(a) all the reductions to be made under subsection (3) for that year for each settlor have been made, and

(b) those reductions are to be made starting with the year immediately preceding the year of return and working backwards.

(6) Subsection (7) applies if, with respect to year A, an amount remains to be treated under section 10A as accruing to any of the settlors in the period of return after having made the reductions under subsection (3) with respect to year A.

(7) The aggregate of the amounts remaining to be so treated (for all of the settlors) is to be applied in reducing so much of the section 2(2) amount for year A as has not already been matched with a capital payment under section 87A for any year prior to the year of return (but not so as to reduce the section 2(2) amount below zero).

(8) In this section—

(a) "the settlement" means the settlement in relation to which the settlor mentioned in subsection (1)(a) is a settlor,

(b) a reference to "the settlors" or "each settlor" is to the settlors or each settlor in relation to the settlement,

(c) "period of return" and "year of return" have the same meanings as in section 10A, and

(d) paragraph 8 of Schedule 5 applies in construing the reference to property originating from the settlor."

121 In section 96 (payment by and to companies), in subsection (9A), for the words from "which in his case" to the end substitute "for which he or she was not so resident if—

(a) section 10A applies to him or her, and

(b) the year falls within the temporary period of non-residence."

122 (1) Section 279B (deferred unascertainable consideration: supplementary provisions) is amended as follows.

(2) In subsection (7), for "year of return" substitute " period of return ".

(3) In subsection (8)(a) and (b), for "year" substitute " period ".

123 (1) Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.

(2) In paragraph 6(1)(b), for "year of return" substitute " period of return ".

(3) In paragraph 12(1)—

(a) for paragraph (a) substitute—

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"(a) by virtue of section 10A, an amount of chargeable gains within section 86(1)(e) that accrued in a tax year ("year A") to the trustees of a settlement would be treated as accruing to a person ("the settlor") in the period of return, and", and

(b) in paragraph (b), for "the intervening year" substitute " year A ".

(4) In paragraph 12(2), for "year of return" substitute " period of return ".

(5) In paragraph 12A(1)—

(a) for "year of return" substitute " period of return ", and

(b) for "an intervening year" substitute " the temporary period of non-residence ".

New special rule: lump sum payments under pension schemes etc

124 ITEPA 2003 is amended as follows.

125 In Chapter 2 of Part 6 (employer-financed retirement benefits), after section 394 insert—

"**394A Temporary non-residents**

(1) This section applies if an individual is temporarily non-resident.

(2) Any benefits within subsection (3) are to be treated for the purposes of section 394(1) as if they were received by the individual in the period of return.

(3) A benefit is within this subsection if—

(a) this Chapter applies to it,

(b) it is in the form of a lump sum,

(c) it is received by the individual in the temporary period of non-residence, and

(d) ignoring this section—

(i) no charge to tax arises by virtue of section 394(1) in respect of it, but

(ii) such a charge would arise if the existence of any double taxation relief arrangements were disregarded.

(4) Subsection (3)(d)(i) includes a case where the charge could be prevented by making a DTR claim, even if no claim is in fact made.

(5) Subsection (2) does not affect the operation of section 394(1A) (and, accordingly, "the relevant tax year" for the purposes of section 394(1A) remains the tax year in which the benefit is actually received).

(6) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being chargeable to income tax in respect of any benefit treated by virtue of this section as received in the period of return (or as preventing a charge to that tax from arising as a result).

(7) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

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(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(8) In this section—

"double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010;

"DTR claim" means a claim for relief under section 6 of that Act."

126 In Chapter 2 of Part 7A (employment income provided through third parties: treatment of relevant step for income tax purposes), after section 554Z4 insert—

"**554Z4A Temporary non-residents**

(1) This section applies if A is temporarily non-resident.

(2) Any relevant step within subsection (3) is to be treated for the purposes of section 554Z2 as if it were taken in the period of return.

(3) A relevant step is within this subsection if—

(a) it is the payment of a lump sum to a relevant person (see section 554C(2)),

(b) the lump sum is a relevant benefit provided under a relevant scheme,

(c) the step is taken in the temporary period of non-residence, and

(d) ignoring this section—

(i) no charge to tax arises by virtue of section 554Z2 by reason of the step, but

(ii) such a charge would arise if the existence of any double taxation relief arrangements were disregarded.

(4) Subsection (3)(d)(i) includes a case where the charge could be prevented by making a DTR claim, even if no claim is in fact made.

(5) Nothing in any double taxation relief arrangements is to be read as preventing A from being chargeable to income tax in respect of any relevant step treated by virtue of this section as taken in the period of return (or as preventing a charge to that tax from arising as a result).

(6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(7) In this section—

"double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010;

"DTR claim" means a claim for relief under section 6 of that Act;

"relevant benefit" has the same meaning as in Chapter 2 of Part 6;

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"relevant scheme" means an employer-financed retirement benefits scheme (within the meaning of that Chapter) or a superannuation fund to which section 615(3) of ICTA applies."

127 In that Chapter, after section 554Z11 insert—

"**554Z11A Temporary non-residents**

(1) This section applies if A is temporarily non-resident.

(2) Any amount within subsection (3) is to be treated for the purposes of section 554Z9(2) or (as the case may be) 554Z10(2) as if it were remitted to the United Kingdom in the period of return.

(3) An amount is within this subsection if—

(a) it is all or part of a relevant benefit provided to a relevant person (see section 554C(2)) under a relevant scheme,

(b) it is provided in the form of the lump sum,

(c) it is remitted to the United Kingdom in the temporary period of non-residence, and

(d) ignoring this section—

(i) no charge to tax arises by virtue of section 554Z9(2) or 554Z10(2) in respect of it, but

(ii) such a charge would arise by virtue of one of those sections if the existence of any double taxation relief arrangements were disregarded.

(4) Subsection (3)(d)(i) includes a case where the charge could be prevented by making a DTR claim, even if no claim is in fact made.

(5) Nothing in any double taxation relief arrangements is to be read as preventing A from being chargeable to income tax in respect of any income treated by virtue of this section as remitted to the United Kingdom in the period of return (or as preventing a charge to that tax from arising as a result).

(6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(7) In this section—

"double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010;

"DTR claim" means a claim for relief under section 6 of that Act;

"relevant benefit" has the same meaning as in Chapter 2 of Part 6;

"relevant scheme" means an employer-financed retirement benefits scheme (within the meaning of that Chapter) or a superannuation fund to which section 615(3) of ICTA applies;

"remitted to the United Kingdom" has the same meaning as in Chapter A1 of Part 14 of ITA 2007."

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128 In that Chapter, in section 554Z12 (relevant step taken after A's death etc), after subsection (8) insert—

"(9) Section 554Z4A and section 554Z11A apply for the purposes of subsection (4) as for the purposes of section 554Z2 and section 554Z9(2) or 554Z10(2) respectively (reading references in sections 554Z4A and 554Z11A to "A" as references to "the relevant person").

(10) But those sections do not apply for the purposes of subsection (4) if the relevant person's temporary period of non-residence began before A died."

129 In Chapter 3 of Part 9 (United Kingdom pensions: general rules), after section 572 insert—

"**572A Temporary non-residents**

(1) This section applies if an individual is temporarily non-resident.

(2) Any pension within subsection (3) is to be treated for the purposes of section 571 as if it accrued in the period of return.

(3) A pension is within this subsection if—

(a) section 569 applies to it,

(b) it is in the form of a lump sum,

(c) it accrued in the temporary period of non-residence, and

(d) ignoring this section—

(i) it is not chargeable to tax under this Chapter, but

(ii) it would be so chargeable if the existence of any double taxation relief arrangements were disregarded.

(4) Subsection (3)(d)(i) includes a case where the charge could be prevented by making a DTR claim, even if no claim is in fact made.

(5) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being chargeable to income tax in respect of any pension treated by virtue of this section as accruing in the period of return (or as preventing a charge to that tax from arising as a result).

(6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(7) In this section—

"double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010;

"DTR claim" means a claim for relief under section 6 of that Act."

130 (1) In Chapter 1 of Part 11 (pay as you earn: introduction), section 683 is amended as follows.

(2) After subsection (3) insert—

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"(3ZA) PAYE employment income" for a tax year does not include any taxable specific income treated as paid or received in that tax year by section 394A or 554Z4A (temporary non-residents)."

(3) For subsection (3B) substitute—

"(3B) PAYE pension income" for a tax year does not include any taxable pension income that is treated as accruing in that tax year by section 572A or 579CA (temporary non-residents)."

New special rule: distributions to participators in close companies etc

131 Part 4 of ITTOIA 2005 (savings and investment income) is amended as follows.

132 In Chapter 1 (introduction), after section 368 insert—

"**368A Interpretation of special rules for temporary non-residents**

(1) This section concerns provisions of this Part that are expressed to apply if an individual is "temporarily non-resident" ("TNR provisions").

(2) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains for the purposes of TNR provisions—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what the following terms mean—

(i) "the temporary period of non-residence",

(ii) "the year of departure", and

(iii) "the period of return".

(3) A reference in TNR provisions to "the year of return" is to the tax year consisting of or including the period of return.

(4) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being chargeable to income tax by virtue of any TNR provisions (or as preventing a charge to that tax from arising as a result).

(5) In this section and in TNR provisions, "double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010."

133 In Chapter 3 (dividends etc from UK resident companies and tax credits etc in respect of certain distributions), after section 401B insert—

"Anti-avoidance

401C Temporary non-residents

(1) This section applies if—

(a) an individual is temporarily non-resident,

(b) a relevant distribution is made or treated as made to the individual in the temporary period of non-residence,

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(c) the tax year in which it is made or treated as made ("the distribution year") is a tax year for which the individual is UK resident, and

(d) the amount of income tax charged on the distribution under this Chapter is less than it would have been if the existence of double taxation relief arrangements were disregarded.

(2) Subsections (3) and (4) have effect in cases where the distribution year is not the year of return.

(3) The total income (see Step 1 of the calculation in section 23 of ITA 2007) on which the individual is charged to income tax for the year of return is to be increased by an amount equal to the amount on which tax would be charged under this Chapter in respect of the distribution disregarding any double taxation relief arrangements.

(4) But the notional UK tax on that distribution is to be allowed as a credit against the individual's liability to income tax for the year of return under Step 6 of the calculation in section 23.

(5) If the distribution year is the year of return, the tax charged under this Chapter in respect of the relevant distribution is to be charged and assessed without regard to the existence of double taxation relief arrangements.

(6) For the purposes of this section, a dividend or other distribution is a "relevant distribution" if—

(a) it is a dividend or other distribution of a close company, and

(b) it is made or treated as made to the individual because the individual was at a relevant time—

(i) a material participator in the company, or

(ii) an associate of a material participator in the company.

(7) But a dividend or other distribution within subsection (6) in the form of a cash dividend is not a "relevant distribution" to the extent that the dividend is paid in respect of post-departure trade profits.

(8) "Post-departure trade profits" are—

(a) trade profits of the close company arising in an accounting period that begins after the start of the temporary period of non-residence, and

(b) so much of any trade profits of the close company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.

(9) The extent to which a dividend is paid in respect of post-departure trade profits is to be determined on a just and reasonable basis.

(10) The "notional UK tax" on the relevant distribution is so much of the income tax paid by the individual for the distribution year as is attributable on a just and reasonable basis to the relevant distribution.

(11) If section 393 applies, references in this section to a distribution being made to the individual are to a cash dividend being paid over to the individual.

(12) In this section—

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"associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454);

"material participator" means a participator who has a material interest in the company, as defined in section 457 of that Act;

"relevant time" means—

(a) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or

(b) any time in one or more of the 3 tax years preceding that year;

"trade profits of the close company" means the profits of any trade carried on by the close company, as calculated in accordance with Part 3 of CTA 2009 (trading income)."

134 In Chapter 4 (dividends from non-UK resident companies), after section 408 insert—

"Anti-avoidance

408A Temporary non-residents

(1) This section applies if an individual is temporarily non-resident.

(2) Dividends within subsection (3) are to be treated for the purposes of this Chapter as if they were received by the individual, or as if the individual became entitled to them, in the period of return.

(3) A dividend is within this subsection if—

(a) the individual receives or becomes entitled to it in the temporary period of non-residence,

(b) it is a dividend of a company that would be a close company if the company were UK resident,

(c) the individual receives or becomes entitled to it by virtue of being at a relevant time—

(i) a material participator in the company, or

(ii) an associate of a material participator in the company, and

(d) ignoring this section, the individual—

(i) is not liable for tax under this Chapter in respect of the dividend, but

(ii) would have been so liable if the individual had received the dividend, or become entitled to it, in the period of return.

(4) For the purposes of subsection (3)—

(a) "associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454),

(b) a "material participator" is a participator who has a material interest in the company, as defined in section 457 of that Act,

(c) "relevant time" means—

(i) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or

(ii) any time in one or more of the 3 tax years preceding that year, and

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(d) paragraph (d)(i) includes a case where the individual could be relieved of liability on the making of a claim under section 6 of TIOPA 2010 (double taxation relief), even if no claim is in fact made.

(5) If section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the year of return, any dividend within subsection (3) that was remitted to the United Kingdom in the temporary period of non-residence is to be treated as remitted to the United Kingdom in the period of return.

(6) This section does not apply to a dividend within subsection (3) to the extent that it is paid in respect of post-departure trade profits.

(7) "Post-departure trade profits" are—

(a) trade profits of the company arising in an accounting period that begins after the start of the temporary period of non-residence, and

(b) so much of any trade profits of the company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.

(8) The extent to which a dividend is paid in respect of post-departure trade profits is to be determined on a just and reasonable basis.

(9) If section 406 or 407 applies, references in this section to a dividend being received by the individual are to a cash dividend being paid over to the individual or (as the case may be) a dividend being treated as paid to the individual.

(10) In this section—

"remitted to the United Kingdom" has the meaning given in Chapter A1 of Part 14 of ITA 2007;

"trade profits of the company" means the profits of any trade carried on by the company, as they would be calculated in accordance with Part 3 of CTA 2009 (trading income) if the company were UK resident."

135 In Chapter 5 (stock dividends from UK resident companies), after section 413 insert—

"**413A Temporary non-residents**

(1) This section applies if—

(a) an individual is temporarily non-resident,

(b) relevant stock dividend income is treated under this Chapter as arising to the individual in the temporary period of non-residence,

(c) the tax year in which it is treated as arising ("the arising year") is a tax year for which the individual is UK resident, and

(d) the amount of income tax charged on the relevant stock dividend income under this Chapter is less than it would have been if the existence of double taxation relief arrangements were disregarded.

(2) Subsections (3) and (4) have effect in cases where the arising year is not the year of return.

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(3) The total income (see Step 1 of the calculation in section 23 of ITA 2007) on which the individual is charged to income tax for the year of return is to be increased by an amount equal to the amount on which tax would be charged under this Chapter in respect of the relevant stock dividend income disregarding any double taxation relief arrangements.

(4) But the notional UK tax on that relevant stock dividend income is to be allowed as a credit against the individual's liability to income tax for the year of return under Step 6 of the calculation in section 23.

(5) If the arising year is the year of return, the tax charged under this Chapter in respect of the relevant stock dividend income is to be charged and assessed without regard to the existence of double taxation relief arrangements.

(6) Stock dividend income is "relevant stock dividend income" if—

(a) the UK resident company that issues the share capital or bonus share capital is a close company, and

(b) the individual is beneficially entitled to that share capital or bonus share capital by virtue of being at a relevant time—

(i) a material participator in the company, or

(ii) an associate of a material participator in the company.

(7) But stock dividend income within subsection (6) is not "relevant stock dividend income" to the extent that the share capital or bonus share capital is issued in respect of post-departure trade profits.

(8) "Post-departure trade profits" are—

(a) trade profits of the close company arising in an accounting period that begins after the start of the temporary period of non-residence, and

(b) so much of any trade profits of the close company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.

(9) The extent to which share capital or bonus share capital is issued in respect of post-departure trade profits is to be determined on a just and reasonable basis.

(10) The "notional UK tax" on the relevant stock dividend income is so much of the income tax paid by the individual for the arising year as is attributable on a just and reasonable basis to that income.

(11) In this section—

"associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454);

"material participator" means a participator who has a material interest in the company, as defined in section 457 of that Act;

"relevant time" means—

(a) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or

(b) any time in one or more of the 3 tax years preceding that year;

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"trade profits of the close company" means the profits of any trade carried on by the close company, as calculated in accordance with Part 3 of CTA 2009 (trading income)."

136 In Chapter 6 (release of loan to participator in close company), after section 420 insert—

"**420A Temporary non-residents**

(1) This section applies if an individual is temporarily non-resident.

(2) Debts within subsection (3) are to be treated for the purposes of this Chapter as if they had been released or written off in the period of return.

(3) A debt is within this subsection if—

(a) it is the debt, or a part of the debt, in respect of a loan or advance made by a company to the individual,

(b) it is released or written off in the temporary period of non-residence, and

(c) ignoring this section, the individual—

(i) is not liable for tax under this Chapter in respect of the release or write-off, but

(ii) would have been so liable, had the release or write-off taken place in the period of return.

(4) Subsection (3)(c)(i) includes a case where the individual could be relieved of liability on the making of a claim under section 6 of TIOPA 2010 (double taxation relief), even if no claim is in fact made."

137 In Chapter 8 of Part 5 of that Act (income not otherwise charged), after section 689 insert—

"**689A Temporary non-residents**

(1) This section applies if an individual is temporarily non-resident.

(2) Distributions within subsection (3) are to be treated for the purposes of this Chapter as if they had been received by the individual, or as if the individual had become entitled to them, in the period of return.

