



# Finance Act 2014

## 2014 CHAPTER 26

### PART 1

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 1

#### CHARGE, RATES ETC

##### *Income tax*

## **1 Charge, rates, basic rate limit and personal allowance for 2014-15**

- (1) Income tax is charged for the tax year 2014-15.
- (2) For that tax year—
  - (a) the basic rate is 20%,
  - (b) the higher rate is 40%, and
  - (c) the additional rate is 45%.
- (3) For that tax year—
  - (a) the amount specified in section 10(5) of ITA 2007 (basic rate limit) is replaced with “ £31,865 ”, and
  - (b) the amount specified in section 35(1) of that Act (personal allowance for those born after 5 April 1948) is replaced with “ £10,000 ”.
- (4) Accordingly for that tax year—
  - (a) section 21 of that Act (indexation of limits), so far as relating to the basic rate limit, does not apply, and
  - (b) 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.

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## 2 Basic rate limit for 2015-16 and personal allowances from 2015

- (1) For the tax year 2015-16—
  - (a) the amount specified in section 10(5) of ITA 2007 (basic rate limit) is replaced with “ £31,785 ”, and
  - (b) the amount specified in section 35(1) (personal allowance) is replaced with [<sup>F1</sup>“£10,600”].
- (2) Accordingly, for that tax year—
  - (a) section 21 of that Act (indexation of limits), so far as relating to the basic rate limit, does not apply, and
  - (b) section 57 (indexation of allowances), so far as relating to the amount specified in section 35(1), does not apply.
- (3) In section 34(1)(a) of that Act (introduction), omit “ , 36”.
- (4) In section 35 of that Act (personal allowance for those born after 5 April 1948)—
  - (a) in subsection (1)(a), for “1948” substitute “ 1938 ”, and
  - (b) in the heading, for “**1948**” substitute “ **1938** ”.
- (5) Omit section 36 of that Act (personal allowance for those born after 5 April 1938 but before 6 April 1948).
- (6) In section 45(4)(b) of that Act (marriages before 5 December 2005), omit “36(2) or”.
- (7) In section 46(4)(b) of that Act (marriages and civil partnerships on or after 5 December 2005), omit “36(2) or”.
- (8) In section 57 of that Act (indexation of allowances)—
  - (a) in subsection (1)(a), for “1948” substitute “ 1938 ”, <sup>F2</sup>...
  - [<sup>F3</sup>(aa) in subsection (1)(h), omit “36(2),” , and]
  - (b) in subsection (4) omit “36(2),”.
- (9) The amendments made by subsections (3) to (8) have effect for the tax year 2015-16 and subsequent tax years.

### Textual Amendments

- F1** Sum in s. 2(1)(b) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\), s. 3\(2\)](#)
- F2** Word in s. 2(8)(a) omitted (with effect in accordance with s. 3(5) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\), s. 3\(3\)](#)
- F3** S. 2(8)(aa) inserted (with effect in accordance with s. 3(5) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 3\(3\)](#)

## 3 The starting rate for savings and the savings rate limit

- (1) In section 7 of ITA 2007 (the starting rate for savings) for “10%” substitute “ 0% ”.
- (2) For the tax year 2015-16 the amount specified in section 12(3) of that Act (starting rate limit for savings) is replaced with “ £5,000 ”.
- (3) Accordingly section 21 of that Act (indexation of limits), so far as relating to the starting rate limit for savings, does not apply for that tax year.

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<sup>F4</sup>(4) . . . . .

- (5) The amendments made by subsections (1) and (4) have effect for the tax year 2015-16 and subsequent tax years.

#### Textual Amendments

- F4** [S. 3\(4\)](#) omitted (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\(d\)](#)

## 4 Indexation of limits and allowances under ITA 2007

- (1) ITA 2007 is amended as follows.
- (2) In section 21 (indexation of the basic rate limit and starting rate limit for savings)—
- (a) in each of subsections (1), (3) and (3A), for “retail prices index” substitute “consumer prices index”, and
  - (b) after subsection (5) insert—

“(6) In this section “consumer prices index” means the all items consumer prices index published by the Statistics Board.”
- (3) In section 57 (indexation of allowances)—
- (a) in each of subsections (2), (3) and (4), for “retail prices index” substitute “consumer prices index”, and
  - (b) after subsection (6) insert—

“(7) In this section “consumer prices index” means the all items consumer prices index published by the Statistics Board.”
- (4) The amendments made by subsections (2) and (3) have effect for the tax year 2015-16 and subsequent tax years.

### Corporation tax

## 5 Charge for financial year 2015

Corporation tax is charged for the financial year 2015.

## 6 Small profits rate and fractions for financial year 2014

- (1) For the financial year 2014 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 1/400th, 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).

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## **7 Rates for ring fence profits and abolition of small profits rate for non-ring fence profits**

Schedule 1—

- (a) sets the corporation tax rates for ring fence profits for the financial year 2015 and future years, and
- (b) contains provision about the abolition of the small profits rate for profits other than ring fence profits.

### *Capital gains tax*

## **8 Annual exempt amount for 2014-15**

- (1) For the tax year 2014-15 the amount specified in section 3(2) of TCGA 1992 (annual exempt amount) is replaced with “£11,000”.
- (2) Accordingly section 3(3) of that Act (indexation of annual exempt amount) does not apply for that tax year.

## **9 Annual exempt amount for 2015-16 onwards**

- (1) For the tax year 2015-16 and subsequent tax years the amount specified in section 3(2) of TCGA 1992 (annual exempt amount) is replaced with “£11,100”.
- (2) Section 3(3) of that Act (indexation of annual exempt amount) does not apply in relation to the tax year 2015-16 (but subsection (1) does not override section 3(3) of that Act for subsequent tax years).

### *Capital allowances*

## **10 Temporary increase in annual investment allowance**

- (1) In relation to expenditure incurred during the period beginning with the start date and ending with 31 December 2015, section 51A of CAA 2001 (entitlement to annual investment allowance) has effect as if in subsection (5) the amount specified as the maximum allowance (which in the absence of this section would be £250,000 in relation to expenditure incurred before 1 January 2015 and £25,000 in relation to expenditure incurred on or after that date) were £500,000.
- (2) Schedule 2 contains—
  - (a) provision about chargeable periods which straddle the start date or 1 January 2016, and
  - (b) amendments of FA 2013.
- (3) In this section and that Schedule “the start date” means—
  - (a) for corporation tax purposes, 1 April 2014, and
  - (b) for income tax purposes, 6 April 2014.

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## CHAPTER 2

### INCOME TAX: GENERAL

#### *Exemptions and reliefs*

#### **11 Tax relief for married couples and civil partners**

- (1) ITA 2007 is amended as set out in subsections (2) to (8).
- (2) After section 55 insert—

### “CHAPTER 3A

#### TRANSFERABLE TAX ALLOWANCE FOR MARRIED COUPLES AND CIVIL PARTNERS

##### *Introduction*

#### **55A Tax reduction under Chapter**

- (1) This Chapter contains provisions about the entitlement of a spouse or civil partner to a tax reduction in a case where the other party to the marriage or civil partnership has elected for a reduced personal allowance.
- (2) A tax reduction under this Chapter is given effect at Step 6 of the calculation in section 23.
- (3) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809G (no entitlement to tax reduction).