(3) A distribution is within this subsection if—

(a) the individual receives or becomes entitled to it in the temporary period of non-residence,

(b) it is a distribution of a company that is a close company or that would be a close company if the company were UK resident,

(c) the individual receives or becomes entitled to the distribution by virtue of being at a relevant time—

(i) a material participator in the company, or

(ii) an associate of a material participator in the company, and

(d) ignoring this section, the individual—

(i) is not liable for tax under this Chapter in respect of the distribution, but

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(ii) would have been so liable if the individual had received the distribution, or become entitled to it, in the period of return.

(4) For the purposes of subsection (3)—

(a) "associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454),

(b) a "material participator" is a participator who has a material interest in the company, as defined in section 457 of that Act,

(c) "relevant time" means—

(i) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or

(ii) any time in one or more of the 3 tax years preceding that year, and

(d) paragraph (d)(i) includes a case where the individual could be relieved of liability on the making of a claim under section 6 of TIOPA 2010 (double taxation relief), even if no claim is in fact made.

(5) If section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the year of return, any distribution within subsection (3) that is relevant foreign income and is remitted to the United Kingdom in the temporary period of non-residence is to be treated as remitted to the United Kingdom in the period of return.

(6) In this section, "remitted to the United Kingdom" has the meaning given in Chapter A1 of Part 14 of ITA 2007."

138 In Chapter 1 of Part 14 of ITA 2007 (limits on liability to income tax of non-UK residents), after section 812 insert—

"**812A Temporary non-residents**

(1) This section applies if—

(a) an individual is temporarily non-resident,

(b) the individual's liability to income tax for a tax year is limited under section 811,

(c) that tax year ("the non-resident year") falls within the temporary period of non-residence, and

(d) the individual's income for that tax year includes relevant investment income.

(2) The total income (see Step 1 of the calculation in section 23) on which the individual is charged to income tax for the year of return is to be increased by an amount equal to the amount of that relevant investment income.

(3) But the notional UK tax on that relevant investment income is to be allowed as a credit against the individual's liability to income tax for the year of return under Step 6 of the calculation in section 23.

(4) Income is "relevant investment income" if—

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(a) it is chargeable under Chapter 3 or 5 of Part 4 of ITTOIA 2005 (dividends etc from UK resident companies and stock dividends from UK resident companies),

(b) the distributing company is a close company, and

(c) the income arises or is treated as arising to the individual because the individual was at a relevant time—

(i) a material participator in that company, or

(ii) an associate of a material participator in the company.

(5) But income within subsection (4) in the form of a cash or stock dividend is not "relevant investment income" to the extent that the dividend is paid, or the share capital is issued, in respect of post-departure trade profits.

(6) "Post-departure trade profits" are—

(a) trade profits of the distributing company arising in an accounting period that begins after the start of the temporary period of non-residence, and

(b) so much of any trade profits of the distributing company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.

(7) The "notional UK tax" on relevant investment income is—

(a) the total of any sums in respect of that income that were included within amount A in determining the limit under section 811, less

(b) any credit for foreign tax paid in respect of that income that was allowed under Chapter 2 of Part 2 of TIOPA 2010 against the individual's liability to income tax for the non-resident year.

(8) The following matters are to be determined on a just and reasonable basis—

(a) the extent to which a dividend is paid, or share capital is issued, in respect of post-departure trade profits, and

(b) the extent to which a sum included within amount A is a sum in respect of relevant investment income.

(9) Nothing in any double taxation arrangements is to be read as preventing the individual from being chargeable to income tax by virtue of this section (or as preventing a charge to that tax from arising as a result).

(10) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence", "the year of departure" and "the period of return" mean.

(11) In this section—

"associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454);

"the distributing company" means the UK resident company mentioned in section 383(1) or, as the case may be, 410(1) of ITTOIA 2005;

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"material participator" means a participator who has a material interest in the company, as defined in section 457 of CTA 2010;

"relevant time" means—

(a) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or

(b) any time in one or more of the 3 tax years preceding that year;

"trade profits of the distributing company" means the profits of any trade carried on by the distributing company, as calculated in accordance with Part 3 of CTA 2009 (trading income);

"year of return" means the tax year consisting of or including the period of return."

New special rule: chargeable event gains

139 Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc) is amended as follows.

140 After section 465A insert—

"**465B Temporary non-residents**

(1) This section applies if an individual is temporarily non-resident.

(2) The individual is liable for tax under this Chapter for the year of return in respect of any gain that meets the conditions in subsection (3).

(3) The conditions are—

(a) the gain arose in the temporary period of non-residence,

(b) it arose from a policy issued in respect of an insurance made, or from a contract made, before the start of that period,

(c) the chargeable event giving rise to it was neither a death nor a chargeable event treated as occurring under section 525(2),

(d) no-one is liable under section 466 or 467 in respect of the gain,

(e) no-one is liable by virtue of section 468 for either the year of return or an earlier tax year as a result of the gain, and

(f) the individual would have been liable under section 465 in respect of the gain, applying the assumptions in subsection (4).

(4) The assumptions are—

(a) the individual was UK resident for the tax year in which the gain arose, and

(b) that tax year was not a split year as respects the individual.

(5) If the individual is liable by virtue of subsection (2) in respect of a gain—

(a) the amount of the gain in respect of which he or she is liable is the amount on which tax would have been charged under this Chapter applying the assumptions in subsection (4), but

(b) in determining that amount, section 528 must be applied ignoring those assumptions.

(6) That amount is treated as income of the individual for the year of return.

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(7) If the gain arises from a policy or contract treated under section 473A as a single policy or contract, the date, for the purposes of subsection (3)(b), on which the insurance or contract is made is the date on which the first insurance is made in respect of which the connected policies were issued or, as the case may be, the date on which the first of the connected contracts is made.

(8) This section does not apply to a gain if—

(a) in relation to the policy or contract from which the gain arises, a terminal event occurs in the temporary period of non-residence or in the period of return,

(b) the chargeable event giving rise to the gain occurred before that terminal event,

(c) the chargeable event giving rise to the gain is one that is treated as occurring under section 509(1) as a result of the application of section 498(1)(a),

(d) section 498(1)(a) applies other than by virtue of section 500, and

(e) a person (whether or not the individual) is liable for tax under this Chapter (including by virtue of this section) in respect of any gain resulting from the terminal event.

(9) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being liable for tax under this Chapter in respect of any gain in respect of which the individual is liable for tax by virtue of subsection (2) (or as preventing a charge to tax on that gain from arising under this Chapter).

(10) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(11) In this section—

"terminal event" means an event mentioned in section 499(3);

"year of return" means the tax year that consists of or includes the period of return.""

141 In section 468 (non-UK resident trustees and foreign institutions), after subsection (6) insert—

"(7) This section does not apply if someone is liable under section 465B in respect of the gain."

142 In section 514 (chargeable events where transaction-related calculations show gains), after subsection (4) insert—

"(4A) Subsection (3)(b) includes a case where a person would be liable to tax on the gain under section 465B for the tax year in which the transaction occurs (because the transaction occurs in the year of return, as defined in that section)."

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143 In section 541 (calculation of deficiencies), in subsection (4)(b), after "that section" insert " or formed part of the total income of that individual by virtue of section 465B for the tax year mentioned in section 539(1) ".

144 In section 552 of ICTA (information: duties of insurers), in subsection (13), for "section 541A" substitute " section 465B or 541A ".

PART 5

MISCELLANEOUS

Interpretation

145 In this Schedule—

"corporation tax" includes any amount assessable or chargeable as if it were corporation tax;

"country" includes a state or territory;

"cross-border trip" is defined in paragraph 30;

"double taxation arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010;

"employment"—

(a) has the meaning given in section 4 of ITEPA 2003, and

(b) includes an office within the meaning of section 5(3) of that Act;

"enactment" means an enactment whenever passed (including this Act) and includes—

(a) an Act of the Scottish Parliament,

(b) a Measure or Act of the National Assembly for Wales,

(c) any Northern Ireland legislation as defined by section 24(5) of the Interpretation Act 1978, and

(d) any Orders in Council, orders, rules, regulations, schemes warrants, byelaws and other instruments made under an enactment (including anything mentioned in paragraphs (a) to (c) of this definition);

"home" is to be construed in accordance with paragraph 25;

"individual" means an individual acting in any capacity (including as trustee or personal representative);

"overseas" means anywhere outside the UK;

"parenting leave" means maternity leave, paternity leave, adoption leave**[**F196, parental leave or parental bereavement leave**]** (whether statutory or otherwise);

"relevant job on board a vehicle, aircraft or ship" is defined in paragraph 30;

"ship" includes any kind of vessel (including a hovercraft);

"significant break from overseas work" is defined in paragraph 29;

"significant break from UK work" is defined in paragraph 29;

"split year", as respects an individual, means a tax year that is, as respects that individual, a split year within the meaning of Part 3 of this Schedule;

"trade" also includes—

(a) a profession or vocation,

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(b) anything that is treated as a trade for income tax purposes, and

(c) the commercial occupation of woodlands (within the meaning of section 11(2) of ITTOIA 2005);

"work" is defined in paragraph 26;

"UK" means the United Kingdom, including the territorial sea of the United Kingdom;

"UK tie" is defined in paragraph 31;

"whole month" means the whole of January, the whole of February and so on, except that the period from the start of a tax year to the end of April is to count as a whole month.

Textual Amendments

F196 Words in Sch. 45 para. 145 substituted (18.1.2020) by Parental Bereavement (Leave and Pay) Act 2018 (c. 24), s. 2(2), **Sch. para. 56**; S.I. 2020/45, reg. 2

Modifications etc. (not altering text)

C32 Sch. 45 para. 145 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 109(13)**

146 In relation to an individual who carries on a trade—

(a) a reference in this Schedule to annual leave or parenting leave is to reasonable amounts of time off from work for the same purposes as the purposes for which annual leave or parenting leave is taken, and

(b) what are "reasonable amounts" is to be assessed having regard to the annual leave or parenting leave to which an employee might reasonably expect to be entitled if doing similar work.

147 A reference in this Schedule to a number of days being less than a specified number includes a case where the number of days is zero.

Consequential amendments

148 (1) TCGA 1992 is amended as follows.

(2) Omit section 9.

(3) In section 288 (interpretation)—

(a) in subsection (1), insert the following definition at the appropriate place—

""resident" means resident in accordance with the statutory residence test in Part 1 of Schedule 45 to the Finance Act 2013;", and

(b) in the Table in subsection (8), omit the entry for the expressions "resident" and "ordinarily resident".

149 In section 27 of ITEPA 2003 (UK-based earnings for year when employee not UK resident), in subsection (1), for "in which" substitute " for which ".

150 In section 465 of ITTOIA 2005 (gains from contracts for life insurance etc: liability of individuals), in subsection (1), for "in the tax year" substitute " for the tax year ".

151 (1) Chapter 4 of Part 2 of FA 2005 (trusts with vulnerable beneficiary) is amended as follows.

(2) In section 28 (vulnerable person's liability: VQTI), for subsection (4) substitute—

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"(4) Where the vulnerable person is non-UK resident for the tax year, his or her income tax liability for the purposes of determining TLV1 and TLV2 is to be computed in accordance with the Income Tax Acts on the assumption that—

(a) he or she is UK resident for the tax year,

(b) that year is not, as respects him or her, a split year within the meaning of Part 3 of Schedule 45 to FA 2013, and

(c) he or she is domiciled in the United Kingdom throughout that year."

(3) In section 30 (qualifying trusts gains: special capital gains tax treatment)—

(a) in subsection (2)(a) and (b), for "during" substitute " for ", and

(b) omit subsection (5).

(4) In section 31 (UK resident vulnerable persons: amount of relief), in subsection (1), for "during" substitute " for ".

(5) In section 32 (non-UK resident vulnerable persons: amount of relief), in subsection (1), for "during" substitute " for ".

(6) In section 41—

(a) in subsection (1), insert the following definitions in the appropriate places—

""non-UK resident" means not resident in the United Kingdom in accordance with the statutory residence test in Part 1 of Schedule 45 to FA 2013,", and

""UK resident" means resident in the United Kingdom in accordance with the statutory residence test in Part 1 of Schedule 45 to FA 2013.", and

(b) omit subsection (2).

152 (1) ITA 2007 is amended as follows.

(2) In section 809B (claim for remittance basis to apply), in subsection (1)(a), for "in that year" substitute " for that year ".

(3) In section 809D (application of remittance basis without claim where unremitted foreign income and gains under £2,000), in subsection (1)(a), for "in that year" substitute " for that year ".

(4) In section 809E (application of remittance basis without claim: other cases), in subsection (1)(a), for "in that year" substitute " for that year ".

(5) In section 810 (limits on liability to income tax of non-UK residents: overview of Chapter), after subsection (3) insert—

"(4) In relation to an individual—

(a) a reference in this Chapter to a non-UK resident's liability to income tax is a reference to the liability of someone who is non-UK resident for the tax year for which the liability arises, and

(b) accordingly, enactments under which income arising to a UK resident in the overseas part of a split year is treated as arising to a non-UK resident are of no relevance to this Chapter."

(6) Omit sections 829 to 832.

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Commencement

153 (1) Parts 1 and 2 of this Schedule have effect for determining whether individuals are resident or not resident in the UK for the tax year 2013-14 or any subsequent tax year.

(2) Part 3 of this Schedule has effect in calculating an individual's liability to income tax or capital gains tax for the tax year 2013-14 or any subsequent tax year.

(3) Part 4 of this Schedule has effect if the year of departure (as defined in that Part) is the tax year 2013-14 or a subsequent tax year.

Transitional and saving provision

154 (1) This paragraph applies if—

(a) year X or, in Part 3 of this Schedule, the relevant year is the tax year 2013-14, 2014-15, 2015-16, 2016-17 or 2017-18, and

(b) it is necessary to determine under this Schedule whether an individual was resident or not resident in the UK for a tax year before the tax year 2013-14 (a "pre-commencement tax year").

(2) The question under this Schedule is to be determined in accordance with the rules in force for determining an individual's residence for that pre-commencement tax year (and not in accordance with the statutory residence test).

(3) But an individual may by notice in writing to Her Majesty's Revenue and Customs elect, as respects one or more pre-commencement tax years, for the question under this Schedule to be determined instead in accordance with the statutory residence test.

(4) A notice under sub-paragraph (3)—

(a) must be given no later than the first anniversary of the end of year X or, in a Part 3 case, the relevant year, and

(b) is irrevocable.

(5) Unless, in relation to a pre-commencement tax year, an election is made under sub-paragraph (3) as respects that year—

(a) paragraph 10(b) of this Schedule has effect in relation to that year as if the words "by virtue of meeting the automatic residence test" were omitted,

(b) paragraph 16 of this Schedule has effect in relation to that year as if—

(i) in sub-paragraph (1)(b), the words "because P met the third automatic overseas test for each of those years" were omitted, and

(ii) in sub-paragraph (2)(a), the words "because P met the third automatic overseas test for that year" were omitted, and

(c) paragraph 49 of this Schedule has effect in relation to that year as if in sub-paragraph (2)(a) for the words from "because" to the end there were substituted " in circumstances where the taxpayer was working overseas full-time for the whole of that year. "

155 (1) This paragraph applies if—

(a) year X or, for Part 3 of this Schedule, the tax year for which an individual's liability to tax is being calculated is the tax year 2013-14 or a subsequent tax year, and

(b) it is necessary to determine under a provision of this Schedule, or a provision inserted by Part 3 of this Schedule, whether a tax year before the tax year

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2013-14 (a "pre-commencement tax year") was a split year as respects the individual.

(2) The provision is to have effect as if—

(a) the reference to a split year were to a tax year to which the relevant ESC applied, and

(b) any reference to the UK part or the overseas part of such a year were to the part corresponding as far as possible, in accordance with the terms of the relevant ESC, to the UK part or the overseas part of a split year.

(3) Where the provision also refers to cases involving actual or deemed departure from the UK, the reference is to be read and given effect so far as possible in accordance with the terms of the relevant ESC.

(4) "The relevant ESC" means whichever of the extra-statutory concessions to which effect is given by Part 3 of this Schedule is relevant in the individual's case.

156 (1) Sub-paragraph (2) applies in determining whether the test in paragraph 50(3) is met where the relevant year is the tax year 2013-14.

(2) The circumstances of a partner of the taxpayer are to be treated as falling within Case 6 for the previous tax year if the partner was eligible for split year treatment in relation to that tax year under the relevant ESC on the grounds that he or she returned to the United Kingdom after a period working overseas full-time.

(3) Where the circumstances of a partner are treated as falling within Case 6 under sub-paragraph (2), the reference in paragraph 50(7)(b) to the UK part of the relevant year as defined for Case 6 is a reference to the part corresponding, so far as possible, in accordance with the terms of the relevant ESC, to the UK part of that year.

(4) "The relevant ESC" means whichever of the extra-statutory concessions to which effect is given by Part 3 of this Schedule is relevant in the partner's case.

157 (1) This paragraph applies in determining whether the test in paragraph 110(1)(c) is met in relation to a tax year before the tax year 2013-14 (a "pre-commencement tax year").

(2) Paragraph 110(1) is to have effect as if for paragraph (c) there were substituted—

"(c) at least 4 out of the 7 tax years immediately preceding the year of departure was a tax year meeting the following conditions—

(i) the individual was resident in the UK for that year, and

(ii) there was no time in that year when the individual was Treaty non-resident (see paragraph 112(3))."

(3) Whether an individual was resident in the UK for a pre-commencement tax year is to be determined in accordance with the rules in force for determining an individual's residence for that pre-commencement tax year (and not in accordance with the statutory residence test).

158 (1) The existing temporary non-resident provisions, as in force immediately before the day on which this Act is passed, continue to have effect on and after that day in any case where the year of departure (as defined in Part 4 of this Schedule) is a tax year before the tax year 2013-14.

(2) Where those provisions continue to have effect by virtue of sub-paragraph (1)—

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(a) the question of whether a person is or is not resident in the UK for the tax year 2013-14 or a subsequent tax year is to be determined for the purposes of those provisions in accordance with Part 1 of this Schedule, but

(b) the effect of Part 3 is to be ignored.

(3) The existing temporary non-resident provisions are—

(a) section 10A of TCGA 1992 (chargeable gains),

(b) section 576A of ITEPA 2003 (income withdrawals under certain foreign pensions),

(c) section 579CA of that Act (income withdrawals under registered pension schemes), and

(d) section 832A of ITTOIA (relevant foreign income charged on remittance basis).

159 Section 13 of FA 2012 (Champions League final 2013) is to be read and given effect, on and after the day on which this Act is passed, as if section 218 and this Schedule had not been enacted.

SCHEDULE 46

Section 219

ORDINARY RESIDENCE

PART 1

INCOME TAX AND CAPITAL GAINS TAX: REMITTANCE BASIS OF TAXATION

Remittance basis restricted to non-doms

1 Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.

2 In section 809A (overview of Chapter), omit "or are not ordinarily UK resident".

3 In section 809B (claim for remittance basis to apply)—

(a) in subsection (1)(b), omit "or is not ordinarily UK resident in that year", and

(b) omit subsection (2).

4 In section 809D (application of remittance basis without claim where unremitted foreign income and gains under £2,000)—

(a) in subsection (1)(b), omit "or is not ordinarily UK resident in that year", and

(b) in subsection (1A), omit "the individual is not domiciled in the United Kingdom in that year and".

5 In section 809E (application of remittance basis without claim: other cases), in subsection (1)(b), omit "or is not ordinarily UK resident in that year".

Treatment of relevant foreign earnings

6 ITEPA 2003 is amended as follows.

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7 (1) In section 22 (chargeable overseas earnings for year when remittance basis applies and employee ordinarily UK resident), in subsection (1), for paragraph (b) substitute—

"(b) the employee does not meet the requirement of section 26A for that year."

(2) Accordingly—

(a) in the heading of that section, for "**ordinarily UK resident**" substitute " **outside section 26** ", and

(b) in the italicised heading before that section, for "*UK ordinarily resident employees*" substitute " *employees outside section 26* ".

8 In section 23 (calculation of "chargeable overseas earnings"), in subsection (2), for paragraph (aa) substitute—

"(aa) the employee does not meet the requirement of section 26A for that year,".

9 (1) In section 26 (foreign earnings for year when remittance basis applies and employee not ordinarily UK resident), in subsection (1), for "is not ordinarily UK resident in" substitute " meets the requirement of section 26A for ".

(2) Accordingly—

(a) in the heading of that section, for "**not ordinarily UK resident**" substitute " **meets section 26A requirement** ", and

(b) in the italicised heading before that section, for "*not UK ordinarily resident*" substitute " *who meet section 26A requirement* ".

10 After that section insert—

"**26A Section 26: requirement for 3-year period of non-residence**

(1) An employee meets the requirement of this section for a tax year if the employee was—

(a) non-UK resident for the previous 3 tax years, or

(b) UK resident for the previous tax year but non-UK resident for the 3 tax years before that, or

(c) UK resident for the previous 2 tax years but non-UK resident for the 3 tax years before that, or

(d) non-UK resident for the previous tax year, UK resident for the tax year before that and non-UK resident for the 3 tax years before that.

(2) The residence status of the employee before the 3 years of non-UK residence is not relevant for these purposes."

11 (1) Section 41C (foreign securities income) is amended as follows.

(2) In subsection (4), for paragraph (b) substitute—

"(b) the individual does not meet the requirement of section 26A for the year (reading references there to the employee as references to the individual),".

(3) In subsection (6), for paragraph (b) substitute—

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"(b) the individual meets the requirement of section 26A for the year (reading references there to the employee as references to the individual), and".

12 In section 271 (limited exemption of removal benefits and expenses: general), in subsection (2)—

(a) in paragraph (a), for "ordinarily UK resident" substitute " outside section 26 ", and

(b) in paragraph (b), for "not ordinarily UK resident" substitute " meets section 26A requirement ".

13 (1) In section 554Z9 (remittance basis: A is ordinarily UK resident), in subsection (1), for paragraph (c) substitute—

"(c) A does not meet the requirement of section 26A for the relevant tax year (reading references there to the employee as references to A),".

(2) Accordingly, in the heading of that section, for "**A is ordinarily UK resident**" substitute " **A does not meet section 26A requirement** ".

14 (1) In section 554Z10 (remittance basis: A is not ordinarily resident), in subsection (1), for paragraph (c) substitute—

"(c) A meets the requirement of section 26A for the relevant tax year (reading references there to the employee as references to A)."

(2) Accordingly, in the heading of that section, for "**A is not ordinarily resident**" substitute " **A meets section 26A requirement** ".

15 (1) Section 690 (employee non-resident etc) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

"(a) is either non-UK resident for the tax year or is UK resident but meets the requirement of section 26A for the tax year, and".

(3) In subsection (2A), for "but not ordinarily resident in a tax year" substitute " for a tax year but not domiciled in the United Kingdom in that tax year ".

Consequential amendments

16 In section 266A of ICTA (life assurance premiums paid by employer), in subsection (8)—

(a) in paragraph (a), for "employee resident and ordinarily resident, but not domiciled, in UK" substitute " remittance basis applies and employee outside section 26 ", and

(b) in paragraph (b), for "employee resident, but not ordinarily resident, in UK" substitute " remittance basis applies and employee meets section 26A requirement ".

17 In section 12 of TCGA 1992 (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute—

"(1) This section applies to foreign chargeable gains accruing to an individual in a tax year ("the foreign chargeable gains") if section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year."

18 In section 87B of that Act (section 87: remittance basis), in subsection (1)—

(a) insert " and " at the end of paragraph (a),

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(b) omit "and" at the end of paragraph (b), and

(c) omit paragraph (c).

19 In section 726 of ITA 2007 (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute—

"(1) This section applies in relation to income treated under section 721 as arising to an individual in a tax year ("the deemed income") if section 809B, 809D or 809E (remittance basis) applies to the individual for that year."

20 In section 730 of that Act (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute—

"(1) This section applies in relation to income treated under section 728 as arising to an individual in a tax year ("the deemed income") if section 809B, 809D or 809E (remittance basis) applies to the individual for that year."

21 In section 735 of that Act (non-UK domiciled individuals to whom remittance basis applies), for subsection (1) substitute—

"(1) This section applies in relation to income treated under section 732 as arising to an individual in a tax year ("the deemed income") if section 809B, 809D or 809E (remittance basis) applies to the individual for that year."

22 In section 809F of that Act (effect on what is chargeable), in subsection (4), for "If the individual is not domiciled in the United Kingdom in that year, the" substitute " The ".

23 In section 809YD of that Act (chargeable gains accruing on sales of exempt property), in subsection (3), omit "and P is not domiciled in the United Kingdom in that year".

24 In section 809Z7 of that Act (meaning of "foreign income and gains" etc)—

(a) in subsection (2)(d), omit "if the individual is not domiciled in the United Kingdom in that year,", and

(b) in subsection (3)(a), for "is ordinarily UK resident in" substitute " does not meet the requirement of section 26A of ITEPA 2003 for ".

Commencement

25 The amendments made by this Part of this Schedule have effect in relation to an individual's foreign income and gains for the tax year 2013-14 or any subsequent tax year.

Savings

26 (1) This paragraph applies to an individual who—

(a) was resident in the United Kingdom for the tax year 2012-13, but

(b) was not ordinarily resident there at the end of the tax year 2012-13.

(2) Enactments relating to income tax or capital gains tax have effect, in relation to any eligible foreign income and gains of the individual, as if the amendments made by this Part of this Schedule had not been made.

(3) "Eligible foreign income and gains" means—

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(a) if the individual was resident in the United Kingdom for the tax year 2010-11 and the tax year 2011-12, foreign income and gains for the tax year 2013-14,

(b) if the individual was not resident in the United Kingdom for the tax year 2010-11 but was resident in the United Kingdom for the tax year 2011-12, foreign income and gains for the tax year 2013-14 and the tax year 2014-15, and

(c) if the individual was not resident in the United Kingdom for the tax year 2011-12, foreign income and gains for the tax year 2013-14, the tax year 2014-15 and the tax year 2015-16.

(4) Where, by virtue of this paragraph, it is necessary to determine whether an individual is (or is not) ordinarily resident in the United Kingdom at a time on or after 6 April 2013, the question is to be determined as it would have been in the absence of this Schedule.

Interpretation

27 References in this Part of this Schedule to an individual's "foreign income and gains" for a tax year are to be read in accordance with section 809Z7 of ITA 2007 (interpretation of remittance basis rules).

PART 2

INCOME TAX: ARISING BASIS OF TAXATION

ICTA

28 In section 614 of ICTA (exemptions and reliefs in respect of income from investments etc of certain pension schemes)—

(a) in subsection (4), for "not domiciled, ordinarily resident or resident" substitute " not domiciled and not resident ", and

(b) in subsection (5), for "not domiciled, ordinarily resident or resident" substitute " not domiciled and not resident ".

ITEPA 2003

29 ITEPA 2003 is amended as follows.

30 In section 56 (application of Income Tax Acts in relation to deemed employment), in subsection (5)—

(a) for paragraph (a) substitute—

"(a) the worker being resident or domiciled outside the United Kingdom or meeting the requirement of section 26A,", and

(b) in paragraph (b), omit "or ordinarily resident".

31 In section 61G (application of Income Tax Acts in relation to deemed employment), in subsection (5)—

(a) for paragraph (a) substitute—

"(a) the worker being resident or domiciled outside the United Kingdom or meeting the requirement of section 26A,", and

(b) in paragraph (b), omit "or ordinarily resident".

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32 In section 328 (the income from which deductions may be made), in subsection (5), omit the entry for Chapter 6 of Part 5 and the word "and" immediately preceding it.

33 In section 341 (travel at start or finish of overseas employment), in subsection (3), for "resident and ordinarily resident in the United Kingdom" substitute " UK resident ".

34 In section 342 (travel between employments where duties performed abroad), in subsection (6), for "resident and ordinarily resident in the United Kingdom" substitute " UK resident ".

35 In section 370 (travel costs where duties performed abroad: employee's travel), in subsection (6), omit "in which the employee is ordinarily UK resident".

36 In section 376 (foreign accommodation and subsistence costs and expenses (overseas employments)), in subsection (1)(b), for "resident and ordinarily resident in the United Kingdom" substitute " UK resident ".

37 (1) Section 378 (deductions from seafarers' earnings: eligibility) is amended as follows.

(2) In subsection (1), for "relevant taxable earnings or EEA-resident earnings" substitute " relevant general earnings ".

(3) For subsection (5) substitute—

"(5) Relevant general earnings" means—

(a) taxable earnings under section 15, 22 or 26, or

(b) general earnings—

(i) to which section 27 applies, and

(ii) which are for a period in which the employee is liable under the law of an EEA State (other than the United Kingdom) to tax in that State by reason of domicile or residence."

(4) Omit subsection (6).

38 (1) Section 413 (exception in certain cases of foreign service) is amended as follows.

(2) In subsection (2), after "subsection" (in the second place it occurs) insert " (2A), ".

(3) After that subsection insert—

"(2A) This subsection applies to service in or after the tax year 2013-14—

(a) to the extent that it consists of duties performed outside the United Kingdom in respect of which earnings would not be relevant earnings, or

(b) if a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings)."

(4) In subsection (3), after "2003-04" insert " but before the tax year 2013-14 ".

(5) After that subsection insert—

"(3ZA) In subsection (2A)(a) "relevant earnings" means earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year."

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39 (1) In section 681A (foreign benefits of consular employees), for subsection (4) substitute—

"(4) Condition C is that—

(a) the officer or employee is a permanent employee of that state, or

(b) the officer or employee was non-UK resident for each of the 2 tax years preceding the tax year in which the officer or employee became a consular officer or employee in the United Kingdom of that state."

(2) The amendment made by this paragraph does not apply to a person who became a consular officer or employee in the United Kingdom before 6 April 2013.

40 (1) In Schedule 2 (approved share incentive plans), in paragraph 8(2), omit paragraph (b) and the "and" immediately before it.

(2) The amendments made by this paragraph do not apply to plans that have been approved before the day on which this Act is passed.

41 (1) In Schedule 3 (approved SAYE option schemes), in paragraph 6(2)—

(a) insert " and " at the end of paragraph (c), and

(b) omit paragraph (ca), including the "and" at the end of it.

(2) The amendments made by this paragraph do not apply to schemes that have been approved before the day on which this Act is passed.

42 In Schedule 5 (enterprise management incentives), in paragraph 27(3)(b), omit "and ordinarily resident".

ITTOIA 2005

43 ITTOIA 2005 is amended as follows.

44 In section 154A (certain non-UK residents with interest on 3½% War Loan 1952 Or After), in subsection (1)(a), omit "ordinarily".

45 In section 459 (transfer of assets abroad), in subsection (2), for "an individual ordinarily UK resident" substitute " a UK resident individual ".

46 In section 468 (non-UK resident trustees and foreign institutions), for subsection (2) substitute—

"(2) Chapter 2 of Part 13 of ITA 2007 (which prevents avoidance of tax where a UK resident individual benefits from a transfer of assets) applies with the modifications specified in subsection (3) or (4)."

47 In section 569 (anti-avoidance: transfer of assets abroad), in subsection (2), for "an individual ordinarily UK resident" substitute " a UK resident individual ".

48 (1) In section 636 (calculation of undistributed income), in subsection (2)(b), for ", resident and ordinarily resident" substitute " and resident ".

(2) The amendment made by this paragraph does not apply in calculating income arising under a settlement in tax years ending before 6 April 2013.

49 In section 648 (income arising under a settlement), in subsection (1)(b), for ", resident and ordinarily resident" substitute " and resident ".

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50 In section 651 (meaning of "UK estate" and "foreign estate"), in subsection (3), omit "or not ordinarily UK resident".

51 In section 664 (the aggregate income of the estate), in subsection (2)(b)(i), omit "who was ordinarily UK resident".

52 (1) Section 715 (interest from FOTRA securities held on trust) is amended as follows.

(2) In subsection (1)(b), for "person not ordinarily UK resident" substitute " non-UK resident person ".

(3) In subsection (2)—

(a) for "person not ordinarily UK resident" substitute " non-UK resident person ", and

(b) for "is ordinarily UK resident at the time when" substitute " is UK resident for the tax year in which ".

(4) In relation to a FOTRA security issued before 6 April 2013, the amendments made by this paragraph apply only if the security was acquired by the trust on or after that date.

53 (1) In section 771 (relevant foreign income of consular officers and employees), for subsection (4) substitute—

"(4) Condition C is that—

(a) the officer or employee is a permanent employee of that state, or

(b) the officer or employee was non-UK resident for each of the 2 tax years preceding the tax year in which the officer or employee became a consular officer or employee in the United Kingdom of that state."

(2) The amendment made by this paragraph does not apply to a person who became a consular officer or employee in the United Kingdom before 6 April 2013.

ITA 2007

54 ITA 2007 is amended as follows.

55 In section 465 (overview of Chapter 2 and interpretation), in subsection (4), omit "and ordinary residence".

56 (1) Section 475 (residence of trustees) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies for income tax purposes and explains how to work out, in relation to the trustees of a settlement, whether or not the single person mentioned in section 474(1) is UK resident."

(3) In subsection (2), for "both UK resident and ordinarily UK resident" substitute " UK resident ".

(4) In subsection (3), for "both non-UK resident and not ordinarily UK resident" substitute " non-UK resident ".

57 (1) Section 476 (how to work out whether settlor meets condition C) is amended as follows.

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(2) In subsection (2)(b), omit ", ordinarily UK resident".

(3) In subsection (3)(b), omit ", ordinarily UK resident".

(4) The amendment made by sub-paragraph (2) does not apply if the person died before 6 April 2013.

(5) The amendment made by sub-paragraph (3) does not apply if the settlement was made before 6 April 2013.

58 In section 643 (non-residents), in subsection (1), omit "and is not ordinarily UK resident during that year".

59 In section 718 (meaning of "person abroad" etc), in subsection (2)(b), for "neither UK resident nor ordinarily UK resident" substitute " non-UK resident ".

60 In section 720 (charge to tax on income treated as arising under section 721), in subsection (1), omit "ordinarily".

61 (1) Section 721 (individuals with power to enjoy income as a result of relevant transactions) is amended as follows.

(2) In subsection (1), for "conditions A and B" substitute " conditions A to C ".

(3) After subsection (3) insert—

"(3A) Condition C is that the individual is UK resident for the tax year."

(4) In subsection (5), for paragraph (b) substitute—

"(b) whether the individual is UK resident for the tax year in which the relevant transfer is made (if different from the tax year mentioned in subsection (1)), or".

62 In section 727 (charge to tax on income treated as arising under section 728), in subsection (1), omit "ordinarily".

63 (1) Section 728 (individuals receiving capital sums as a result of relevant transactions) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), omit the "and" at the end of sub-paragraph (iii), and

(b) at the end of paragraph (b) insert ", and

(c) the individual is UK resident for the tax year."

(3) In subsection (3), for paragraph (b) substitute—

"(b) whether the individual is UK resident for the tax year in which the relevant transfer abroad is made (if different from the tax year mentioned in subsection (1)), or".