##### *Tax reduction*

#### **55B Tax reduction: entitlement**

- (1) An individual is entitled to a tax reduction for a tax year of the appropriate percentage of the transferable amount if the conditions in subsection (2) are met.
- (2) The conditions are that—
  - (a) the individual is married to, or in a civil partnership with, a person who makes an election under section 55C for the purposes of this section which is in force for the tax year (“the individual's spouse or civil partner”),
  - (b) the individual is not, for the tax year, liable to tax at a rate other than the basic rate, the dividend ordinary rate or the starting rate for savings,
  - (c) the individual meets the requirements of section 56 (residence) for the tax year, and
  - (d) neither the individual nor the individual's spouse or civil partner makes a claim for the tax year under section 45 (married couple's

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allowance: marriages before 5 December 2005) or section 46 (married couple's allowance: marriages and civil partnerships on or after 5 December 2005).

- (3) “The appropriate percentage” is the basic rate at which the individual would be charged to income tax for the tax year to which the reduction relates.
- (4) “The transferable amount”—
  - (a) for the tax year 2015-16, is £1,050, and
  - (b) for the tax year 2016-17 and subsequent tax years, is 10% of the amount of personal allowance specified in section 35(1) for the tax year to which the reduction relates.
- (5) If the transferable amount calculated in accordance with subsection (4)(b) would otherwise not be a multiple of £10, it is to be rounded up to the nearest amount which is a multiple of £10.
- (6) If an individual is entitled to a tax reduction under subsection (1), the personal allowance to which the individual's spouse or civil partner is entitled under section 35 or 37 is reduced for the tax year by the transferable amount.
- (7) If an individual who is entitled to a tax reduction for a tax year under subsection (1) dies during that tax year, subsection (6) is to be ignored (but this does not affect the individual's entitlement to the tax reduction).

#### *Election to reduce personal allowance*

### **55C Election to reduce personal allowance**

- (1) An individual may make an election for the purposes of section 55B if—
  - (a) the individual is married to, or in a civil partnership with, the same person—
    - (i) for the whole or part of the tax year concerned, and
    - (ii) when the election is made,
  - (b) the individual is entitled to a personal allowance under section 35 or 37 for that tax year,
  - (c) assuming the individual's personal allowance was reduced as set out in section 55B(6), the individual would not for that year be liable to tax at a rate other than the basic rate, the dividend ordinary rate or the starting rate for savings, and
  - (d) where the individual meets the requirements of section 56 (residence) for the tax year by reason of meeting the condition in subsection (3) of that section, the individual meets the condition in subsection (2) of this section.
- (2) The condition is that the individual's hypothetical net income for the tax year concerned is less than the amount of the personal allowance to which the individual is entitled for that tax year under section 35 or 37.
- (3) For the purposes of subsection (2), an individual's “hypothetical net income” is the amount that would be that individual's net income calculated at Step 2 of section 23 if that individual's income tax liability were calculated on the basis that the individual—

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- (a) was UK resident for the tax year concerned (and the year was not a split year),
  - (b) was domiciled in the United Kingdom for that tax year,
  - (c) in that tax year, did not fall to be regarded as resident in a country outside the United Kingdom for the purposes of double taxation arrangements having effect at the time, and
  - (d) for that tax year, had made a claim for any available relief under section 6 of TIOPA 2010 (as required by subsection (6) of that section).
- (4) An individual's hypothetical net income for a tax year is, to the extent that it is not sterling, to be calculated by reference to the average exchange rate for the year ending on 31 March in the tax year concerned.

### **55D Procedure for elections under section 55C**

- (1) An election under section 55C is to be made not more than 4 years after the end of the tax year to which it relates.
- (2) If the conditions in paragraphs (a) to (d) of section 55C(1) continue to be met, an election continues in force in each subsequent tax year unless—
  - (a) subsection (3) applies,
  - (b) the election is withdrawn, or
  - (c) it ceases to have effect under subsection (5).
- (3) Where an election is made after the end of the tax year to which it relates, the election has effect for the tax year to which it relates only (and accordingly does not continue in force for subsequent tax years under subsection (2)).
- (4) An election may be withdrawn only by a notice given by the individual by whom the election was made.
- (5) If an individual's spouse or civil partner does not obtain a tax reduction under section 55B in respect of a tax year in which an election is in force the election ceases to have effect for subsequent tax years; but this does not prevent an individual making a further election for the purposes of section 55B(2)(a) (whether or not in relation to the same marriage or civil partnership).
- (6) The withdrawal of an election under subsection (4) does not, except in the cases dealt with by subsection (7), have effect until the tax year after the one in which the notice is given.
- (7) The withdrawal of an election under subsection (4) has effect for the tax year in which the notice is given if—
  - (a) in a case where the individual concerned met the condition in section 55C(1)(a) by reason of being married, the marriage has come to an end in that tax year, or
  - (b) in a case where the individual concerned met the condition in section 55C(1)(a) by reason of being in a civil partnership, the civil partnership has come to an end in that tax year.
- (8) For the purposes of subsection (7)(a), a marriage comes to an end if any of the following is made in respect of it—

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- (a) a decree absolute of divorce, a decree of nullity of marriage or a decree of judicial separation, or
  - (b) in Scotland, a decree of divorce, a declarator of nullity or a decree of separation.
- (9) For the purposes of subsection (7)(b), a civil partnership comes to an end if any of the following is made in respect of it—
  - (a) a dissolution order or nullity order, which has been made final,
  - (b) a separation order, or
  - (c) in Scotland, a decree of dissolution, a declarator of nullity or a decree of separation.
- (10) A notice under subsection (4) must—
  - (a) be given to an officer of Revenue and Customs, and
  - (b) must be in the form specified by the Commissioners for Her Majesty's Revenue and Customs.
- (11) Paragraph 3(1)(b) of Schedule 1A to TMA 1970 (amendment of claims and elections) does not apply to an election under section 55C.

### *Supplementary*

#### **55E Limitation on number of tax reductions and elections**

- (1) An individual is not entitled to more than one tax reduction under section 55B for a tax year (regardless of whether the individual is a party to more than one marriage or civil partnership in the tax year).
- (2) An individual is not entitled to have more than one election for the purposes of section 55B which operates for a tax year (regardless of whether the individual is a party to more than one marriage or civil partnership in the tax year)."
- (3) In section 26 (tax reductions), in subsection (1)(a), after the entry relating to Chapter 3 of Part 3 insert— " Chapter 3A of Part 3 of this Act (transferable tax allowance for married couples and civil partners), ".
- (4) In section 31 (total income: supplementary), in subsection (2), after "basic" insert " rate ".
- (5) In section 33 (overview of Part)—
  - (a) in subsection (3), after "partners" insert " where a party to the marriage or civil partnership is born before 6 April 1935 ",
  - (b) after that subsection insert—
 

“(3A) Chapter 3A provides for a transferable tax allowance for married couples and civil partners.”,
  - (c) in subsection (4), in the opening words, for “and 3” substitute “ , 3 and 3A ”,
  - (d) in subsection (4)(a), after “Chapter 3” insert “ or 3A ”, and
  - (e) in subsection (4)(b), for “those allowances and tax reductions” substitute “ the allowances under Chapter 2 and tax reductions under Chapter 3 ”.
- (6) In the heading for Chapter 3 of Part 3 after “PARTNERS” insert “ : PERSONS BORN BEFORE 6 APRIL 1935 ”.