64 In section 732 (non-transferors receiving benefit as a result of relevant transactions), in subsection (1)(b), for "ordinarily UK resident receives a benefit" substitute " UK resident for a tax year receives a benefit in that tax year ".

65 (1) In section 749 (restrictions on particulars to be provided by relevant lawyers), in subsection (2), omit "ordinarily".

(2) The amendment made by this paragraph applies only if the transfer is made or, in the case of an associated operation, the transfer is made and the associated operation is effected on or after 6 April 2013.

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66 In section 812 (case where limit on liability of non-UK residents is not to apply), in subsection (1)(a), omit "ordinarily".

67 (1) In section 834 (residence of personal representatives), in subsection (3), omit ", ordinarily UK resident".

(2) The amendment made by this paragraph does not apply if D died before 6 April 2013.

68 (1) In section 858 (declarations of non-UK residence: individuals)—

F197(a) . . . . . .

(b) in subsection (4), omit "ordinarily".

(2) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.

Textual Amendments

F197 Sch. 46 para. 68(1)(a) omitted (15.9.2016) (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 6 para. 25(c)(i)**

69 (1) In section 859 (declarations of non-UK residence: Scottish partnerships)—

F198(a) . . . . . .

(b) in subsection (4), omit "ordinarily".

(2) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.

Textual Amendments

F198 Sch. 46 para. 69(1)(a) omitted (15.9.2016) (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 6 para. 25(c)(ii)**

70 F199(1) . . . . . .

(2) The amendment made by this paragraph applies only if the deceased died on or after 6 April 2014.

Textual Amendments

F199 Sch. 46 para. 70(1) omitted (15.9.2016) (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 6 para. 25(c)(iii)**

71 (1) Section 861 (declarations of non-UK residence: settlements) is amended as follows.

(2) In subsection (3)(b)(i) and (iii), omit "ordinarily".

(3) In subsection (4)—

(a) in paragraphs (b) and (d), omit "ordinarily", F200...

F200(b) . . . . . .

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(4) The amendments made by this paragraph apply to the making of declarations on or after 6 April 2014, and any declarations made before that date continue to have effect in respect of interest paid on or after that date as if those amendments had not been made.

Textual Amendments

F200 Sch. 46 para. 71(3)(b) and word omitted (15.9.2016) (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 6 para. 25(c)(iv)**

Commencement

72 (1) The amendments made by this Part of this Schedule have effect for the purposes of a person's liability to income tax for the tax year 2013-14 or any subsequent tax year.

(2) Sub-paragraph (1) is without prejudice to any provision in this Part of the Schedule about the application of a particular amendment.

Savings

73 (1) This paragraph applies to an individual who—

(a) was resident in the United Kingdom for the tax year 2012-13, but

(b) was not ordinarily resident there at the end of the tax year 2012-13.

(2) The provisions listed in sub-paragraph (3) have effect, in relation to such an individual and a qualifying tax year, as if the amendments made to or with respect to those provisions by this Part of this Schedule had not been made.

(3) The provisions are—

(a) section 413 of ITEPA 2003 (exception for payments and benefits on termination of employment etc in certain cases involving foreign service),

(b) section 414 of that Act (reduction in other cases of foreign service), and

(c) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad).

(4) But, in the case of provisions within paragraph (a) or (b) of sub-paragraph (3), this paragraph applies only if service in the employment in question began before the start of the tax year 2013-14.

(5) The meaning of "qualifying tax year" depends on the individual's residence status—

(a) if the individual was resident in the United Kingdom for the tax year 2010-11 and the tax year 2011-12, "qualifying tax year" means the tax year 2013-14,

(b) if the individual was not resident in the United Kingdom for the tax year 2010-11 but was resident in the United Kingdom for the tax year 2011-12, "qualifying tax year" means each of the tax year 2013-14 and the tax year 2014-15, and

(c) if the individual was not resident in the United Kingdom for the tax year 2011-12, "qualifying tax year" means each of the tax year 2013-14, the tax year 2014-15 and the tax year 2015-16.

(6) Where, by virtue of this paragraph, it is necessary to determine whether an individual is (or is not) ordinarily resident in the United Kingdom at a time on or after 6 April

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2013, the question is to be determined as it would have been in the absence of this Schedule.

PART 3

CAPITAL GAINS TAX: ACCRUALS BASIS OF TAXATION

TCGA 1992

74 TCGA 1992 is amended as follows.

75 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.

(2) In subsection (1), for the words from "during any part" to the end substitute " if the residence condition is met ".

(3) After that subsection insert—

"(1A) The residence condition is—

(a) in the case of an individual, that the individual is resident in the United Kingdom for the year in question,

(b) in the case of personal representatives of a deceased person, that the single and continuing body mentioned in section 62(3) is resident in the United Kingdom,

(c) in the case of the trustees of a settlement, that the single person mentioned in section 69(1) is resident in the United Kingdom during any part of the year in question, and

(d) in any other case, that the person is resident in the United Kingdom when the gain accrues."

76 In section 10 (non-resident with United Kingdom branch or agency), in subsection (1), for "in which he is not resident and not ordinarily resident in the United Kingdom but" substitute " if the residence condition is not met (see section 2(1A)) but the person ".

77 (1) Section 13 (attribution of gains to members of non-resident companies) is amended as follows.

(2) In subsection (2), omit "or ordinarily resident".

(3) In subsection (10), for "neither resident nor ordinarily resident" substitute " not resident ".

(4) In subsection (13)(b), omit "or ordinarily resident".

78 In section 16 (computation of losses), in subsection (3), for "during no part of which he is resident or ordinarily resident in the United Kingdom" substitute " where the residence condition is not met (see section 2(1A)) ".

79 In section 62 (death: general provisions), in subsection (3), omit ", ordinary residence,".

80 In section 65 (liability for tax of trustees or personal representatives), in subsection (3)(b), for "become neither resident nor ordinarily resident" substitute " cease to be resident ".

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81 In section 67 (provisions applicable where section 79 of the Finance Act 1980 has applied), in subsection (6)(a), in paragraph (b) of the substituted subsection (1), for " becomes neither resident nor ordinarily resident " substitute " ceases to be resident ".

82 (1) Section 69 (trustees of settlements) is amended as follows.

(2) In subsection (2), omit "and ordinarily resident".

(3) In subsection (2B)(c), omit ", ordinarily resident".

(4) In subsection (2E), for the words from "and ordinarily resident" to the end substitute " in the United Kingdom, then for the purposes of this Act it is treated as being not resident in the United Kingdom ".

83 In section 76 (disposal of interests in settled property), in subsection (1B)(a), for "neither resident nor ordinarily resident" substitute " not resident ".

84 In section 80 (trustees ceasing to be resident in UK), in subsection (1), for "neither resident nor ordinarily resident" substitute " not resident ".

85 (1) Section 81 (death of trustee: special rules) is amended as follows.

(2) In subsection (1)(b), omit "and ordinarily resident".

(3) In subsection (3)(b), omit "and ordinarily resident".

(4) In subsection (4)(b), omit "and ordinarily resident".

(5) In subsection (5)(a), omit "and ordinarily resident".

86 In section 82 (past trustees: liability for tax), in subsection (3)(b), for "become neither resident nor ordinarily resident" substitute " cease to be resident ".

87 In section 83 (trustees ceasing to be liable to UK tax), in subsection (1), omit "and ordinarily resident".

88 (1) Section 83A (trustees both resident and non-resident in a year of assessment) is amended as follows.

(2) In subsection (3)(a), omit "and ordinarily resident".

(3) In subsection (4)—

(a) in paragraph (a), for "neither resident nor ordinarily resident" substitute " not resident ", and

(b) in paragraph (b), omit "and ordinarily resident".

89 In section 84 (acquisition by dual resident trustees), in subsection (1)(b), omit "and ordinarily resident".

90 In section 85 (disposal of interests in non-resident settlements), in subsection (1), for "neither resident nor ordinarily resident" substitute " not resident ".

91 (1) Section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements) is amended as follows.

(2) In subsection (1)(c), for the words from "either resident" to the end substitute " resident in the United Kingdom for the year ".

(3) For subsection (2) substitute—

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"(2) The condition as to residence is that—

(a) there is no time in the year when the trustees are resident in the United Kingdom, or

(b) there is such a time but, whenever the trustees are resident in the United Kingdom during the year, they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom."

(4) In subsection (3), omit "and ordinarily resident".

92 (1) Section 87 (non-UK resident settlements: attribution of gains to beneficiaries) is amended as follows.

(2) In subsection (1), for the words from "the trustees" to the end substitute " there is no time in that year when the trustees are resident in the United Kingdom ".

(3) In subsection (4)(a), omit "and ordinarily resident".

93 In section 88(1) (gains of dual resident settlements)—

(a) in paragraph (a), omit "and ordinarily resident", and

(b) in paragraph (b), omit "and ordinary residence".

94 (1) Section 96 (payments by and to companies) is amended as follows.

(2) In subsection (3), omit "or ordinarily resident".

(3) In subsection (4), in each of paragraphs (a) and (b), omit "or ordinarily resident".

(4) In subsection (5)(b), omit "or ordinary residence".

95 In section 97 (supplementary provisions), in subsection (1)(a), for "neither resident nor ordinarily resident" substitute " not resident ".

96 In section 99 (application of Act to unit trust schemes), in subsection (1)(c), omit "and ordinarily resident".

97 In section 106A(5A) (identification of securities: capital gains tax)—

(a) in paragraph (a), for "neither resident nor ordinarily resident" substitute " not resident ", and

(b) in paragraph (b), omit "or ordinarily resident".

98 (1) Section 159 (non-residents: roll-over relief) is amended as follows.

(2) In subsection (2)(b), omit "or ordinarily resident".

(3) In subsection (5), in the definition of "dual resident", omit "or ordinarily resident".

99 (1) Section 166 (gifts to non-residents) is amended as follows.

(2) In subsection (1), for "neither resident nor ordinarily resident" substitute " not resident ".

(3) In subsection (2)(a), omit "or ordinarily resident".

100 (1) Section 167 (gifts to foreign-controlled companies) is amended as follows.

(2) In subsection (2)(a), for "neither resident nor ordinarily resident" substitute " not resident ".

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(3) In subsection (3), for the words from "or ordinarily resident" to "nor ordinarily resident" substitute " in the United Kingdom is to be regarded as not resident ".

101 (1) Section 168 (emigration of donee) is amended as follows.

(2) In subsection (1)(b), for "becomes neither resident nor ordinarily resident" substitute " ceases to be resident ".

(3) In subsection (4), for "becoming neither resident nor ordinarily resident" substitute " ceasing to be resident ".

(4) In subsection (5)—

(a) in paragraph (a), for "becoming neither resident nor ordinarily resident" substitute " ceasing to be resident ", and

(b) in paragraph (b), omit "or ordinarily resident".

102 In section 169 (gifts into dual resident trusts), in subsection (3)(a), omit "and ordinarily resident".

103 In section 199 (exploration or exploitation assets: deemed disposals), in subsection (2), for "who is not resident and not ordinarily resident in the United Kingdom" substitute " in respect of whom the residence condition (see section 2(1A)) is not met ".

104 (1) Section 261 (section 260 relief: gifts to non-residents) is amended as follows.

(2) In subsection (1), for "neither resident nor ordinarily resident" substitute " not resident ".

(3) In subsection (2)(a), omit "or ordinarily resident".

105 In Schedule 1 (application of exempt amount and reporting limits in cases involving settled property), in paragraph 2(7)(a), omit "and ordinarily resident".

106 (1) Schedule 4A (disposal of interest in settled property: deemed disposal of underlying assets) is amended as follows.

(2) In paragraph 5(1) and (2), omit "and ordinarily resident".

(3) In paragraph 6(1)—

(a) for "in the relevant" substitute " as respects the relevant ", and

(b) for the words from "either" to the end substitute " met the residence condition set out in section 2(1A) ".

(4) If any of the previous 5 years of assessment mentioned in paragraph 6(1) of Schedule 4A ends before 6 April 2013, the test in that paragraph is to be applied, as respects any such year ending before that date, as if that paragraph had not been amended by sub-paragraph (3).

107 (1) Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.

(2) In paragraph 1A(3), for the words from "the beneficiary" to the end substitute " , as respects that year, the beneficiary meets the residence condition set out in section 2(1A) ".

(3) In paragraph 4—

(a) in sub-paragraph (1), omit "and ordinarily resident", and

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(b) in sub-paragraph (2), omit "and ordinarily resident".

(4) In paragraph 5(1)—

(a) in paragraph (a), omit "and ordinarily resident", and

(b) in paragraph (b), omit "and ordinary residence".

(5) In paragraph 9(3)(a)(i), omit "and ordinarily resident".

(6) In paragraph 10(1), omit "and ordinarily resident".

108 (1) Schedule 5 (attribution of gains to settlors with interest in non-resident or dual resident settlement) is amended as follows.

(2) In paragraph 2A(4)—

(a) in paragraph (a), for "become on or after 17th March 1998 neither resident nor ordinarily resident" substitute " cease on or after 17 March 1998 to be resident ", and

(b) in paragraph (b), omit "and ordinarily resident".

(3) In paragraph 9(4)—

(a) in paragraph (a), for "become on or after 19th March 1991 neither resident nor ordinarily resident" substitute " cease on or after 19 March 1991 to be resident ", and

(b) in paragraph (b), omit "and ordinarily resident".

(4) The amendments made by this paragraph apply to changes in the residence status of trustees on or after 6 April 2013.

109 (1) Schedule 5A (settlements with foreign element: information) is amended as follows.

(2) In paragraph 2(1)—

(a) in paragraph (c), for "neither resident nor ordinarily resident" substitute " not resident ", and

(b) in paragraph (d), omit "and ordinarily resident".

(3) In paragraph 3—

(a) in sub-paragraph (1)—

(i) in paragraph (a), for "neither resident nor ordinarily resident" substitute " not resident ", and

(ii) in paragraph (b), omit "and ordinarily resident", and

(b) in sub-paragraph (3), for "either resident or ordinarily resident" substitute " resident ".

(4) In paragraph 4—

(a) in sub-paragraph (1)—

(i) in paragraph (a), for "neither resident nor ordinarily resident" substitute " not resident ", and

(ii) in paragraph (b), omit "and ordinarily resident", and

(b) in sub-paragraph (3), for "either resident or ordinarily resident" substitute " resident ".

(5) In paragraph 5(1)—

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(a) in paragraph (a), for the words from "become" to "ordinarily resident" substitute " cease at any time (the relevant time) on or after the commencement day to be resident ", and

(b) in paragraph (b), omit "and ordinarily resident".

(6) The amendments made by this paragraph apply as follows—

(a) the amendments made by sub-paragraph (2) apply in relation to transfers of property made on or after 6 April 2013,

(b) the amendments made by sub-paragraphs (3) and (4) apply in relation to settlements created on or after that date, and

(c) the amendments made by sub-paragraph (5) apply to changes in the residence status of trustees on or after that date.

110 (1) Schedule 5B (enterprise investment scheme: re-investment) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1)(d), omit "or ordinarily resident", and

(b) in sub-paragraph (4)(a), omit "or ordinarily resident".

(3) In paragraph 3(3)(b), omit "or ordinarily resident".

(4) In paragraph 19(1), in the definition of "non-resident", for "neither resident nor ordinarily resident" substitute " not resident ".

(5) The amendments made by this paragraph apply in cases where the accrual time is on or after 6 April 2013 (even if the qualifying investment was made before that date).

111 In Schedule 7C (reliefs for transfers to approved share plans), in paragraph 8, for paragraph (a) substitute—

"(a) the claimant would be chargeable to capital gains tax under section 2(1) (persons and gains chargeable to capital gains tax) in respect of the gain, or".

Commencement

112 (1) The amendments made by this Part of this Schedule have effect in relation to a person's liability to capital gains tax for the tax year 2013-14 or any subsequent tax year.

(2) Sub-paragraph (1) is without prejudice to any provision in this Part of this Schedule about the application of a particular amendment.

PART 4

OTHER AMENDMENTS

FA 1916

113 In FA 1916, omit section 63 (exemption from taxation of municipal securities issued in America).

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F(No.2)A 1931

114 (1) In section 22 of F(No.2)A 1931 (provisions in cases where Treasury has power to borrow money), in subsection (1)(a) and (b), omit "ordinarily".

(2) Nothing in sub-paragraph (1) limits the power conferred by section 60(1) of FA 1940.

(3) Subject to sub-paragraph (5), the amendment made by sub-paragraph (1) does not affect a pre-commencement security (nor the availability of the relevant exemption).

(4) Sub-paragraph (5) applies to a person who becomes the beneficial owner of a pre-commencement security (or an interest in such a security) on or after 6 April 2013.

(5) If obtaining the relevant exemption is conditional on being not ordinarily resident in the United Kingdom, any enactment conferring the exemption is to have effect (in relation to a person to whom this sub-paragraph applies) as if obtaining the exemption were conditional instead on being not resident in the United Kingdom.

(6) In this paragraph—

"pre-commencement security" means a FOTRA security (as defined in section 713 of ITTOIA 2005) issued before the day on which this Act is passed;

"the relevant exemption", in relation to a pre-commencement security, means the exemption for which provision is made in the exemption condition (as defined in that section).

TMA 1970

115 TMA 1970 is amended as follows.

116 (1) In section 98 (special returns etc), in subsection (4E)(d), omit "ordinarily".

(2) The amendment made by this paragraph takes effect on the coming into force of regulations made under section 17(3) of F(No.2)A 2005 (authorised investment funds) by virtue of the amendment made by paragraph 136.

117 In Schedule 1A (claims etc not included in returns), in paragraph 2(6), omit "or not ordinarily resident".

IHTA 1984

118 (1) Section 157 of IHTA 1984 (non-residents' bank accounts) is amended as follows.

(2) For subsection (2) substitute—

"(2) This section applies to a person who is not domiciled and not resident in the United Kingdom immediately before his death."

(3) In subsection (3), for ", resident or ordinarily resident" substitute " or resident ".

(4) In subsection (4)—

(a) in paragraph (a), omit "or ordinarily resident", and

(b) in paragraph (b), omit "or ordinarily resident" and "and ordinarily resident".

(5) The amendments made by this paragraph do not apply if the person dies before 6 April 2013.

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FA 2004

119 Part 4 of FA 2004 (pension schemes etc) is amended as follows.

120 In section 185G (disposal by person holding directly), in subsection (3)(a), omit ", ordinarily resident".

121 In section 205 (short service refund lump sum charge), in subsection (3), omit ", ordinarily resident".

122 In section 205A (serious ill-health lump sum charge), in subsection (3), omit ", ordinarily resident".

123 In section 206 (special lump sum death benefits charge), in subsection (3), omit ", ordinarily resident".

124 In section 207 (authorised surplus payments charge), in subsection (3), omit ", ordinarily resident".

125 In section 208 (unauthorised payments charge), in subsection (4), omit ", ordinarily resident".

126 In section 209 (unauthorised payments surcharge), in subsection (5), omit ", ordinarily resident".

127 In section 217 (persons liable to lifetime allowance charge), in subsection (5), omit ", ordinarily resident".

128 In section 237A (liability of individual to annual allowance charge), in subsection (2), omit ", ordinarily resident".

129 In section 237B (liability of scheme administrator), in subsection (8), omit ", ordinarily resident".

130 In section 239 (scheme sanction charge), in subsection (4), omit ", ordinarily resident".

131 In section 242 (de-registration charge), in subsection (3), omit ", ordinarily resident".

132 The amendments of Part 4 of FA 2004 made by this Part of this Schedule have effect in relation to the tax year 2013-14 and any subsequent tax year.

FA 2005

133 (1) In section 30 of FA 2005 (qualifying trust gains: special capital gains tax treatment), in subsection (1), for paragraph (c) substitute—

"(c) the trustees are resident in the United Kingdom during any part of the tax year, and".

(2) The amendment made by this paragraph has effect in relation to the tax year 2013-14 and any subsequent tax year.

F(No.2)A 2005

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

135 (1) In section 7 (charge to income tax on lump sum), in subsection (3), omit ", ordinarily resident".

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(2) The amendment made by this paragraph has effect in relation to the tax year 2013-14 and any subsequent tax year.

136 In section 18 (section 17(3): specific powers), in subsection (1)(f) and (g), omit "ordinarily".

CTA 2009

137 CTA 2009 is amended as follows.

138 (1) In section 900 (which relates to roll-over relief for disposals of pre-FA 2002 assets), in subsection (2), omit "or ordinarily UK resident".

(2) The amendment made by this paragraph applies in relation to gains accruing or treated as accruing on or after 6 April 2013.

139 (1) In section 936 (meaning of "UK estate" and "foreign estate"), in subsection (3), omit "or not ordinarily UK resident".

(2) The amendment made by this paragraph applies if the tax year in question begins on or after 6 April 2013.

140 (1) In section 947 (aggregate income of the estate), in subsection (2)(b)(i), omit "who was ordinarily UK resident".

(2) The amendment made by this paragraph applies if the tax year in question begins on or after 6 April 2013.

141 (1) In section 1009 (conditions relating to employee's income tax position), in subsection (5)(a), omit "and ordinarily UK resident".

(2) The amendment made by this paragraph applies in relation to shares acquired on or after 6 April 2013.

142 (1) In section 1017 (condition relating to employee's income tax position), in subsection (4)(a), omit "and ordinarily UK resident".

(2) The amendment made by this paragraph applies in relation to options obtained on or after 6 April 2013.

143 (1) In section 1025 (additional relief available if shares acquired are restricted shares), in subsection (5)(a), omit "and ordinarily UK resident".

(2) The amendment made by this paragraph applies in relation to restricted shares acquired on or after 6 April 2013.

144 (1) In section 1032 (meaning of "chargeable event"), in subsection (5)(a), omit "and ordinarily UK resident".

(2) The amendment made by this paragraph applies in relation to convertible shares acquired on or after 6 April 2013.

CTA 2010

145 (1) Section 1034 of CTA 2010 (purchase by unquoted trading company of own shares: requirements as to residence) is amended as follows.

(2) In subsections (1) and (2), omit "and ordinarily resident".

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(3) In subsection (3), omit "and ordinary residence" in both places.

(4) Omit subsection (4).

(5) The amendments made by this paragraph do not apply in relation to a purchase by an unquoted trading company of its own shares if the purchase takes place before 6 April 2013.

TIOPA 2010

146 In section 363A of TIOPA 2010 (residence of offshore funds which are undertakings for collective investment in transferable securities), in subsection (3), for "neither resident nor ordinarily resident" substitute " not resident ".

Constitutional Reform and Governance Act 2010

147 (1) In section 41 of the Constitutional Reform and Governance Act 2010 (tax status of MPs and members of the House of Lords), in subsection (2), omit ", ordinarily resident".

(2) The amendment made by this paragraph has effect for the purposes of a member's liability to income tax or capital gains tax for the tax year 2013-14 or any subsequent tax year.

SCHEDULE 47

Section 220

CONTROLLED FOREIGN COMPANIES

Relevant finance leases etc

1 Part 9A of TIOPA 2010 (controlled foreign companies) is amended as follows.

2 Chapter 5 (the CFC charge gateway: non-trading finance profits) is amended as follows.

3 In section 371ED (arrangements in lieu of dividends) in subsection (1) omit "(other than a relevant finance lease)".

4 (1) Section 371EE (leases to UK resident companies etc) is amended as follows.

(2) In subsection (2)(b)(i) for "which is the subject of the lease" substitute " ("the relevant asset") which is the subject of the lease or making (directly or indirectly) an arrangement which would fall within subsection (3) ".

(3) After subsection (2) insert—

"(3) An arrangement would fall within this subsection if—

(a) the arrangement would meet one or both of the following requirements—

(i) it would not be a relevant finance lease;

(ii) it would not involve the CFC, and

(b) under the arrangement the other company would (directly or indirectly) purchase rights to use the relevant asset."

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5 Chapter 22 (supplementary provision) is amended as follows.

6 In section 371VA (definitions) for the definition of "relevant finance lease" substitute—

""relevant finance lease" is to be read in accordance with section 371VIA,".

7 (1) Section 371VG (finance profits) is amended as follows.

(2) In subsection (1) for paragraph (b) substitute—

"(b) which are included in the CFC's assumed total profits for the accounting period in question and which—

(i) arise from a relevant finance lease, but

(ii) are not trading profits."

(3) In subsection (4)(b) omit "an arrangement which would be".

8 (1) Section 371VH (interests in companies) is amended as follows.

(2) In subsection (9) omit the second sentence.

(3) After subsection (10) insert—

"(10A) For the purposes of subsection (9), if for any relevant period accounts for a loan creditor are not prepared in accordance with international accounting standards or UK generally accepted accounting practice, any question relating to generally accepted accounting practice is to be determined in relation to the loan creditor for that period by reference to generally accepted accounting practice in relation to accounts prepared in accordance with international accounting standards."

9 After section 371VI insert—

"**371VIA Relevant finance leases**

(1) In this Part "relevant finance lease" means an arrangement falling within subsection (2) or (3).

(An arrangement which is a loan relationship of any company does not fall within either of those subsections.)

(2) An arrangement falls within this subsection if—

(a) it provides for an asset to be leased or otherwise made available by a person ("the lessor") to another person, and

(b) in accordance with generally accepted accounting practice, it falls (or would fall) to be treated in the accounts of the lessor, or of a person connected with the lessor, as a finance lease or a loan.

(3) A hire-purchase, conditional sale or other arrangement relating to an asset falls within this subsection if it does not fall within subsection (2) but is of a similar character to an arrangement which would fall within that subsection.

(4) If for any relevant period accounts for a person are not prepared in accordance with international accounting standards or UK generally accepted accounting practice, any question relating to generally accepted accounting practice is to be determined for the purposes of this section in relation to that person for that period by reference to generally accepted

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accounting practice in relation to accounts prepared in accordance with international accounting standards.

(5) In this section "accounts", in relation to a company, includes accounts relating to two or more companies of which that company is one."

Limit on double taxation relief in cases involving qualifying loan relationships of CFCs

10 Part 2 of TIOPA 2010 (double taxation relief) is amended as follows.

11 Chapter 2 (double taxation relief by way of credit) is amended as follows.

12 In section 42 (limit on credit against corporation tax) after subsection (4) insert—

"(5) See also section 49A which contains an additional limit on credit allowed in certain cases involving CFCs."

13 After section 49 insert—

"**49A Limit on credit in cases involving qualifying loan relationships of CFCs**

(1) This section applies if—

(a) a claim is made under Chapter 9 of Part 9A (controlled foreign companies: exemptions for profits from qualifying loan relationships) in relation to an accounting period ("the relevant period") of a CFC ("the creditor CFC"),

(b) in the relevant period, the creditor CFC has a qualifying loan relationship in relation to which another CFC is the ultimate debtor by virtue of section 371IG(4) or (5), and

(c) a UK resident company ("the relevant UK company") has loan relationship credits which arise in the relevant period from—

(i) loan B (see section 371IG(3)(b)), or

(ii) loans out of which loan B is wholly or partly funded (directly or indirectly).

(2) So far as any credit allowed under section 18(2) to the relevant UK company is referable to loan relationship credits falling within subsection (1)(c) which arise in an accounting period of the relevant UK company, the credit must not exceed—

$$R \times S$$

where—

R has the same meaning as in section 42(2), and

S is—

(a) the relevant UK company's share of the relevant profit amount (see subsection (4)), or

(b) if only X% of the total amount of the loan relationship credits falling within subsection (1)(c) arises in the accounting period, X% of the relevant UK company's share of the relevant profit amount.

(If the amount given by the formula above is nil, no credit is allowed.)

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(3) The limit on credit contained in subsection (2) is in addition to the limit given by section 42(2).

(4) Take the following steps to determine the relevant profit amount and the relevant UK company's share of that amount.

Step 1 Determine the total amount of the loan relationship credits which arise in the relevant period from loan B to the person who made loan B.

Step 2 Deduct from the amount determined at step 1 above the credits from the creditor CFC's qualifying loan relationship determined at step 1 in section 371IF for the relevant period. The result is the relevant profit amount.

Step 3 On a just and reasonable basis, apportion the relevant profit amount amongst all the persons falling within subsection (5) (although the amount apportioned to a person may be nil). The relevant UK company's share of the relevant profit amount is the amount apportioned to it (and is nil if no amount is apportioned to it).

(5) The following persons (apart from the creditor CFC) fall within this subsection—

(a) the person who made loan B, and

(b) any person who has made or received a loan out of which loan B is wholly or partly funded (directly or indirectly).

(6) In this section—

(a) references to loan B do not include any part of loan B—

(i) which loan A (see section 371IG(3)(a)) is not made and used to fund, or

(ii) in relation to which the requirement of section 371IG(3)(c) is not met,

(b) "loan relationship credit" means, in relation to a person, a credit which the person has under Part 5 of CTA 2009 or would have were the person a UK resident company within the charge to corporation tax, and

(c) "loan" has the same meaning as it has in Chapter 9 of Part 9A."

14 (1) In Chapter 3 (miscellaneous provisions), section 112 (deduction from income for foreign tax (instead of credit against UK tax)) is amended as follows.

(2) After subsection (3) insert—

"(3A) Subsection (3B) applies if—

(a) the requirements of section 49A(1)(a) to (c) are met,

(b) amounts have been paid in respect of non-UK tax on loan relationship credits falling within section 49A(1)(c) which arise in an accounting period of the relevant UK company, and

(c) apart from subsection (3B), Z would exceed

$$R \times S$$

where—

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Z is—

i the total amount of any reductions under subsection (1) for amounts paid in respect of that non-UK tax, less

ii the total amount of any increases under subsection (3) for payments made by reference to that non-UK tax, and

c R and S have the same meaning as in section 49A(2).

R and S have the same meaning as in section 49A(2).

(3B) The total amount of the reductions under subsection (1) is to be reduced so that Z equals

$$R \times S$$

”

(3) In subsection (6), for “subsection (1)” substitute “ this section ”.

Miscellaneous

15 In Part 6 of TIOPA 2010 (tax arbitrage), in section 236 (deduction schemes involving hybrid entities) for subsection (4) substitute—

“(4) Condition B is not met just because the party's profits or gains are subject to a charge under the law of a territory outside the United Kingdom (by whatever name known) which is similar to the CFC charge (see Part 9A).”

16 Part 9A of TIOPA 2010 (controlled foreign companies) is amended as follows.

F201 17 . . . . . .

Textual Amendments

F201 Sch. 47 para. 17 omitted (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by virtue of Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 21(4)**

18 Chapter 9 (exemptions for profits from qualifying loan relationships) is amended as follows.

19 In section 371IB (loans funded out of qualifying resources) after subsection (9) insert—

“(9A) Subsection (9) does not apply if the debt incurred by the member of the CFC group as mentioned in subsection (8) represents the principal on a loan made to the member to which subsection (9B) or (9D) applies.

(9B) This subsection applies to a loan if the member repays it within 48 hours of the loan being made.

(9C) But subsection (9B) does not apply to a loan if the repayment of the loan within the 48 hours occurs under, or is connected (directly or indirectly) with, an arrangement the main purpose, or one of the main purposes, of which is to ensure that subsection (9) does not apply because of—

(a) the loan, or

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(b) any other debt which a member of the CFC group incurs (or is expected to incur) in the United Kingdom.

(9D) This subsection applies to a loan if—

(a) there is an issue of shares which meets the requirements of subsection (7)(c)(i) to (iii),

(b) the loan was made before the issue of shares but with the expectation that it would be repaid by the member out of funds deriving (directly or indirectly) from the issue of shares,

(c) the loan is repaid by the member out of such funds within the period of 6 months beginning with the day on which the loan was made, and

(d) the loan—

(i) was made by a person who was not a member of the CFC group, and

(ii) was not made (wholly or partly nor directly or indirectly) out of funds or other assets provided by a member of the CFC group."

20 (1) Section 371IE (matched interest) is amended as follows.

(2) In subsection (1)(d)(ii) after "include" insert " some or all of ".

(3) After subsection (7) insert—

"(7A) In subsection (6) the reference to the leftover profits is to those profits so far as they would be included in the relevant finance profits (see section 314A(1)(d))."

Commencement and transitional provision

21 The amendments made by this Schedule are treated as having come into force on 1 January 2013.

22 (1) Section 371CE of TIOPA 2010 (as amended by paragraph 17 above) applies for accounting periods of CFCs beginning before 20 March 2013 with the modifications set out in this paragraph. References below to subsections are to subsections of section 371CE.

Accounting periods ending before 20 March 2013

(2) For accounting periods ending before 20 March 2013, subsection (4) applies as if paragraph (b) were omitted.

Accounting periods ending on or after 20 March 2013

(3) The following sub-paragraphs apply for accounting periods ending on or after 20 March 2013.

(4) A notice may be given under subsection (2)(b) even though the requirement of subsection (2)(a) is not met.

(5) If a notice is given under subsection (2)(b) in a case where the requirement of subsection (2)(a) is not met, the CFC's trading finance profits are to be apportioned on a just and reasonable basis between—

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(a) the part of the accounting period falling before 20 March 2013 ("period A"), and

(b) the remaining part of the accounting period ("period B").

(6) So far as the CFC's trading finance profits are apportioned to period A, they are to be treated as non-trading finance profits if the CFC is a group treasury company in period A (and subsection (3) applies to them accordingly).

(7) For the purpose of determining if the CFC is a group treasury company in period A, subsection (4) applies—

(a) as if references to the accounting period were to period A, and

(b) as if paragraph (b) were omitted.

(8) So far as the CFC's trading finance profits are apportioned to period B, they are to be treated as non-trading finance profits if the CFC is a group treasury company in period B (and subsection (3) applies to them accordingly).

(9) For the purpose of determining if the CFC is a group treasury company in period B, subsection (4) applies as if references to the accounting period were to period B.

SCHEDULE 48

Section 224

PROCEEDS OF CRIME: POWERS OF OFFICERS OF REVENUE AND CUSTOMS

Proceeds of Crime Act 2002

1 The Proceeds of Crime Act 2002 is amended in accordance with paragraphs 2 to 20.

2 (1) Section 289 (searches) is amended as follows.

(2) In subsections (1), (1A)(a) and (2), for "a customs officer" substitute " an officer of Revenue and Customs ".

(3) In subsections (1C) and (1D), for "customs officer" substitute " officer of Revenue and Customs ".

(4) After subsection (5)(b) insert—

"(ba) are exercisable by an officer of Revenue and Customs only so far as the officer is exercising a function relating to a matter other than an excluded matter,".

(5) After subsection (5) insert—

"(5A) The reference in subsection (5)(ba) to an excluded matter is to a matter specified in section 54(4)(b) of, or in any of paragraphs 3, 5, 7, 10, 12 and 14 to 30 of Schedule 1 to, the Commissioners for Revenue and Customs Act 2005."

3 In section 290 (prior approval for search)—

(a) in subsection (4)(a), for "a customs officer, a customs officer" substitute " an officer of Revenue and Customs, such an officer ", and

(b) in subsection (6), for "customs officer" substitute " officer of Revenue and Customs ".

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4 In section 291(2) (report on exercise of powers), for "customs officer" substitute " officer of Revenue and Customs ".