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- (7) In section 56 (residence), in subsection (1)(b), after “Chapter 3” insert “ or 3A ”.
- (8) In section 809G (claim for remittance basis: effect on allowances), in subsection (2)—
  - (a) omit the “or” following paragraph (b), and
  - (b) after paragraph (b) insert—
    - “(ba) any tax reduction under Chapter 3A of that Part (transferable tax allowance for married couples and civil partners), or”.
- (9) TMA 1970 is amended as set out in subsections (10) and (11).
- (10) In section 42 (procedure for making claims)—
  - (a) in subsection (10), after “above” insert “ and subject to subsection (10A) below ”, and
  - (b) after subsection (10) insert—
    - “(10A) Subsection (2) above does not apply in relation to an election under section 55C of ITA 2007 (election to transfer allowance to spouse or civil partner).”
- (11) In section 43A (further assessments: claims etc), in subsection (2A) after paragraph (a) insert—
  - “(aa) section 55C of ITA 2007 (election to transfer allowance to spouse or civil partner),”.
- (12) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

## 12 Recommended medical treatment

- (1) Part 4 of ITEPA 2003 (exemptions) is amended as follows.
- (2) In Chapter 11 (miscellaneous exemptions), after section 320B insert—

*“Recommended medical treatment*

### **320C Recommended medical treatment**

- (1) No liability to income tax arises in respect of—
  - (a) the provision to an employee of recommended medical treatment, or
  - (b) the payment or reimbursement, to or in respect of an employee, of the cost of such treatment,
 if that provision, payment or reimbursement is not pursuant to relevant salary sacrifice arrangements or relevant flexible remuneration arrangements.
- (2) But subsection (1) does not apply in a tax year if, and to the extent that, the value of the exemption in that year exceeds £500.
- (3) Medical treatment is “recommended” if it is provided to the employee in accordance with a recommendation which—
  - (a) is made to the employee as part of occupational health services provided to the employee by a service provided—

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- (i) under section 2 of the Employment and Training Act 1973 (arrangements for the purpose of assisting persons to retain employment etc), or
    - (ii) by, or in accordance with arrangements made by, the employer,
  - (b) is made for the purpose of assisting the employee to return to work after a period of absence due to injury or ill health, and
  - (c) meets any other requirements specified in regulations made by the Treasury.
- (4) Regulations under subsection (3)(c) may, in particular, specify that the recommendation must be one given after the employee has been assessed as unfit for work—
- (a) for at least the specified number of consecutive days, and
  - (b) in the specified manner by a person of a specified description.
- (5) The Treasury may by order amend subsection (3)(a) so as to add, amend or remove a reference to any enactment.
- (6) “The value of the exemption”, in a tax year, is an amount equal to the sum of—
- (a) all earnings within section 62 (earnings), and
  - (b) all earnings which are treated as such under the benefits code,
- in respect of which subsection (1) would prevent liability to income tax from arising in the tax year disregarding subsection (2).
- (7) In this section—
- “medical treatment” means all procedures for diagnosing or treating any physical or mental illness, infirmity or defect;
- “relevant salary sacrifice arrangements” means arrangements (whenever made, whether before or after the employment began) under which the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of recommended medical treatment or the payment or reimbursement of the cost of such treatment;
- “relevant flexible remuneration arrangements” means arrangements (whenever made, whether before or after the employment began) under which the employee and employer agree that the employee is to be provided with recommended medical treatment or the cost of such treatment is to be paid or reimbursed, rather than the employee receiving some other description of employment income;
- “specified” means specified in regulations under subsection (3)(c).”
- (3) In section 266 (exemption of non-cash vouchers for exempt benefits), in subsection (1), omit the “or” at the end of paragraph (d) and after paragraph (e) insert “, or
- (f) section 320C (recommended medical treatment);”.
- (4) The amendments made by this section have effect in accordance with provision contained in an order made by the Treasury.

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- (5) Section 1014(4) of ITA 2007 (orders etc subject to annulment) does not apply in relation to an order under subsection (4).

#### Commencement Information

- II** S. 12 has effect as specified (1.1.2015) by [The Finance Act 2014, Section 12 \(Appointed Day\) Order 2014 \(S.I. 2014/3226\)](#), [art. 2](#)

### 13 Relief for loan interest: loan to buy interest in close company

- (1) Chapter 1 of Part 8 of ITA 2007 (relief for interest payments) is amended as follows.
- (2) In section 392 (loan to buy interest in close company), in subsection (4)—
- (a) after “section 393—” insert—
 

““close company” includes a company which—

    - (a) is resident in an EEA state other than the United Kingdom, and
    - (b) if it were UK resident, would be a close company,” and

(b) in the definition of “close investment-holding company”, for “section 34 of CTA 2010” substitute “section 393A”.
- (3) After section 393 insert—

#### “393A Close investment-holding companies

- (1) For the purposes of sections 392 and 393, a close company (“the candidate company”) is a close investment-holding company in an accounting period unless throughout the period it exists wholly or mainly for one or more of the permitted purposes set out in subsection (2).

There is an exception to this rule in subsection (5).

- (2) The candidate company exists for a permitted purpose so far as it exists—
- (a) for the purpose of carrying on a trade or trades on a commercial basis,
  - (b) for the purpose of making investments in land, or estates or interests in land, in cases where the land is, or is intended to be, let commercially (see subsection (3)),
  - (c) for the purpose of holding shares in and securities of, or making loans to, one or more companies each of which—
    - (i) is a qualifying company, or
    - (ii) falls within subsection (4),
  - (d) for the purpose of co-ordinating the administration of two or more qualifying companies,
  - (e) for the purpose of the making of investments as mentioned in paragraph (b)—
    - (i) by one or more qualifying companies, or
    - (ii) by a company which has control of the candidate company, or
  - (f) for the purpose of a trade or trades carried on on a commercial basis—
    - (i) by one or more qualifying companies, or

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- (ii) by a company which has control of the candidate company.
- (3) For the purposes of subsection (2)(b), any letting of land is taken to be commercial unless the land is let to—
  - (a) a person connected with the candidate company (“a connected person”), or
  - (b) a person who is—
    - (i) the spouse or civil partner of a connected person,
    - (ii) a relative of a connected person, or the spouse or civil partner of a relative of a connected person,
    - (iii) the relative of the spouse or civil partner of a connected person, or
    - (iv) the spouse or civil partner of a relative of a spouse or civil partner of the connected person.
- (4) A company falls within this subsection (see subsection (2)(c)(ii)) if—
  - (a) it is under the control of the candidate company or of a company which has control of the candidate company, and
  - (b) it exists wholly or mainly for the purpose of holding shares in or securities of, or of making loans to, one or more qualifying companies.
- (5) If a company is wound up and was not a close investment-holding company in the accounting period that ends (by virtue of section 12(2) of CTA 2009) immediately before the winding up starts, the company is not treated for the purposes of sections 392 and 393 as being a close investment-holding company in the subsequent accounting period.
- (6) In this section “qualifying company” means a company which—
  - (a) is under the control of the candidate company or of a company which has control of the candidate company, and
  - (b) exists wholly or mainly for either or both of the purposes mentioned in subsection (2)(a) and (b).
- (7) In this section—
  - “accounting period” has the meaning given by section 1119 of CTA 2010,
  - “close company” includes a company which—
    - (a) is resident in an EEA state other than the United Kingdom, and
    - (b) if it were UK resident, would be a close company,
  - “control” has the meaning given by section 450 of CTA 2010, and
  - “relative” means brother, sister, ancestor or lineal descendant.”
- (4) Accordingly—
  - (a) in section 383(2)(c), after “close company” insert “ etc ”,
  - (b) in the italic heading before section 392, after “*close company*” insert “ *etc* ”;
  - (c) in the heading of section 392, after “**close company**” insert “ **etc** ”.
- (5) The amendments made by this section have effect in relation to interest paid in the tax year 2014-15 or any subsequent tax year.

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## **14 Relief for loan interest: loan to buy interest in employee-controlled company**

- (1) In section 397 of ITA 2007 (eligibility requirements for interest on loans within section 396), for subsection (2)(a) substitute—

“(a) an unquoted company that is resident in the United Kingdom or another EEA state and is not resident outside the European Economic Area, and”.

- (2) The amendment made by this section has effect in relation to interest paid in the tax year 2014-15 or any subsequent tax year.

### *Other provisions*

## **15 Restrictions on remittance basis**

Schedule 3 makes provision in relation to the remittance basis.

## **16 Treatment of agency workers**

- (1) Chapter 7 of Part 2 of ITEPA 2003 (income tax treatment of agency workers) is amended as follows.

- (2) For section 44 (treatment of workers supplied by agencies) substitute—

### **“44 Treatment of workers supplied by agencies**

- (1) This section applies if—

- (a) an individual (“the worker”) personally provides services (which are not excluded services) to another person (“the client”),
- (b) there is a contract between—
  - (i) the client or a person connected with the client, and
  - (ii) a person other than the worker, the client or a person connected with the client (“the agency”), and
- (c) under or in consequence of that contract—
  - (i) the services are provided, or
  - (ii) the client or any person connected with the client pays, or otherwise provides consideration, for the services.

- (2) But this section does not apply if—

- (a) it is shown that the manner in which the worker provides the services is not subject to (or to the right of) supervision, direction or control by any person, or
- (b) remuneration receivable by the worker in consequence of providing the services constitutes employment income of the worker apart from this Chapter.

- (3) If this section applies—

- (a) the worker is to be treated for income tax purposes as holding an employment with the agency, the duties of which consist of the services the worker provides to the client, and

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- (b) all remuneration receivable by the worker (from any person) in consequence of providing the services is to be treated for income tax purposes as earnings from that employment,  
but this is subject to subsections (4) to (6).
- (4) Subsection (5) applies if (whether before or after the worker begins to provide the services)—
  - (a) the client provides the agency with a fraudulent document which is intended to constitute evidence that, by virtue of subsection (2)(a), this section does not or will not apply, or
  - (b) a relevant person provides the agency with a fraudulent document which is intended to constitute evidence that, by virtue of subsection (2)(b), this section does not or will not apply.
- (5) In relation to services the worker provides to the client after the fraudulent document is provided—
  - (a) subsection (3) does not apply,
  - (b) the worker is to be treated for income tax purposes as holding an employment with the client or (as the case may be) with the relevant person, the duties of which consist of the services, and
  - (c) all remuneration receivable by the worker (from any person) in consequence of providing the services is to be treated for income tax purposes as earnings from that employment.
- (6) In subsections (4) and (5) “relevant person” means a person, other than the client, the worker or a person connected with the client or with the agency, who—
  - (a) is resident, or has a place of business, in the United Kingdom, and
  - (b) is party to a contract with the agency or a person connected with the agency, under or in consequence of which—
    - (i) the services are provided, or
    - (ii) the agency, or a person connected with the agency, makes payments in respect of the services.”
- (3) In section 45 (arrangements with agencies)—
  - (a) in paragraph (a), omit “(“the agency””, and
  - (b) in paragraph (b), omit “with the agency”.
- (4) In section 46 (cases involving unincorporated bodies etc)—
  - (a) in subsection (1)(a), omit “, or is under an obligation to personally provide,”, and
  - (b) in subsection (2), for the words from “under” to “contract” substitute “ in consequence of the worker providing the services ”.
- (5) After section 46 insert—

*“Anti-avoidance*

**46A Anti-avoidance**

- (1) This section applies if—

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- (a) an individual (“W”) personally provides services (which are not excluded services) to another person (“C”),
  - (b) a third person (“A”) enters into arrangements the main purpose, or one of the main purposes, of which is to secure that the services are not treated for income tax purposes under section 44 as duties of an employment held by W with A, and
  - (c) but for this section, section 44 would not apply in relation to the services.
- (2) In subsection (1)(b) “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable, and any associated operations.
- (3) Subject to subsection (2) of section 44, that section applies in relation to the services.
- (4) For the purposes of subsection (3)—
  - (a) W is to be treated as being the worker,
  - (b) C is to be treated as being the client,
  - (c) A is to be treated as being the agency, and
  - (d) section 44 has effect as if subsections (4) to (6) of that section were omitted.”
- (6) In section 47 (interpretation of Chapter 7), omit subsection (1).
- (7) In Chapter 3 of Part 11 of that Act (PAYE: special types of payer or payee), section 688 (agency workers) is amended as follows.
- (8) For subsection (1) substitute—
  - “(1) This section applies if the remuneration receivable by an individual in consequence of providing services falls to be treated under section 44 (agency workers) as earnings from an employment.
  - (1A) The relevant provisions have effect as if the individual held the employment with or under the deemed employer, subject to subsection (2).
  - (1B) For the purposes of sections 687, 689 and 689A, if—
    - (a) a person other than the deemed employer or an intermediary of the deemed employer makes a payment of, or on account of, PAYE income of the individual, and
    - (b) the payment is not within subsection (2),
 the person is to be treated as making the payment as an intermediary of the deemed employer.”
- (9) In subsection (2)—
  - (a) for paragraph (a) (and the “and” at the end of that paragraph) substitute—
    - “(a) the client is not the deemed employer, and”, and
  - (b) for “agency” substitute “deemed employer”.
- (10) In subsection (3), for the words from “subsections” to “44,” substitute “this section—the client” means the person who is the client for the purposes of section 44;

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“the deemed employer” means the person with whom the individual is treated under section 44 as having an employment, the duties of which consist of the services;”.

- (11) The amendments made by this section are treated as having come into force on 6 April 2014.

## 17 Recovery under PAYE regulations from certain company officers

- (1) In Part 4 of the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (payments, returns and information), after Chapter 3 (PAYE records) insert—

### “CHAPTER 3A

#### CERTAIN DEBTS OF COMPANIES UNDER CHAPTER 7 OF PART 2 OF ITEPA (AGENCIES)

#### 97ZA Interpretation of Chapter 3A

In this Chapter—

- “company” includes a limited liability partnership;
- “HMRC” means Her Majesty's Revenue and Customs;
- “director” has the meaning given by section 67 of ITEPA;
- “personal liability notice” has the meaning given by regulation 97ZB(2);
- “relevant PAYE debt”, in relation to a company, means—
  - (a) any amount that the company is to deduct, or account for, in accordance with these Regulations by virtue of—
    - (i) section 44(4) to (6) of ITEPA (persons providing fraudulent documents), or
    - (ii) section 46A of that Act (anti-avoidance), and
  - (b) any interest or penalty, in respect of an amount within paragraph (a), for which the company is liable;
- “the relevant date”, in relation to a relevant PAYE debt, means—
  - (a) in a case where the relevant PAYE debt is to be deducted or accounted for, or arises, by virtue of subsections (4) to (6) of section 44 of ITEPA, the date on which the fraudulent document was provided as mentioned in subsection (4) of that section, or
  - (b) in a case where the relevant PAYE debt is to be deducted or accounted for, or arises, by virtue of section 46A of ITEPA, the date the arrangements mentioned in subsection (1)(b) of that section were entered into;
- “the specified amount” has the meaning given by regulation 97ZB(2)(a).