5 In section 292 (code of practice)—

(a) in subsection (1), for "customs officers" substitute " officers of Revenue and Customs ", and

(b) in subsection (6), for "a customs officer" substitute " an officer of Revenue and Customs ".

6 (1) Section 294 (seizure of cash) is amended as follows.

(2) In subsections (1) and (2), for "A customs officer" substitute " An officer of Revenue and Customs ".

(3) After subsection (2) insert—

"(2A) The powers conferred by this section are exercisable by an officer of Revenue and Customs only so far as the officer is exercising a function relating to a matter other than an excluded matter.

(2B) But the powers may be exercised by the officer in reliance on a suspicion that relates to an excluded matter.

(2C) The reference in subsection (2A) to an excluded matter is to a matter specified in section 54(4)(b) of, or in any of paragraphs 3, 5, 7, 10, 12 and 14 to 30 of Schedule 1 to, the Commissioners for Revenue and Customs Act 2005."

7 In section 295(1) (detention of seized cash), for "customs officer" substitute " officer of Revenue and Customs ".

8 In section 296(2) (interest on cash), for "customs officer" substitute " officer of Revenue and Customs ".

9 In section 297(4) (release of detained cash), for "A customs officer" substitute " An officer of Revenue and Customs ".

10 In section 302(6) (compensation), for "a customs officer" substitute " an officer of Revenue and Customs ".

11 In section 351(5) (person making application to vary or discharge order)—

(a) for "a customs officer" substitute " an officer of Revenue and Customs ", and

(b) for "customs officer" substitute " officer of Revenue and Customs ".

12 (1) Section 352 (search and seizure warrants) is amended as follows.

(2) In subsection (5)—

(a) omit paragraph (a), and

(b) in paragraph (c), at the end insert " , a confiscation investigation or a money laundering investigation ".

(3) In subsection (7), omit "(a) or".

13 (1) Section 353 (requirements where production order not available) is amended as follows.

(2) In subsection (10)—

(a) omit paragraph (a), and

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(b) in paragraph (c), at the end insert " , a confiscation investigation or a money laundering investigation ".

(3) In subsection (11), omit "(a) or".

14 (1) Section 369 (customer information orders: supplementary provisions) is amended as follows.

(2) In subsection (5)—

(a) for "a customs officer" substitute " an officer of Revenue and Customs ", and

(b) for "customs officer" substitute " officer of Revenue and Customs ".

(3) In subsection (7), for "a customs officer" substitute " an officer of Revenue and Customs ".

15 In section 375(4) (account monitoring orders: supplementary provisions)—

(a) for "a customs officer" substitute " an officer of Revenue and Customs ", and

(b) for "customs officer" substitute " officer of Revenue and Customs ".

16 After section 375B insert—

"Officers of Revenue and Customs

375C Restriction on exercise of certain powers conferred on officers of Revenue and Customs

(1) This section applies to the powers conferred on an officer of Revenue and Customs which are exercisable in connection with—

(a) a production order made or to be made in relation to a confiscation investigation or a money laundering investigation,

(b) a search and seizure warrant issued or to be issued in relation to a confiscation investigation or a money laundering investigation,

(c) a customer information order, and

(d) an account monitoring order.

(2) The powers are exercisable by the officer only so far as the officer is exercising a function relating to a matter other than an excluded matter.

(3) The reference in subsection (2) to an excluded matter is to a matter specified in section 54(4)(b) of, or in any of paragraphs 3, 5, 7, 10, 12 and 14 to 30 of Schedule 1 to, the Commissioners for Revenue and Customs Act 2005."

17 In section 377(1) (persons subject to code of practice), for paragraph (e) substitute—

"(e) officers of Revenue and Customs;"

18 In section 378 (officers)—

(a) in subsection (1), for paragraph (d) substitute—

"(d) an officer of Revenue and Customs;",

(b) in subsections (2)(c) and (6)(b), for "a customs officer" substitute " an officer of Revenue and Customs ", and

(c) in subsection (4), for paragraph (c) substitute—

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"(c) an officer of Revenue and Customs;"

19 After section 408B insert—

"Officers of Revenue and Customs

408C Restriction on exercise of certain powers conferred on officers of Revenue and Customs

(1) This section applies to the powers conferred on an officer of Revenue and Customs which are exercisable in connection with—

(a) a production order made or to be made in relation to a confiscation investigation or a money laundering investigation,

(b) a search warrant issued or to be issued in relation to a confiscation investigation or a money laundering investigation,

(c) a customer information order, and

(d) an account monitoring order.

(2) The powers are exercisable by the officer only so far as the officer is exercising a function relating to a matter other than an excluded matter.

(3) The reference in subsection (2) to an excluded matter is to a matter specified in section 54(4)(b) of, or in any of paragraphs 3, 5, 7, 10, 12 and 14 to 30 of Schedule 1 to, the Commissioners for Revenue and Customs Act 2005."

20 In section 412 (interpretation), in the entry relating to the meaning of references to a "constable", for "a customs and excise officer" substitute " an officer of Revenue and Customs ".

Commissioners for Revenue and Customs Act 2005

21 In Schedule 2 to the Commissioners for Revenue and Customs Act 2005 (restrictions on functions of Commissioner and officers), omit—

(a) paragraphs 13 and 13A, and

(b) the italic heading immediately preceding those paragraphs.

Relationship of provisions of 2005 Act with provisions of 2002 Act

22 Nothing in section 6 or 7 of the Commissioners for Revenue and Customs Act 2005 (initial functions) restricts the functions in connection with which officers of Revenue and Customs may exercise a power under—

(a) Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 (as amended by this Schedule), or

(b) Chapters 2 and 3 of Part 8 of that Act (as so amended).

Consequential amendments

23 In section 80(1) and (3) of the Serious Crime Act 2007 (amendment of sections 352(5) and 353(10) of the Proceeds of Crime Act 2002), omit paragraph (a) and the word "and" at the end of that paragraph.

24 In Schedule 7 to the Policing and Crime Act 2009 (minor and consequential amendments), omit paragraph 116.

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SCHEDULE 49

Section 229

CORPORATION TAX: DEFERRAL OF PAYMENT OF EXIT CHARGE

Amendments of TMA 1970

1 TMA 1970 is amended in accordance with paragraphs 2 to 6.

2 After section 59F insert—

"**59FA Exit charge payment plans**

(1) Schedule 3ZB contains provisions about exit charge payment plans in accordance with which companies may defer payment of certain corporation tax.

(2) Parts 1 and 2 of the Schedule each make provision about the circumstances in which an exit charge payment plan may be entered into, and about determining the amount of corporation tax that may be deferred—

(a) see Part 1 in relation to a company which ceases to be resident in the United Kingdom, and

(b) see Part 2 in relation to a company which is not resident in the United Kingdom but which carries on, or has carried on, a trade in the United Kingdom through a permanent establishment there.

(3) Part 3 of the Schedule contains provision about—

(a) entering into an exit charge payment plan,

(b) the effect of such a plan,

(c) the content of such a plan, and

(d) the methods in accordance with which tax deferred under such a plan may be paid."

3 Immediately before section 59G insert— " *Managed payment plans* ".

4 (1) Section 109B (provision for securing payment by company of outstanding tax) is amended as follows.

(2) In subsection (1), at the end insert " , subject to subsection (5A). "

(3) In subsection (4)(b), at the end insert " (which may include a proposal to enter into an exit charge payment plan in accordance with Schedule 3ZB). "

(4) After subsection (5) insert—

"(5A) Condition D does not apply to the extent that payment of the tax is to be secured by the company entering into an exit charge payment plan in accordance with Schedule 3ZB."

5 (1) Section 109E (liability of other persons for unpaid tax) is amended as follows.

(2) After subsection (1) insert—

"(1A) The reference in subsection (1)(b) to the time when tax becomes payable is a reference to—

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(a) in a case where an exit charge payment plan has been entered into in accordance with Schedule 3ZB in respect of the tax, the time when the tax becomes payable under the plan, and

(b) in any other case, the time when the tax becomes payable in accordance with section 59D or 59E."

(3) In subsection (2), for "the time when the amount of the tax is finally determined" substitute " the relevant time ".

(4) After subsection (2) insert—

"(2A) In subsection (2) the "relevant time" means—

(a) in a case where an exit charge payment plan has been entered into in accordance with Schedule 3ZB in respect of the tax, the later of—

(i) the first day after the period of 12 months beginning immediately after the migration accounting period (as defined in Part 1 or 2 of Schedule 3ZB, as the case may be), and

(ii) the date on which the tax is payable under the plan, and

(b) in any other case, the time when the amount of the tax is finally determined."

6 After Schedule 3ZA insert—

"SCHEDULE
3ZB

EXIT CHARGE PAYMENT PLANS

PART 1

COMPANY CEASING TO BE RESIDENT IN UK

Circumstances in which exit charge payment plan may be entered into

1 (1) This Part of this Schedule and Part 3 of this Schedule apply where an eligible company—

(a) ceases to be resident in the United Kingdom,

(b) on ceasing to be so resident, becomes resident in another EEA state, and

(c) is liable to pay qualifying corporation tax in respect of the migration accounting period.

(2) The company may defer payment of some or all of the qualifying corporation tax if it enters into an exit charge payment plan in respect of it in accordance with this Schedule.

(3) The company may enter into an exit charge payment plan only if conditions A to C are met.

(4) Condition A is that before the end of the period of 9 months beginning immediately after the migration accounting period—

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(a) an application to enter into the exit charge payment plan is made to Her Majesty's Revenue and Customs, and

(b) the application contains details of all the matters which are required by Part 3 of this Schedule to be specified in the plan.

(5) Condition B is that on ceasing to be resident in the United Kingdom, the company carries on a business in an EEA state.

(6) Condition C is that, on becoming resident in the other EEA state, the company is not treated as resident in a territory outside the European Economic Area for the purposes of any double taxation arrangements.

(7) In this paragraph—

"double taxation arrangements" means arrangements which are made by two or more territories with a view to affording relief from double taxation and which have effect at the time when the company ceases to be resident in the United Kingdom;

"eligible company" means a company that has a right to freedom of establishment protected by Article 49 of the Treaty on the functioning of the European Union or established by Article 31 of the Agreement on the European Economic Area.

(8) In this Part of this Schedule—

(a) references to the migration accounting period are to—

(i) in a case where an accounting period comes to an end on the company ceasing to be resident in the United Kingdom, that accounting period, and

(ii) in a case not falling within sub-paragraph (i), the accounting period during which the company ceases to be resident in the United Kingdom,

(b) references to a Part 1 company are to a company in relation to which this Part of this Schedule applies, and

(c) references to Part 3 of this Schedule are to Part 3 of this Schedule as it applies to a Part 1 company.

Qualifying corporation tax

2 (1) The company is liable to pay qualifying corporation tax in respect of the migration accounting period if CT1 is greater than CT2 where—

CT1 is the corporation tax which the company is liable to pay for the accounting period, and

CT2 is the corporation tax which the company would be liable to pay for the accounting period if any income, profits, gains, losses or debits arising only by virtue of the exit charge provisions were ignored,

(CT2 will be zero if the company would not be liable to pay any corporation tax for the period).

(2) The amount of qualifying corporation tax which the company is liable to pay is the difference between CT1 and CT2.

(3) "Exit charge provisions" means—

(a) section 185 of the 1992 Act,

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(b) section 187(4) of that Act, where that subsection applies by virtue of section 187(4)(c),

(c) section 162 of CTA 2009, where that section applies by virtue of section 41(2)(b) of that Act,

(d) section 333 of that Act,

(e) section 609 of that Act,

(f) section 859 of that Act, where that section applies by virtue of section 859(2)(a), and

(g) section 862 of that Act, where that section applies by virtue of section 862(1)(c).

(4) References in this Part of this Schedule and Part 3 of this Schedule to qualifying corporation tax are to be read in accordance with this paragraph.

Interpretation: exit charge assets and liabilities

3 (1) This paragraph applies for the purposes of this Part of this Schedule and Part 3 of this Schedule.

(2) "Exit charge assets" and "exit charge liabilities" means assets or liabilities (as the case may be) in respect of which income, profits or gains arise in the migration accounting period by virtue of the exit charge provisions, and in particular—

(a) "TCGA or trading stock exit charge assets" means those exit charge assets, other than pre-FA 2002 intangible fixed assets, in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 2(3)(a), (b) or (c),

(b) "financial exit charge assets or liabilities" means those exit charge assets or liabilities in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 2(3)(d) or (e),

(c) "intangible exit charge assets" means—

(i) those exit charge assets in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 2(3)(f) or (g), and

(ii) those exit charge assets which are pre-FA 2002 intangible fixed assets in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 2(3)(a) or (b).

(3) In sub-paragraph (2)—

(a) "exit charge provisions" has the meaning given in paragraph 2(3);

(b) "pre-FA 2002 intangible fixed asset" means an intangible fixed asset which is a pre-FA 2002 asset (as defined in section 881 of CTA 2009).

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PART 2

NON-UK RESIDENT COMPANIES WITH UK PERMANENT ESTABLISHMENTS

Circumstances in which exit charge payment plan may be entered into

4 (1) This Part of this Schedule and Part 3 of this Schedule apply where—

(a) at any time during an accounting period ("the migration accounting period") an eligible company which is not resident in the United Kingdom carries on a trade in the United Kingdom through a permanent establishment there,

(b) one or more PE qualifying events occurs in respect of any assets or liabilities of the company as mentioned in sub-paragraph (4), and

(c) the company is liable to pay qualifying corporation tax in respect of the migration accounting period.

(2) The company may defer payment of some or all of the qualifying corporation tax if it enters into an exit charge payment plan in respect of it in accordance with this Schedule.

(3) The company may enter into an exit charge payment plan only if before the end of the period of 9 months beginning immediately after the migration accounting period—

(a) an application to enter into the exit charge payment plan is made to Her Majesty's Revenue and Customs, and

(b) the application contains details of all the matters which are required by Part 3 of this Schedule to be specified in the plan.

(4) For the purposes of this Part of this Schedule, a "PE qualifying event" occurs in respect of an asset or liability of a company if—

(a) an event occurs which triggers—

(i) a deemed disposal and reacquisition of the asset or liability under the exit charge provision mentioned in paragraph 5(3)(a), (c), (d) or (e), or

(ii) a valuation of the asset under the exit charge provision mentioned in paragraph 5(3)(b),

(b) the event—

(i) occurs during the migration accounting period, or

(ii) causes the migration accounting period to come to an end, and

(c) at the time of the event, the company is not treated as resident in a territory outside the European Economic Area for the purposes of any double taxation arrangements.

(5) In this Part of this Schedule, references to a PE qualifying asset or liability are to an asset or liability in respect of which a PE qualifying event occurs.

(6) In this paragraph "double taxation arrangements" and "eligible company" have the meanings given in paragraph 1(7).

(7) In this Part of this Schedule—

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(a) references to the migration accounting period are to be read in accordance with this paragraph;

(b) references to a Part 2 company are to a company in relation to which this Part of this Schedule applies,

(c) references to Part 3 of this Schedule are to Part 3 of this Schedule as it applies to a Part 2 company, and

(d) "permanent establishment", in relation to a company, is to be read in accordance with Chapter 2 of Part 24 of CTA 2010.

Qualifying corporation tax

5 (1) The company is liable to pay qualifying corporation tax in respect of the migration accounting period if CT1 is greater than CT2 where—

CT1 is the corporation tax which the company is liable to pay for the accounting period, and

CT2 is the corporation tax which the company would be liable to pay for the accounting period if any income, profits, gains, losses or debits arising as a result of any PE qualifying events, and arising only by virtue of the exit charge provisions, were ignored,

(CT2 will be zero if the company would not be liable to pay any corporation tax for the period).

(2) The amount of qualifying corporation tax which the company is liable to pay is the difference between CT1 and CT2.

(3) Exit charge provisions means—

(a) section 25 of the 1992 Act,

(b) section 162 of CTA 2009, where that section applies by virtue of section 41(2)(b) of that Act,

(c) section 334 of that Act,

(d) section 610 of that Act, and

(e) section 859 of that Act, where that section applies by virtue of section 859(2)(b).

(4) References in this Part of this Schedule and Part 3 of this Schedule to qualifying corporation tax are to be read in accordance with this paragraph.

Interpretation: exit charge assets and liabilities

6 (1) This paragraph applies for the purposes of this Part of this Schedule and Part 3 of this Schedule.

(2) "Exit charge assets" and "exit charge liabilities" means any PE qualifying assets or liabilities (as the case may be) in respect of which income, profits or gains arise in the migration accounting period by virtue of the exit charge provisions, and in particular—

(a) "TCGA or trading stock exit charge assets" means those exit charge assets, other than pre-FA 2002 intangible fixed assets, in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 5(3)(a) or (b);

(b) "financial exit charge assets or liabilities" means those exit charge assets or liabilities in respect of which income, profits or gains arise

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by virtue of the exit charge provision mentioned in paragraph 5(3)(c) or (d);

(c) "intangible exit charge assets" means—

(i) those exit charge assets in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 5(3)(e), and

(ii) those exit charge assets which are pre-FA 2002 intangible fixed assets in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 5(3)(a).

(3) In sub-paragraph (2)—

(a) "exit charge provisions" has the meaning given in paragraph 5(3);

(b) "pre-FA 2002 intangible fixed asset" means an intangible fixed asset which is a pre-FA 2002 asset (as defined in section 881 of CTA 2009).

PART 3

ENTERING INTO AN EXIT CHARGE PAYMENT PLAN

Introduction

7 (1) As to when this Part of this Schedule applies, see—

(a) Part 1 of this Schedule (companies ceasing to be resident in the United Kingdom), and

(b) Part 2 of this Schedule (companies with permanent establishments in the United Kingdom).