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### **97ZB Liability of directors for relevant PAYE debts**

- (1) This regulation applies in relation to an amount of relevant PAYE debt of a company if the company does not deduct, account for or (as the case may be) pay that amount by the time by which the company is required to do so.
- (2) HMRC may serve a notice (a “personal liability notice”) on any person who was, on the relevant date, a director of the company—
  - (a) specifying the amount of relevant PAYE debt in relation to which this regulation applies (“the specified amount”), and
  - (b) requiring the director to pay to HMRC—
    - (i) the specified amount, and
    - (ii) specified interest on that amount.
- (3) The interest specified in the personal liability notice—
  - (a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of TMA, and
  - (b) is to run from the date the notice is served.
- (4) A director who is served with a personal liability notice is liable to pay to HMRC the specified amount and the interest specified in the notice within 30 days beginning with the day the notice is served.
- (5) If HMRC serve personal liability notices on more than one director of the company in respect of the same amount of relevant PAYE debt, the directors are jointly and severally liable to pay to HMRC the specified amount and the interest specified in the notices.

### **97ZC Appeals in relation to personal liability notices**

- (1) A person who is served with a personal liability notice in relation to an amount of relevant PAYE debt of a company may appeal against the notice.
- (2) A notice of appeal must—
  - (a) be given to HMRC within 30 days beginning with the day the personal liability notice is served, and
  - (b) specify the grounds of the appeal.
- (3) The grounds of appeal are —
  - (a) that all or part of the specified amount does not represent an amount of relevant PAYE debt, of the company, to which regulation 97ZB applies, or
  - (b) that the person was not a director of the company on the relevant date.
- (4) But a person may not appeal on the ground mentioned in paragraph (3)(a) if it has already been determined, on an appeal by the company, that—
  - (a) the specified amount is a relevant PAYE debt of the company, and
  - (b) the company did not deduct, account for, or (as the case may be) pay the debt by the time by which the company was required to do so.
- (5) Subject to paragraph (6), on an appeal that is notified to the tribunal, the tribunal is to uphold or quash the personal liability notice.

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- (6) In a case in which the ground of appeal mentioned in paragraph (3)(a) is raised, the tribunal may also reduce or increase the specified amount so that it does represent an amount of relevant PAYE debt, of the company, to which regulation 97ZB applies.

#### **97ZD Withdrawal of personal liability notices**

- (1) A personal liability notice is withdrawn if the tribunal quashes it.
- (2) An officer of Revenue and Customs may withdraw a personal liability notice if the officer considers it appropriate to do so.
- (3) If a personal liability notice is withdrawn, HMRC must give notice of that fact to the person upon whom the notice was served.

#### **97ZE Recovery of sums due under personal liability notice: application of Part 6 of TMA**

- (1) For the purposes of this Chapter, Part 6 of TMA (collection and recovery) applies as if—
  - (a) the personal liability notice were an assessment, and
  - (b) the specified amount, and any interest on that amount under regulation 97ZB(2)(b)(ii), were income tax charged on the director upon whom the notice is served,
 and that Part of that Act applies with the modification in paragraph (2) and any other necessary modifications.
- (2) Summary proceedings for the recovery of the specified amount, and any interest on that amount under regulation 97ZB(2)(b)(ii), may be brought in England and Wales or Northern Ireland at any time before the end of the period of 12 months beginning with the day after the day on which personal liability notice is served.

#### **97ZF Repayment of surplus amounts**

- (1) This regulation applies if—
  - (a) one or more personal liability notices are served in respect of an amount of relevant PAYE debt of a company, and
  - (b) the amounts paid to HMRC (whether by directors upon whom notices are served or the company) exceed the aggregate of the specified amount and any interest on it under regulation 97ZB(2)(b)(ii).
- (2) HMRC is to repay the difference on a just and equitable basis and without unreasonable delay.
- (3) HMRC is to pay interest on any sum repaid.
- (4) The interest—
  - (a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of ICTA, and
  - (b) is to run from the date the amounts paid to HMRC come to exceed the aggregate mentioned in subsection (1)(b)."

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(2) In Chapter 3 of Part 11 of ITEPA 2003 (PAYE: special types of payer or payee), section 688 (agency workers) (as amended by section 16) is amended as follows.

(3) After subsection (2) insert—

“(2A) PAYE regulations may make provision for, or in connection with, the recovery from a director or officer of a company, in such circumstances as may be specified in the regulations, of—

- (a) any amount the company is, by virtue of section 44(4) to (6) or 46A, to deduct, or account for, in accordance with PAYE regulations, and
- (b) any interest or penalty, in respect of an amount within paragraph (a), for which the company is liable.”

(4) In subsection (3)—

(a) after the definition of “the client” insert—

““company” includes a limited liability partnership;”, and

(b) after the definition of “the deemed employer” insert—

““director” has the meaning given by section 67;

“officer”, in relation to a company, means any manager, secretary or other similar officer of the company, or any person acting or purporting to act as such;”.

(5) The amendment made by subsection (1) is to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs in exercise of the power conferred by subsection (2A) of section 688 of ITEPA 2003 (inserted by subsection (3)).

(6) Chapter 3A of Part 4 of the Income Tax (Pay As You Earn) Regulations 2003 (inserted by subsection (1)) has effect in relation to relevant PAYE debts that are to be deducted, accounted for or paid on or after 6 April 2014.

## 18 Employment intermediaries: information powers and related penalties

(1) After section 716A of ITEPA 2003 insert—

*“Employment intermediaries: information powers*

### **716B Employment intermediaries to keep, preserve and provide information etc**

(1) For purposes connected with Chapter 7 of Part 2 (treatment of workers supplied by agencies) or Part 11 (PAYE), the Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for, or in connection with, requiring a specified employment intermediary—

- (a) to keep and preserve specified information, records or documents for a specified period;
- (b) to provide Her Majesty's Revenue and Customs with specified information, records or documents within a specified period or at specified times.

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- (2) An “employment intermediary” is a person who makes arrangements under or in consequence of which—
  - (a) an individual works, or is to work, for a third person, or
  - (b) an individual is, or is to be, remunerated for work done for a third person.
- (3) For the purposes of subsection (2), an individual works for a person if—
  - (a) the individual performs any duties of an employment for that person (whether or not the individual is employed by that person), or
  - (b) the individual provides, or is involved in the provision of, a service to that person.
- (4) In subsection (1) “specified” means specified or described in regulations made under this section.
- (5) Regulations under this section may—
  - (a) make different provision for different cases or different purposes, and
  - (b) make incidental, consequential, supplementary or transitional provision or savings.”
- (2) Section 98 of TMA 1970 (penalties: special returns etc) is amended as follows.
- (3) After subsection (4E) insert—
 

“(4F) If a person fails to furnish any information or produce any document or record in accordance with regulations under section 716B of ITEPA 2003, subsection (1) has effect as if—

  - (a) for “£300” there were substituted “ £3,000 ”, and
  - (b) for “£60” there were substituted “ £600 ”.”
- (4) In the second column of the Table, at the appropriate place insert “ Regulations under section 716B of ITEPA 2003. ”.
- (5) The amendments made subsections (2) to (4) have effect from such day as the Treasury may appoint by order made by statutory instrument.

#### Commencement Information

- I2** [S. 18\(2\)-\(4\)](#) in force at 6.4.2015 for the purposes of the amendments made by those sub-sections by [S.I. 2015/931](#), [art. 2](#)

## 19 Payments by employer on account of tax where deduction not possible

- (1) In section 222 of ITEPA 2003 (payments by employer on account of tax where deduction not possible), in subsection (1)(c), for “beginning with the relevant date” substitute “ after the end of the tax year in which the relevant date falls ”.
- (2) The amendment made by this section has effect in relation to payments of income treated as made on or after 6 April 2014.

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## 20 PAYE obligations of UK intermediary in cases involving non-UK employer

- (1) Section 689 of ITEPA 2003 (PAYE: employee of non-UK employer) is amended as follows.
- (2) After subsection (1A) insert—
  - “(1B) Subsection (1C) applies if—
    - (a) the employee worked for the relevant person during the period under or in consequence of arrangements made between the relevant person and a third person,
    - (b) the third person did not make the payment of, or on account of, PAYE income of the employee, and
    - (c) PAYE regulations would apply to the third person if the third person were to make a payment of, or on account of, PAYE income of the employee.
  - (1C) The third person is to be treated, for the purposes of PAYE regulations, as making a payment of PAYE income of the employee of an amount equal to the amount given by subsection (3).”
- (3) In subsection (2), for “The” substitute “ If subsection (1C) does not apply, the ”.
- (4) The amendments made by this section are treated as having come into force on 6 April 2014.

## 21 Oil and gas workers on the continental shelf: operation of PAYE

- (1) ITEPA 2003 is amended as follows.
- (2) In section 222 (payments by employer on account of tax where deduction not possible) —
  - (a) in subsection (1)(a), after “689” insert “ , 689A ”, and
  - (b) in subsection (3), after “employer” insert “ or section 689A(3) (deemed payments of PAYE income of continental shelf workers by person other than employer) ”.
- (3) In section 421L (persons to whom certain duties to provide information and returns apply)—
  - (a) in subsection (3), after paragraph (b) insert—
    - “(ba) if the employee in question is a continental shelf worker and PAYE regulations do not apply to the employer in question, any person who is a relevant person in relation to the employee in question,”, and
  - (b) after subsection (5) insert—
    - “(5A) In subsection (3)(ba) “continental shelf worker” and “relevant person” have the meaning given by section 689A(11) (PAYE: oil and gas workers on the continental shelf).”
- (4) In section 689 (provision about PAYE for employees of non-UK employers), after subsection (1) insert—

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“(1ZA) But this section does not apply if section 689A applies or would apply but for a certificate issued under regulations made under subsection (7) of that section.”

(5) After that section insert—

**“689A Oil and gas workers on the continental shelf**

- (1) This section applies if—
  - (a) any payment of, or on account of, PAYE income of a continental shelf worker in respect of a period is made by a person who is the employer or an intermediary of the employer or of the relevant person,
  - (b) PAYE regulations do not apply to the person making the payment or, if that person makes the payment as an intermediary of the employer or of the relevant person, to the employer, and
  - (c) income tax and any relevant debts are not deducted, or not accounted for, in accordance with PAYE regulations by the person making the payment or, if that person makes the payment as an intermediary of the employer or of the relevant person, by the employer.
- (2) Subject to subsection (5), subsection (1)(a) does not apply in relation to a payment so far as the sum paid is employment income under Chapter 2 of Part 7A.
- (3) The relevant person is to be treated, for the purposes of PAYE regulations, as making a payment of PAYE income of the continental shelf worker of an amount equal to the amount given by subsection (4).
- (4) The amount referred to is—
  - (a) if the amount of the payment actually made is an amount to which the recipient is entitled after deduction of income tax and any relevant debts under PAYE regulations, the aggregate of the amount of the payment and the amount of any income tax due and any relevant debts deductible, and
  - (b) in any other case, the amount of the payment.
- (5) If, by virtue of any of sections 687A and 693 to 700, an employer would be treated for the purposes of PAYE regulations (if they applied to the employer) as making a payment of any amount to a continental shelf worker, this section has effect as if—
  - (a) the employer were also to be treated for the purposes of this section as making an actual payment of that amount, and
  - (b) paragraph (a) of subsection (4) were omitted.
- (6) For the purposes of this section a payment of, or on account of, PAYE income of a continental shelf worker is made by an intermediary of the employer or of the relevant person if it is made—
  - (a) by a person acting on behalf of the employer or the relevant person and at the expense of the employer or the relevant person or a person connected with the employer or the relevant person, or
  - (b) by trustees holding property for any persons who include, or a class of persons which includes, the continental shelf worker.

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- (7) PAYE regulations may make provision for, or in connection with, the issue by Her Majesty's Revenue and Customs of a certificate to a relevant person in respect of one or more continental shelf workers—
- (a) confirming that, in respect of payments of, or on account of, PAYE income of the continental shelf workers specified or described in the certificate, income tax and any relevant debts are being deducted, or accounted for, as mentioned in subsection (1)(c), and
  - (b) disapplying this section in relation to payments of, or on account of, PAYE income of those workers while the certificate is in force.
- (8) Regulations under subsection (7) may, in particular, make provision about—
- (a) applying for a certificate;
  - (b) the circumstances in which a certificate may, or must, be issued or cancelled;
  - (c) the form and content of a certificate;
  - (d) the effect of a certificate (including provision modifying the effect mentioned in subsection (7)(b) or specifying further effects);
  - (e) the effect of cancelling a certificate.
- (9) Subsection (10) applies if—
- (a) there is more than one relevant person in relation to a continental shelf worker, and
  - (b) in consequence of the same payment within subsection (1)(a), each of them is treated under subsection (3) as making a payment of PAYE income of the worker.
- (10) If one of the relevant persons complies with section 710 (notional payments: accounting for tax) in respect of the payment that person is treated as making, the other relevant persons do not have to comply with that section in respect of the payments they are treated as making.
- (11) In this section—
- “continental shelf worker” means a person in an employment some or all of the duties of which are performed—
- (a) in the UK sector of the continental shelf (as defined in section 41), and
  - (b) in connection with exploration or exploitation activities (as so defined);
- “employer” means the employer of the continental shelf worker;
- “relevant person”, in relation to a continental shelf worker, means—
- (a) if the employer has an associated company (as defined in section 449 of CTA 2010) with a place of business or registered office in the United Kingdom, the associated company, or
  - (b) in any other case, the person who holds the licence under Part 1 of the Petroleum Act 1998 in respect of the area of the UK sector of the continental shelf where some or all of the duties of the continental shelf worker's employment are performed.”
- (6) In section 690 (employee non-resident etc), in subsection (10)—
- (a) after “689”, in the first place it appears, insert “ or 689A ”, and

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- (b) after “689”, in the second place it appears, insert “ or (as the case may be) 689A ”.
- (7) In section 710 (notional payments: accounting for tax), in subsection (2)—
  - (a) in paragraph (a)—
    - (i) after “689” insert “ , 689A ”, and
    - (ii) for “or 689(3)(a)” substitute “ , 689(3)(a) or 689A(4)(a) ”, and
  - (b) in paragraph (b), after “689(2)” insert “ or 689A(3) ”.
- (8) In section 689A (inserted by subsection (5)), at the end insert—
 

“(12) The Treasury may by regulations modify the definitions of “continental shelf worker” and “relevant person”, as the Treasury thinks appropriate.