(2) In this Part of this Schedule, as it applies to a company in relation to which Part 1 of this Schedule applies, terms and expressions which are used in this Part and in that Part have the same meanings in this Part as in that Part.

(3) In this Part of this Schedule, as it applies to a company in relation to which Part 2 of this Schedule applies, terms and expressions which are used in this Part and in that Part have the same meanings in this Part as in that Part.

Entering into an exit charge payment plan

8 (1) A Part 1 company or a Part 2 company enters into an exit charge payment plan in respect of qualifying corporation tax in accordance with this Schedule if—

(a) the company agrees to pay, and an officer of Revenue and Customs agrees to accept payment of, the tax in accordance with the standard instalment method (see paragraph 13) or the realisation method (see paragraphs 14 to 17) or a combination of the two methods,

(b) the company agrees to pay interest on the tax in accordance with paragraph 9(3), and

(c) the plan meets the requirements set out in paragraphs 10 to 12 as to the matters that must be specified in it.

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(2) The exit charge payment plan may, in the circumstances mentioned in sub-paragraph (3), contain appropriate provision regarding security for Her Majesty's Revenue and Customs in respect of the deferred payment of the tax.

(3) Those circumstances are where an officer of Her Majesty's Revenue and Customs considers that agreeing to accept payment of qualifying corporation tax in accordance with the plan would present a serious risk as to collection of the tax in the absence of provision regarding security in respect of that tax.

(4) An exit charge payment plan is void if any information furnished by the company in connection with the plan does not fully and accurately disclose all facts and considerations material to the decision of the officer of Revenue and Customs to accept payment of qualifying corporation tax in accordance with the plan.

Effect of exit charge payment plan

9 (1) This paragraph applies where an exit charge payment plan is entered into by a company in respect of qualifying corporation tax in accordance with this Schedule.

(2) As regards when the tax is payable—

(a) the plan does not prevent the tax becoming due and payable under section 59D or 59E, but

(b) the Commissioners for Her Majesty's Revenue and Customs—

(i) may not seek payment of the tax otherwise than in accordance with the plan;

(ii) may make repayments in respect of any amount of the tax paid, or any amount paid on account of the tax, before the plan is entered into.

(3) As regards interest—

(a) the tax carries interest in accordance with Part 9 as if the plan had not been entered into, and

(b) each time a payment is made under the plan, it is to be paid together with any interest payable on it.

(4) As regards penalties, the company will be liable to penalties for late payment of the tax only if it fails to make payments in accordance with the plan (see item 6ZA of the Table at the end of paragraph 1 of Schedule 56 to the Finance Act 2009).

(5) Qualifying corporation tax payable in accordance with an exit charge payment plan which is for the time being unpaid may be paid at any time before it becomes payable under the plan together with interest payable on it to the date of payment.

Content of exit charge payment plan

10 (1) An exit charge payment plan entered into by a Part 1 company must specify—

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(a) the date on which the company ceased to be resident in the United Kingdom, and

(b) the EEA state in which the company has become resident.

(2) An exit charge payment plan entered into by a Part 2 company must specify—

(a) the EEA state in which the company is resident, and

(b) if the company has ceased to carry on a trade in the United Kingdom through a permanent establishment there, the date on which it ceased to do so.

(3) In either case an exit charge payment plan entered into by a company must also specify—

(a) the amount of qualifying corporation tax which, in the company's opinion, is payable by it in respect of the migration accounting period,

(b) the amount of that qualifying corporation tax which the company wishes to defer paying under the exit charge payment plan ("ECPP tax"), and

(c) whether the ECPP tax is to be paid in accordance with—

(i) the standard instalment method (see paragraph 13),

(ii) the realisation method (see paragraphs 14 to 17), or

(iii) a combination of the two methods.

(4) If the ECPP tax is to be paid in accordance with a combination of the two methods, the exit charge payment plan must also specify—

(a) in the case of each of the company's exit charge assets or liabilities (see paragraphs 3(2) or 6(2), as the case may be), the method in accordance with which the amount of ECPP tax attributable to the asset or liability (see sub-paragraph (6)) is to be paid, and

(b) the amount of the ECPP tax specified under sub-paragraph (3)(b) that is to be paid in accordance with each method.

(5) But an exit charge payment plan may specify that any ECPP tax is to be paid in accordance with the standard instalment method only if—

(a) in the case of a plan entered into by a Part 1 company, the company's ceasing to be resident in the United Kingdom is not part of arrangements the main purpose of which, or one of the main purposes of which, is to defer the payment of any qualifying corporation tax payable by it;

(b) in the case of a plan entered into by a Part 2 company, none of the PE qualifying events occurring during the migration accounting period, or bringing that period to an end, is part of arrangements the main purpose of which, or one of the main purposes of which, is to defer the payment of any qualifying corporation tax payable by it.

(6) The amount of ECPP tax attributable to each exit charge asset or liability is—

$$\frac{A}{B} \times T$$

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where—

"A" is the income, profits or gains arising in respect of the asset or liability in the migration accounting period by virtue of the relevant exit charge provision only,

"B" is the total income, profits or gains arising in respect of all the exit charge assets and liabilities in the migration accounting period by virtue of the exit charge provisions only, and

"T" is the ECPP tax.

Content: realisation method

11 (1) This paragraph applies if, under an exit charge payment plan, the amount of ECPP tax attributable to any exit charge asset or liability is to be paid in accordance with the realisation method.

(2) The plan must specify—

(a) each such asset or liability (so far as not already specified under paragraph 10(4)(a)), and

(b) the amount of ECPP tax attributable to the asset or liability, calculated in accordance with paragraph 10(6).

(3) The plan must also include requirements as to the ongoing provision of information by the company to Her Majesty's Revenue and Customs in relation to the asset or liability.

Content: additional information relating to assets and liabilities

12 (1) This paragraph applies if, under an exit charge payment plan, the amount of ECPP tax attributable to an exit charge asset or liability is to be paid in accordance with the realisation method.

(2) The plan must specify any additional information required by this paragraph in relation to the asset or liability.

(3) Sub-paragraph (4) applies in the case of a financial exit charge asset or liability if, immediately after the migration accounting period, the remaining term of the loan relationship or derivative contract in question is less than 10 years.

(4) The plan must specify, in relation to the asset or liability, how many years of the term of the loan relationship or derivative contract remain (rounded up to the nearest whole year).

(5) Sub-paragraph (6) applies in the case of an intangible exit charge asset if, immediately after the migration accounting period, the remaining useful life of the asset for accountancy purposes is less than 10 years.

(6) The plan must specify, in relation to the asset, how many years of the useful life of the asset remain (rounded up to the nearest whole year).

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The standard instalment method

13 (1) This paragraph applies if, under an exit charge payment plan, some or all of the ECPP tax is to be paid in accordance with the standard instalment method.

(2) The amount of the ECPP tax that is to be paid in accordance with the standard instalment method is payable in 6 instalments of equal amounts as follows—

(a) the first instalment is due on the first day after the period of 9 months beginning immediately after the migration accounting period, and

(b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.

(3) But if a relevant event occurs, the outstanding balance of the ECPP tax that is payable in accordance with the standard instalment method is payable on the date on which the next instalment of that tax would otherwise have been due under the plan.

(4) A "relevant event" means—

(a) the company becoming insolvent or entering into administration,

(b) the appointment of a liquidator,

(c) any event under the law of an EEA state outside the United Kingdom corresponding to an event specified in paragraph (a) or (b), or

(d) the company ceasing to be resident in an EEA state and, on so ceasing, not becoming resident in any other EEA state.

The realisation method: TCGA or trading stock exit charge assets

14 (1) This paragraph applies if—

(a) under an exit charge payment plan, the amount of ECPP tax attributable to an exit charge asset is to be paid in accordance with the realisation method, and

(b) the asset is a TCGA or trading stock exit charge asset (see paragraph 3(2)(a) or 6(2)(a), as the case may be).

(2) The amount of ECPP tax attributable to the asset under paragraph 10(6) is payable in relation to whichever is the first to occur of the following events—

(a) the disposal of that asset at any time after—

(i) the company ceases to be resident in the United Kingdom (in the case of a Part 1 company), or

(ii) the occurrence of the PE qualifying event in respect of the asset (in the case of a Part 2 company),

(b) the tenth anniversary of the end of the migration accounting period, or

(c) a relevant event (as defined in paragraph 13(4)).

(3) The date on which the amount is payable is—

(a) in a case falling within sub-paragraph (2)(a) or (b), the date of the event referred to, and

(b) in a case falling within sub-paragraph (2)(c), the relevant date or, if that date has already passed, the next anniversary of that date.

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(4) In sub-paragraph (3)(b), "relevant date" means the first day after the period of 9 months beginning immediately after the migration accounting period.

(5) Section 21(2) of the 1992 Act (part disposals of assets) applies for the purposes of sub-paragraph (2)(a) as it applies for the purposes of that Act.

(6) Where part of an asset is disposed of at any time after the event mentioned in sub-paragraph (2)(a), the amount of ECPP tax attributable to the asset under paragraph 10(6) is to be apportioned on a just and reasonable basis for the purpose of applying this paragraph to the part of the asset disposed of and the part which remains undisposed of.

The realisation method: other exit charge assets and liabilities

15 (1) This paragraph applies if—

(a) under an exit charge payment plan, the ECPP tax attributable to an exit charge asset or liability is to be paid in accordance with the realisation method, and

(b) the asset or liability is—

(i) a financial exit charge asset or liability, or

(ii) an intangible exit charge asset,

(see paragraph 3(2)(b) and (c) or 6(2)(b) and (c), as the case may be).

(2) The amount of ECPP tax attributable to any such asset or liability under paragraph 10(6) is payable in a number of annual instalments of equal amounts.

(3) The number of annual instalments is—

(a) in a case where a number of years is specified in the plan in relation to the asset or liability by virtue of paragraph 12(4) or (6), that number, and

(b) otherwise, 10.

(4) The instalments are due as follows—

(a) the first instalment is due on the first day after the period of 9 months beginning immediately after the migration accounting period, and

(b) the other instalments are due one on each of the subsequent anniversaries of that day (until they are all paid).

(5) But see paragraphs 16 and 17 for circumstances in which all or part of the outstanding balance of the amount of ECPP tax attributable to the asset or liability under paragraph 10(6) ("the outstanding balance in respect of the asset or liability") becomes payable.

Outstanding balance becoming payable in full

16 (1) This paragraph applies where the amount of ECPP tax attributable to an asset or liability under paragraph 10(6) is payable in instalments in accordance with paragraph 15.

(2) All of the outstanding balance in respect of the asset or liability (as defined in paragraph 15(5)) is payable in accordance with sub-paragraph (3) if—

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(a) a trigger event occurs in relation to the asset or liability (see sub-paragraph (4)), or

(b) a relevant event occurs (as defined in paragraph 13(4)),

before the last instalment is payable in accordance with paragraph 15.

(3) The outstanding balance is payable—

(a) in a case falling within sub-paragraph (2)(a), on the date of the trigger event, and

(b) in a case falling within sub-paragraph (2)(b), on the date on which the next instalment would otherwise have been due under the plan.

(4) For the purposes of this paragraph, a trigger event occurs in relation to an asset or liability if—

(a) in the case of a financial exit charge asset or liability, the company ceases to be party to the loan relationship or derivative contract in question, or

(b) in the case of an intangible fixed asset, the asset is disposed of.

Outstanding balance becoming payable in part

17 (1) This paragraph applies where—

(a) the amount of ECPP tax attributable to an asset or liability under paragraph 10(6) is payable in instalments in accordance with paragraph 15, and

(b) a partial trigger event occurs in relation to the asset or liability (see sub-paragraph (4)) before the last instalment is payable.

(2) On the occurrence of that event, part of the outstanding balance in respect of the asset or liability (as defined in paragraph 15(5)) is payable.

(3) The part payable under sub-paragraph (2) is so much of the outstanding balance in respect of the asset or liability as is attributable to the transaction mentioned in sub-paragraph (4)(a) or (b).

(4) For the purposes of sub-paragraph (2), a partial trigger event occurs in relation to an asset or liability if—

(a) in the case of a financial exit charge asset or liability—

(i) there is a disposal of rights or liabilities under the loan relationship or derivative contract in question which amounts to a related transaction (as defined in section 304 or 596 of CTA 2009 as the case may be), but

(ii) the transaction does not result in the company ceasing to be party to the relationship or contract, and

(b) in the case of an intangible exit charge asset, there is a transaction which—

(i) results in a reduction in the accounting value of the asset, but

(ii) does not result in the asset ceasing to be recognised in the company's balance sheet.

(5) Where part of the outstanding balance in respect of an asset or liability is paid in accordance with sub-paragraphs (2) and (3), the remaining instalments due under paragraph 15 in respect of the asset or liability continue to be

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payable so far as they relate to the remaining asset or liability (subject to paragraph 16 and this paragraph).

(6) In sub-paragraph (5), the "remaining asset or liability" means—

(a) in a case within sub-paragraph (4)(a), the loan relationship or derivative contract as it exists following the related transaction,

(b) in a case within sub-paragraph (4)(b), the asset as it continues to be recognised on the balance sheet following the transaction mentioned in that sub-paragraph.

(7) For the purposes of sub-paragraphs (3) and (5)—

(a) the outstanding balance in respect of the asset or liability, and

(b) the remaining instalments due under paragraph 15 in respect of the asset or liability,

are to be apportioned on a just and reasonable basis between the transaction mentioned in sub-paragraph (4)(a) or (b) and the remaining asset or liability.

(8) In relation to an intangible exit charge asset that has no balance sheet value (or no longer has a balance sheet value), sub-paragraph (4)(b) applies as if, immediately before the transaction, it did have a balance sheet value."

Amendments of FA 2009

7 In Schedule 56 to FA 2009 (penalty for failure to make payments on time), in the Table at the end of paragraph 1, after entry 6 insert—

"6ZA	Corporation tax	Amount payable under an exit charge payment plan entered into in accordance with Schedule 3ZB to TMA 1970	The later of— (a) the first day after the period of 12 months beginning immediately after the migration accounting period (as defined in Part 1 or 2 of Schedule 3ZB to TMA 1970, as the case may be), and (b) the date on which the amount is payable under the plan."

Commencement

8 (1) The amendments made by this Schedule are treated as having come into force on 11 December 2012 in relation to an accounting period if the relevant day, in relation to that period, falls on or after 11 December 2012.

(2) In sub-paragraph (1) "the relevant day", in relation to an accounting period, means the first day after the period of 9 months beginning immediately after the accounting period.

(3) But if the relevant day falls between 11 December 2012 and 31 March 2013 (inclusive), paragraphs 1(4) and 4(3) of Schedule 3ZB to TMA 1970 (inserted by

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this Schedule) have effect as if, in each case, for "before the end of the period of 9 months beginning immediately after the migration accounting period" there were substituted " on or before 31 March 2013 ".

SCHEDULE 50

Section 230

PENALTIES: LATE FILING, LATE PAYMENT AND ERRORS

Amendments to Schedule 24 to FA 2007: penalties for errors

1 (1) In Schedule 24 to FA 2007 (penalties for errors), paragraph 13 (procedure: assessment) is amended as follows.

(2) In sub-paragraph (1)(c), after "assessed" insert " (subject to sub-paragraph (1ZB)) ".

(3) After sub-paragraph (1) insert—

"(1ZA) Sub-paragraph (1ZB) applies where—

(a) a person is at any time liable for two or more penalties relating to PAYE returns, or for two or more penalties relating to CIS returns, and

(b) the penalties ("the relevant penalties") are assessed in respect of more than one tax period ("the relevant tax periods").

(1ZB) A notice under sub-paragraph (1) in respect of any of the relevant penalties may, instead of stating the tax period in respect of which the penalty is assessed, state the tax year or the part of a tax year to which the penalty relates.

(1ZC) For that purpose, a relevant penalty relates to the tax year or the part of a tax year in which the relevant tax periods fall.

(1ZD) For the purposes of sub-paragraph (1ZA)—

"a PAYE return" means a return for the purposes of PAYE regulations;

"a CIS return" means a return for the purposes of regulations under section 70(1)(a) of FA 2004 in connection with deductions on account of tax under the Construction Industry Scheme."

Amendments to Schedule 55 to FA 2009: penalty for failure to make returns

2 Schedule 55 (penalty for failure to make returns etc) to FA 2009 is amended in accordance with paragraphs 3 to 9.

3 In paragraph 1 (returns etc in respect of which penalties are to be paid under that Schedule)—

(a) in the definition of "penalty date" in sub-paragraph (4), after "document" insert " falling within any of items 1 to 3 and 5 to 13 in the Table ";

(b) after sub-paragraph (4) insert—

"(4A) The Treasury may by order make such amendments to item 4 in the Table as they think fit in consequence of any amendment,

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revocation or re-enactment of the regulations mentioned in that item."

4 In the Table at the end of paragraph 1, in item 4 (annual return of payments for purposes of PAYE regulations etc), for the words in the third column substitute—

"Return under any of the following provisions of the Income Tax (PAYE) Regulations 2003 (S.I. 2003/2682)— (a) regulation 67B (real time returns) (b) regulation 67D (exceptions to regulation 67B)".

5 In paragraph 2 (amount of penalty: occasional returns and returns for periods of 6 months or more), for "1 to 5" substitute " 1 to 3, 5 ".

6 After paragraph 6A insert—

"Amount of penalty: real time information for PAYE

6B Paragraphs 6C and 6D apply in the case of a return falling within item 4 in the Table.