  - (13) Regulations under subsection (12) may—
    - (a) make different provision for different cases or different purposes,
    - (b) make incidental, consequential, supplementary or transitional provision or savings, and
    - (c) amend this section.”
- (9) The amendment made by subsection (5) is treated as having come into force—
  - (a) on 26 March 2014 for the purposes of making regulations under section 689A(7) of ITEPA 2003, and
  - (b) on 6 April 2014 for remaining purposes.
- (10) The amendments made by subsections (2), (4), (6) and (7) are treated as having come into force on 6 April 2014.

## 22 Threshold for benefit of loan to be treated as earnings

- (1) In section 180 of ITEPA 2003 (threshold for benefit of a loan to be treated as earnings), in subsections (1)(a) and (b), (2) and (3), for “£5,000” (wherever occurring) substitute “ £10,000 ”.
- (2) The amendments made by this section have effect for the tax year 2014-15 and subsequent tax years (and apply to loans made at any time).

## 23 Taxable benefits: cars, vans and related benefits

- (1) In section 114 of ITEPA 2003 (cars, vans and related benefits), omit subsection (3) (which prevents a charge by virtue of Chapter 6 of Part 3 of that Act where an amount constitutes earnings by virtue of any other provision).
- (2) The amendment made by this section has effect for the tax year 2014-15 and subsequent tax years.

## 24 Cars: the appropriate percentage

- (1) Chapter 6 of Part 3 of ITEPA 2003 (taxable benefits: cars, vans and related benefits) is amended as follows.

<sup>F5</sup>(2) . . . . .



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(3) Section 139 (cars with a CO<sub>2</sub> figure: the appropriate percentage) is amended in accordance with subsections (4) to (6).

(4) In subsection (2) —

- (a) in paragraph (a) for “5%” substitute “ 7% ”,
- (b) in paragraph (aa) for “9%” substitute “ 11% ”, and
- (c) in paragraph (b) for “13%” substitute “ 15% ”.

(5) In subsection (3), for “14%” substitute “ 16% ”.

<sup>F6</sup>(6) . . . . .

(7) Section 140 (cars without a CO<sub>2</sub> figure: the appropriate percentage) is amended in accordance with subsections (8) to (10).

(8) In subsection (2), in the Table —

- (a) for “15%” substitute “ 16% ”, and
- (b) for “25%” substitute “ 27% ”.

(9) In subsection (3)(a), for “5%” substitute “ 7% ”.

<sup>F7</sup>(10) . . . . .

<sup>F8</sup>(11) . . . . .

(12) Section 142 (car first registered before 1st January 1998: the appropriate percentage) is amended in accordance with subsections (13) and (14).

(13) In subsection (2), in the Table —

- (a) for “15%” substitute “ 16% ”,
- (b) for “22%” substitute “ 27% ”, and
- (c) for “32%” substitute “ 37% ”.

(14) In subsection (3), for “32%” substitute “ 37% ”.

<sup>F9</sup>(15) . . . . .

(16) In consequence, section 23(4) and (5)(b) of FA 2013 is omitted.

(17) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

#### Textual Amendments

- F5** S. 24(2) omitted (with effect in accordance with s. 10(2) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 10\(1\)\(a\)](#)
- F6** S. 24(6) omitted (with effect in accordance with s. 10(2) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 10\(1\)\(b\)](#)
- F7** S. 24(10) omitted (with effect in accordance with s. 10(2) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 10\(1\)\(c\)](#)
- F8** S. 24(11) omitted (with effect in accordance with s. 10(2) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 10\(1\)\(d\)](#)
- F9** S. 24(15) omitted (with effect in accordance with s. 10(2) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 10\(1\)\(e\)](#)

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## 25 Cars and vans: payments for private use

- (1) In section 144 of ITEPA 2003 (deduction for payments for private use: cars), for subsection (1)(b) substitute—  
 “(b) pays that amount in that year.”
- (2) In section 158 of that Act (reduction for payments for private use: vans), for subsection (1)(b) substitute—  
 “(b) pays that amount in that year.”
- (3) The amendments made by this section have effect for the tax year 2014-15 and subsequent tax years.

## CHAPTER 3

### CORPORATION TAX: GENERAL

## 26 Release of debts: stabilisation powers under Banking Act 2009

- (1) Section 322 of CTA 2009 (release of debts: cases where credits not required to be brought into account) is amended as follows.
- (2) In subsection (2), for “condition A, B or C” substitute “any of conditions A to D”.
- (3) After subsection (5) insert—  
 “(5A) Condition D is that the liability is released in consequence of the exercise of a stabilisation power under Part 1 of the Banking Act 2009.”
- (4) The amendments made by this section have effect in relation to releases of liabilities on or after 26 November 2013.

## 27 Holdings treated as rights under loan relationships

- (1) CTA 2009 is amended as follows.
- (2) In section 465(3) (list of provisions under which certain distributions are not excluded from Part 5) before paragraph (a) insert—  
 “(za) section 490(2) (holdings in OEICs, unit trusts and offshore funds treated as rights under creditor relationships),”.
- (3) In section 490 (holding in an OEIC, unit trust or offshore fund treated as rights under a creditor relationship) for subsection (2) substitute—  
 “(2) The Corporation Tax Acts have effect for the accounting period in accordance with subsection (3) as if—  
 (a) the relevant holding were rights under a creditor relationship of the company, and  
 (b) any distribution in respect of the relevant holding were not a distribution (and accordingly is within Part 5).”
- (4) Omit section 490(4) and (5) (which are superseded by the new section 490(2)(b)).
- (5) For section 492 (rules about tax calculations in avoidance cases where holding comes within section 490) substitute—

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### **“492 Holding coming within section 490: calculation to undo avoidance**

- (1) Subsection (2) applies if—
  - (a) section 490 applies for an accounting period of a company to a relevant holding held by the company,
  - (b) a relevant fund enters into any arrangements, or arrangements are entered into that in whole or part relate to a relevant fund, and
  - (c) the main purpose or one of the main purposes of the arrangements is to obtain a tax advantage for a person.
- (2) The company must make adjustments to counteract any tax advantage connected in any way with the relevant holding that would (ignoring this section) be obtained by the company, or any other person, directly or indirectly in consequence of the arrangements or their being entered into.
- (3) The arrangements may be ones entered into at a time when the company does not hold the relevant holding; and any person referred to in subsection (1)(c) need not be identified when the arrangements are entered into.
- (4) The adjustments required by subsection (2) are such as are just and reasonable.
- (5) In 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, and

“relevant fund” means—

  - (a) the open-ended investment company, unit trust scheme or offshore fund in which the relevant holding is held, or
  - (b) an open-ended investment company, unit trust scheme or offshore fund in which a relevant fund has a holding.”
- (6) In section 495 (meaning of “qualifying holdings”)—
  - (a) in subsection (1)—
    - (i) for “would itself fail” substitute “ itself fails ”, and
    - (ii) omit “, even on the assumption in subsection (2)”, and
  - (b) omit subsection (2).
- (7) The amendments made by this section have effect in relation to accounting periods beginning on or after 1 April 2014.
- (8) For the purposes of subsection (7), an accounting period beginning before, and ending on or after, 1 April 2014 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.
- (9) An apportionment for the purposes of subsection (8) must be made in accordance with section 1172 of CTA 2010 (time basis) or, if that method produces a result that is unjust or unreasonable, on a just and reasonable basis.

## **28 De-grouping charges (loan relationships etc)**

- (1) CTA 2009 is amended as follows.