6C (1) If P fails during a tax month to make a return on or before the filing date, P is liable to a penalty under this paragraph in respect of that month.

(2) But this is subject to sub-paragraphs (3) and (4).

(3) P is not liable to a penalty under this paragraph in respect of a tax month as a result of any failure to make a return on or before the filing date which occurs during the initial period.

(4) P is not liable to a penalty under this paragraph in respect of a tax month falling in a tax year if the month is the first tax month in that tax year during which P fails to make a return on or before the filing date (disregarding for this purpose any failure which occurs during the initial period).

(5) In sub-paragraphs (3) and (4) "the initial period" means the period which—

(a) begins with the day in the first tax year on which P is first required to make a return, and

(b) is of such duration as is specified in regulations made by the Commissioners,

and for this purpose "the first tax year" means the first tax year in which P is required to make returns.

(6) P may be liable under this paragraph to no more than one penalty in respect of each tax month.

(7) The penalty under this paragraph is to be calculated in accordance with regulations made by the Commissioners.

(8) Regulations under sub-paragraph (7) may provide for a penalty under this paragraph in respect of a tax month to be calculated by reference to either or both of the following matters—

(a) the number of persons employed by P, or treated as employed by P for the purposes of PAYE regulations;

(b) the number of previous penalties incurred by P under this paragraph in the same tax year.

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(9) The Commissioners may by regulations disapply sub-paragraph (3) or (4) in such circumstances as are specified in the regulations.

(10) If P has elected under PAYE regulations to be treated as different employers in relation to different groups of employees, this paragraph applies to P as if—

(a) in respect of each group P were a different person, and

(b) each group constituted all of P's employees.

(11) Regulations made by the Commissioners under this paragraph may—

(a) make different provision for different cases, and

(b) include incidental, consequential and supplementary provision.

6D (1) P may be liable to one or more penalties under this paragraph in respect of extended failures.

(2) In this paragraph an "extended failure" means a failure to make a return on or before the filing date which continues after the end of the period of 3 months beginning with the day after the filing date.

(3) P is liable to a penalty or penalties under this paragraph if (and only if)—

(a) HMRC decide at any time that such a penalty or penalties should be payable in accordance with sub-paragraph (4) or (6), and

(b) HMRC give notice to P specifying the date from which the penalty, or each penalty, is payable.

(4) HMRC may decide under sub-paragraph (3)(a) that a separate penalty should be payable in respect of each unpenalised extended failure in the tax year to date.

(5) In that case the amount of the penalty in respect of each failure is 5% of any liability to make payments which would have been shown in the return in question.

(6) HMRC may decide under sub-paragraph (3)(a) that a single penalty should be payable in respect of all the unpenalised extended failures in the tax year to date.

(7) In that case the amount of the penalty in respect of those failures is 5% of the sum of the liabilities to make payments which would have been shown in each of the returns in question.

(8) For the purposes of this paragraph, an extended failure is unpenalised if a penalty has not already been imposed in respect of it under this paragraph (whether in accordance with sub-paragraph (4) or (6)).

(9) The date specified in the notice under sub-paragraph (3)(b) in relation to a penalty—

(a) may be earlier than the date on which the notice is given, but

(b) may not be earlier than the end of the period mentioned in sub-paragraph (2) in relation to the relevant extended failure.

(10) In sub-paragraph (9)(b) "the relevant extended failure" means—

(a) the extended failure in respect of which the penalty is payable, or

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(b) if the penalty is payable in respect of more than one extended failure (in accordance with sub-paragraph (6)), the extended failure with the latest filing date."

7 In paragraph 18 (assessment), for sub-paragraph (5) substitute—

"(5) Sub-paragraph (6) applies if—

(a) an assessment in respect of a penalty is based on a liability to tax that would have been shown in a return, and

(b) that liability is found by HMRC to be excessive.

(6) HMRC may by notice to P amend the assessment so that it is based upon the correct amount.

(7) An amendment under sub-paragraph (6)—

(a) does not affect when the penalty must be paid;

(b) may be made after the last day on which the assessment in question could have been made under paragraph 19."

8 (1) Paragraph 19 (assessment) is amended as follows.

(2) In sub-paragraph (2) after "Date A is" insert "—

(a) in the case of an assessment of a penalty under paragraph 6C, the last day of the period of 2 years beginning with the end of the tax month in respect of which the penalty is payable,

(b) in the case of an assessment of a penalty under paragraph 6D, the last day of the period of 2 years beginning with the filing date for the relevant extended failure (as defined in paragraph 6D(10)), and

(c) in any other case,".

(3) In sub-paragraph (3)(a), after "return" insert " or returns (as the case may be in relation to penalties under section 6C or 6D) ".

9 (1) Paragraph 27 (interpretation) is amended as follows.

(2) After sub-paragraph (2) insert—

"(2A) The Commissioners" means the Commissioners for Her Majesty's Revenue and Customs."

(3) After sub-paragraph (3) insert—

"(3A) Tax month" means the period beginning with the 6th day of a month and ending with the 5th day of the following month."

Amendments to Schedule 56 to FA 2009: penalty for failure to make payments on time

10 Schedule 56 (penalty for failure to make payments on time) to FA 2009 is amended in accordance with paragraphs 11 to 14.

11 In paragraph 1 (penalty for failure to pay tax), in sub-paragraph (4), for the words from "the date on which" to the end substitute " the day after the date specified in or for the purposes of column 4 of the Table in relation to that amount. "

12 (1) Paragraph 6 (amount of penalty: PAYE and CIS amounts) is amended as follows.

(2) For sub-paragraph (1) substitute—

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"(1) P is liable to a penalty under this paragraph, in relation to each tax, each time that P makes a default in relation to a tax year."

(3) In sub-paragraph (2)—

(a) in the opening words, after "default" insert " in relation to a tax year ";

(b) in paragraph (a), at the end insert " of tax payable in relation to the tax year ";

(c) in paragraph (b), at the end insert " payable in relation to the tax year ";

(d) in paragraph (c), at the end insert " payable in relation to the tax year ";

(e) in paragraph (d), at the end insert " and due for the tax year ".

(4) For sub-paragraphs (3) to (7) substitute—

"(3) But where a failure to make one of those payments (or to pay an amount comprising two or more of those payments) would, apart from this sub-paragraph, constitute the first default in relation to a tax year, that failure does not count as a default in relation to that year for the purposes of a penalty under this paragraph.

(4) The amount of the penalty for a default made in relation to a tax year is determined by reference to—

(a) the amount of the tax comprised in the default, and

(b) the number of previous defaults that P has made in relation to the same tax year.

(5) If the default is P's 1st, 2nd or 3rd default in relation to the tax year, P is liable, at the time of the default, to a penalty of 1% of the amount of tax comprised in the default.

(6) If the default is P's 4th, 5th or 6th default in relation to the tax year, P is liable, at the time of the default, to a penalty of 2% of the amount of tax comprised in the default.

(7) If the default is P's 7th, 8th or 9th default in relation to the tax year, P is liable, at the time of the default, to a penalty of 3% of the amount of tax comprised in the default.

(7A) If the default is P's 10th or subsequent default in relation to the tax year, P is liable, at the time of the default, to a penalty of 4% of the amount of tax comprised in the default."

(5) In sub-paragraph (8), for paragraph (b) substitute—

"(b) a previous default counts for the purposes of sub-paragraphs (5) to (7A) even if it is remedied before the time of the default giving rise to the penalty."

(6) After sub-paragraph (8) insert—

"(8A) Regulations made by the Commissioners for Her Majesty's Revenue and Customs may specify—

(a) circumstances in which, for the purposes of sub-paragraph (2), a payment of less than the full amount may be treated as a payment in full;

(b) circumstances in which sub-paragraph (3) is not to apply.

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(8B) Regulations under sub-paragraph (8A) may—

(a) make different provision for different cases, and

(b) include incidental, consequential and supplementary provision."

13 After paragraph 9 insert—

"Interaction with other penalties and late payment surcharges

9A In the application of the following provisions, no account shall be taken of a penalty under this Schedule—

(a) section 97A of TMA 1970 (multiple penalties),

(b) paragraph 12(2) of Schedule 24 to FA 2007 (interaction with other penalties), and

(c) paragraph 15(1) of Schedule 41 to FA 2008 (interaction with other penalties)."

14 (1) Paragraph 11 (assessment of penalty) is amended as follows.

(2) For sub-paragraph (4A) substitute—

"(4A) If an assessment in respect of a penalty is based on an amount of tax due or payable that is found by HMRC to be excessive, HMRC may by notice to P amend the assessment so that it is based upon the correct amount.

(4B) An amendment made under sub-paragraph (4A)—

(a) does not affect when the penalty must be paid;

(b) may be made after the last day on which the assessment in question could have been made under paragraph 12."

(3) Omit sub-paragraph (5).

Consequential amendment

15 In consequence of paragraph 7, paragraph 10 of Schedule 10 to the Finance (No. 3) Act 2010 is repealed.

Commencement

16 (1) The amendments made by paragraph 1 have effect in relation to any assessment of a penalty under Schedule 24 to FA 2007 made on or after the day on which this Act is passed.

(2) The amendments made by paragraphs 2 to 9 and 15 have effect for the tax year 2014-15 and subsequent tax years in relation to failures to make returns with a filing date (as defined in paragraph 1(4) of Schedule 55 to FA 2009) on or after 6 April 2014.

(3) The amendments made by paragraphs 10 to 14 have effect for defaults made in relation to the tax year 2014-15 and subsequent tax years (see paragraph 6(2) of Sch.56 to FA 2009 (as amended by paragraph 12(3) of this Schedule) as to when a default is made in relation to a tax year).

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SCHEDULE 51

Section 233

WITHDRAWAL OF NOTICE TO FILE ETC

TMA 1970

1 TMA 1970 is amended in accordance with paragraphs 2 to 5.

2 (1) Section 7 (notice of liability to income tax and capital gains tax) is amended as follows.

(2) In subsection (1)—

(a) for paragraph (b) substitute—

"(b) falls within subsection (1A) or (1B),", and

(b) for "six months from the end of that year" substitute " the notification period ".

(3) After subsection (1) insert—

"(1A) A person falls within this subsection if the person has not received a notice under section 8 requiring a return for the year of assessment of the person's total income and chargeable gains.

(1B) A person falls within this subsection if the person—

(a) has received a notice under section 8 requiring a return for the year of assessment of the person's total income and chargeable gains, and

(b) has received a notice under section 8B withdrawing the notice under section 8.

(1C) In subsection (1) "the notification period" means—

(a) in the case of a person who falls within subsection (1A), the period of 6 months from the end of the year of assessment, or

(b) in the case of a person who falls within subsection (1B)—

(i) the period of 6 months from the end of the year of assessment, or

(ii) the period of 30 days beginning with the day after the day on which the notice under section 8 was withdrawn,

whichever ends later."

(4) In subsection (2), for the words from "shall have effect" to the end substitute " and subsections (1A) to (1C) have effect as if references to a notice under section 8 were references to a notice under section 8A. "

3 After section 8A insert—

"**8B Withdrawal by HMRC of notice under section 8 or 8A**

(1) This section applies to a person who is given a notice under section 8 or 8A.

(2) Before the end of the withdrawal period, the person may request HMRC to withdraw the notice.

(3) But no request may be made if—

(a) the person has made a return under section 8 or 8A in pursuance of the notice under that section, or

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(b) the person has been served with notice of a determination under section 28C by virtue of the notice under section 8 or 8A having been given to the person.

(4) If, on receiving a request, HMRC decide to withdraw the notice under section 8 or 8A they must do so by giving the person a notice under this section.

(5) A notice under this section must specify the date on which the notice under section 8 or 8A is withdrawn.

(6) For the purposes of subsection (2) "the withdrawal period" means—

(a) the period of 2 years beginning with the end of the year of assessment to which the notice under section 8 or 8A relates, or

(b) in exceptional circumstances, such extended period as HMRC may agree with the person.

(7) Withdrawal of a notice given to a person under section 8 or 8A in relation to a year of assessment does not prevent HMRC from giving the person a further notice under that section in relation to that year.

(8) See paragraph 17A of Schedule 55 to FA 2009 as to the cancellation of liability to a penalty under any paragraph of that Schedule by including provision in a notice under this section."

4 After section 12AA insert—

"**12AAA Withdrawal by HMRC of notice under section 12AA**

(1) This section applies to a partner who is required by a notice under section 12AA to deliver a return.

(2) Before the end of the withdrawal period, the partner may request HMRC to withdraw the notice.

(3) But no request may be made if the partner has delivered a return under section 12AA in pursuance of the notice.

(4) If, on receiving a request, HMRC decide to withdraw the notice under section 12AA they must do so by giving the partner a notice under this section.

(5) A notice under this section must specify the date on which the notice under section 12AA is withdrawn.

(6) For the purposes of subsection (2) "the withdrawal period" means—

(a) in the case of a partnership which includes one or more companies, the period of 2 years beginning with the end of the period in respect of which the return under section 12AA was required by the notice under that section,

(b) in the case of any other partnership, the period of 2 years beginning with the end of the year of assessment to which the notice under section 12AA relates, or

(c) in the case of any partnership, such extended period as HMRC may agree with the partner in exceptional circumstances.

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(7) Withdrawal of a notice under section 12AA in relation to the period in respect of which the return under that section was required or year of assessment (as the case may be) does not prevent HMRC from serving a further notice under section 12AA requiring a partner to deliver a return in relation to that period or year.

(8) References in subsections (2) to (6) to the partner include references to a successor of the partner (see section 12AA(11)).

(9) See paragraph 17B of Schedule 55 to FA 2009 as to the cancellation of liability to a penalty under any paragraph of that Schedule by including provision in a notice under this section."

5 In section 59B (payment of income and capital gains tax), after subsection (4) insert—

"(4ZA) In a case in which the notice required by section 7 was given following the receipt of a notice under section 8B, subsections (3) and (4) apply as if—

(a) the reference to the notice required by section 7 were a reference to the original notice required by that section, and

(b) the references to notice under section 8 or 8A were references to the original notice under that section.

(4ZB) In subsection (4ZA) the references to original notices are to notices given before the notice under section 8B."

FA 2008

6 (1) Paragraph 7 of Schedule 41 to FA 2008 (potential lost revenue in respect of failure to comply with relevant obligation) is amended as follows.

(2) After sub-paragraph (1) insert—

"(1A) In the case of an obligation under section 7 of TMA 1970 which arises by virtue of subsection (1B) of that section, the potential lost revenue is so much of any income tax or capital gains tax to which P is liable in respect of the tax year in question as is, by reason of the failure to comply with the obligation—

(a) where the period specified in subsection (1C)(b)(ii) of that section applies and ends after the relevant date, unpaid at the end of that period, or

(b) in any other case, unpaid on the relevant date.

(1B) For the purposes of sub-paragraph (1A) the relevant date is—

(a) 31 January following the tax year, or

(b) if, after that date, HMRC refund a payment on account in respect of the tax year to P, the day after the refund is issued."

(3) In sub-paragraph (2), after "and a tax year" insert " (not falling within sub-paragraph (1A)) ".

FA 2009

7 (1) Paragraph 3 of Schedule 53 to FA 2009 (late payment interest start date: amendments and discovery assessments etc) is amended as follows.

Changes to legislation: *Finance Act 2013 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) In sub-paragraph (3)—

(a) for "as required" substitute " in accordance with a requirement ", and

(b) after "tax)" insert " that arose by virtue of subsection (1A) of that section ".

(3) After that sub-paragraph insert—

"(3A) In the case of a person ("P") who failed to give notice in accordance with a requirement under section 7 of TMA 1970 that arose by virtue of subsection (1B) of that section, the reference in sub-paragraph (1)(c) to an assessment which ought to have been made by P is a reference to the assessment which P would have been required to make if no notice relating to the year of assessment concerned had been withdrawn under section 8B of that Act."

8 In Schedule 55 to that Act (penalty for failure to make returns etc), after paragraph 17 insert—

"Cancellation of penalty

17A (1) This paragraph applies where—

(a) P is liable for a penalty under any paragraph of this Schedule in relation to a failure to make a return falling within item 1 or 2 in the Table, and

(b) P makes a request under section 8B of TMA 1970 for HMRC to withdraw a notice under section 8 or 8A of that Act.

(2) The notice under section 8B of TMA 1970 may include provision under this paragraph cancelling liability to the penalty from the date specified in the notice.

17B (1) This paragraph applies where—

(a) P is liable for a penalty under any paragraph of this Schedule in relation to a failure to make a return falling within item 3 in the Table, and

(b) a request is made under section 12AAA of TMA 1970 for HMRC to withdraw a notice under section 12AA of that Act.

(2) The notice under section 12AAA of TMA 1970 may include provision under this paragraph cancelling liability to the penalty from the date specified in the notice."

Commencement

9 (1) The amendments made by this Schedule have effect—

(a) in relation to a return under section 12AA of TMA 1970 for a partnership which includes one or more companies, in respect of a return for a relevant period beginning on or after 6 April 2012, and

(b) in relation to a return under that section for any other partnership, or a return under section 8 or 8A of that Act, in respect of a return for a year of assessment beginning on or after 6 April 2012.

(2) In sub-paragraph (1)(a), "relevant period" means a period in respect of which a return is required.

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Changes and effects yet to be applied to :

- Sch. 43C para. 2 words substituted by 2021 c. 26 Sch. 32 para. 13(4)(b) (This amendment not applied to legislation.gov.uk. Sch. 43C para. 2(1) substituted (with effect in accordance with reg. 124(2) of the amending Act) by Finance Act 2021 c. 26, Sch. 32 para. 13(4)(a))
- Sch. 45 para. 145 words substituted by 2023 c. 20 Sch. para. 58