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- (2) In each of sections 345 and 346 (loan relationships: transferee leaving group)—
  - (a) in subsection (2), omit “If condition A or B is met,”, and
  - (b) omit subsections (3) to (5).
- (3) In each of sections 631 and 632 (derivative contracts: transferee leaving group)—
  - (a) in subsection (2), omit “If condition A or B is met,”, and
  - (b) omit subsections (3) and (4).
- (4) An amendment made by this section has effect where the cessation of membership of the relevant group occurs on or after 1 April 2014.

## 29 Disguised distribution arrangements involving derivative contracts

- (1) In Chapter 11 of Part 7 of CTA 2009 (derivative contracts: tax avoidance), after section 695 (but before the following italic heading) insert—

### **“695A Disguised distribution arrangements involving derivative contracts**

- (1) This section applies if—
  - (a) a company (“A”) is a party to arrangements involving one or more derivative contracts (each of which is referred to in this section as a “specified contract”),
  - (b) another company (“B”) is also a party to the arrangements (whether or not at the same time as A),
  - (c) A and B are members of the same group,
  - (d) the arrangements result in what is, in substance, a payment (directly or indirectly) from A to B of all or a significant part of the profits of the business of A or of a company which is a member of the same group as A or B (or both) (“the profit transfer”), and
  - (e) the arrangements are not arrangements of a kind which companies carrying on the same kind of business as A would enter into in the ordinary course of that business.
- (2) No debits in respect of a specified contract, which—
  - (a) relate to the profit transfer, and
  - (b) apart from this section, would be brought into account by A or B for the purposes of this Part,
 are to be so brought into account.
- (3) Where one or more debits in respect of a specified contract are not brought into account by virtue of subsection (2), credits arising from the same contract which—
  - (a) relate to the same profit transfer, and
  - (b) apart from this section, would be brought into account by A or B for the purposes of this Part,
 are not to be so brought into account to the extent that the total of those credits does not exceed the total of those debits.
- (4) Subsection (3) does not apply to any credit which arises directly or indirectly in consequence of, or otherwise in connection with, arrangements the main

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purpose of which, or one of the main purposes of which, is the securing of a tax advantage for any person.

(5) For the purposes of this section a company is a member of the same group as another company if it is (or has been) a member of the same group at a time when the arrangements mentioned in subsection (1) have effect.

(6) In 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;

“group” has the meaning given by section 357GD of CTA 2010;

“tax advantage” has the meaning given by section 1139 of CTA 2010.”

(2) The amendment made by this section has effect in relation to accounting periods beginning on or after 5 December 2013.

This is subject to subsections (3) to (6).

(3) In the case of a company which has an accounting period beginning before 5 December 2013 and ending on or after that date (“the straddling period”), for the purposes of subsections (2) and (4) so much of the straddling period as falls before that date, and so much of that period as falls on or after that date, are treated as separate accounting periods.

(4) The amendment does not have effect in relation to debits, arising from a specified contract, which relate to the profit transfer and are or would be brought into account for an accounting period beginning on or after 5 December 2013 to the extent that the total of those debits does not exceed the amount (if any) by which—

(a) the total amount of credits arising from that contract which—

(i) relate to the profit transfer, and

(ii) are or would be brought into account for the purposes of Part 7 of CTA 2009 for any accounting period ending before 5 December 2013, exceeds

(b) the total amount of debits arising from that contract which relate to the profit transfer and are or would be brought into account as mentioned in paragraph (a)(ii).

(5) In the case of credits to which subsection (6) applies, section 695A of CTA 2009 has effect as if—

(a) subsection (2) of that section applied to credits in respect of a specified contract as it applies to debits in respect of a specified contract,

(b) subsection (3) of that section were omitted, and

(c) in subsection (4) the reference to subsection (3) were to subsection (2).

(6) This subsection applies to credits which, had A or B had an accounting period beginning with 5 December 2013 and ending with 22 January 2014, would have been brought into account for that period by A or (as the case may be) B for the purposes of Part 7 of that Act (ignoring section 695A of CTA 2009).

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### 30 Avoidance schemes involving the transfer of corporate profits

- (1) In Chapter 1 of Part 20 of CTA 2009 (general calculation rules: restriction on deductions), after section 1305 insert—

#### **“1305A Avoidance schemes involving the transfer of corporate profits**

- (1) This section applies if—
- (a) two companies (“A” and “B”) are party to any arrangements (whether or not at the same time),
  - (b) A and B are members of the same group,
  - (c) the arrangements result in what is, in substance, a payment (directly or indirectly) from A to B of all or a significant part of the profits of the business of A or of a company which is a member of the same group as A or B (or both) (“the profit transfer”), and
  - (d) the main purpose or one of the main purposes of the arrangements is to secure a tax advantage for any person involving the profit transfer (whether by circumventing section 695A (disguised distribution arrangements: derivative contracts) or otherwise).
- (2) A's profits are to be calculated for corporation tax purposes as if the profit transfer had not occurred.
- (3) Accordingly—
- (a) if (apart from this section) an amount relating to the profit transfer would be brought into account by A as a deduction in that calculation, no deduction is allowed in respect of that amount, and
  - (b) A's profits are to be increased by so much of the amount of the profit transfer as is not an amount to which paragraph (a) applies (whether or not the profits transferred would be A's profits apart from the arrangements).
- (4) For the purposes of this section a company is a member of the same group as another company if it is (or has been) a member of the same group at a time when the arrangements mentioned in subsection (1) have effect.
- (5) Where in relation to arrangements involving one or more derivative contracts the requirements of section 695A(1)(a) to (e) are met, nothing in this section applies in relation to any debit in respect of any of those contracts.
- (6) In 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;
  - “group” has the meaning given by section 357GD of CTA 2010;
  - “tax advantage” has the meaning given by section 1139 of CTA 2010.”
- (2) The amendment made by this section has effect in relation to payments made on or after 19 March 2014.

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## 31 R&D tax credits for small or medium-sized enterprises

- (1) In section 1058 of CTA 2009 (amount of tax credit), in subsection (1)(a), for “11%” substitute “ 14.5% ”.
- (2) The amendment made by this section has effect in relation to expenditure incurred on or after 1 April 2014.

## 32 Film tax relief

- (1) Chapter 3 of Part 15 of CTA 2009 (film tax relief) is amended as follows.
- (2) In section 1198 (UK expenditure), in subsection (1), for “25%” substitute “ 10% ”.
- <sup>F10</sup>(3) . . . . .
- (4) The [<sup>F11</sup>amendment made by subsection (2) has] effect in relation to films the principal photography of which is not completed before such day as the Treasury may specify by order.
- <sup>F12</sup>(5) . . . . .
- (6) A specified day may be before the day on which the order is made, but may not be before 1 April 2014.
- (7) The Treasury may by order amend [<sup>F13</sup>section 1198(1)] of CTA 2009 (as amended and inserted by this section) in connection with an application for State aid approval.
- (8) In this section “State aid approval” means approval that the provision made by this section, 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.
- (9) An order under subsection (7) may—
  - (a) make incidental, supplemental, consequential, transitional or saving provision;
  - (b) contain provision having effect in relation to films mentioned in subsection (4).

### Textual Amendments

- F10** S. 32(3) omitted (1.4.2015, with effect in accordance with s. 29(8) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), [s. 29\(7\)\(a\)](#); S.I. 2015/1741, [reg. 2](#)
- F11** Words in s. 32(4) substituted (1.4.2015, with effect in accordance with s. 29(8) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [s. 29\(7\)\(b\)](#); S.I. 2015/1741, [reg. 2](#)
- F12** S. 32(5) omitted (1.4.2015, with effect in accordance with s. 29(8) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), [s. 29\(7\)\(c\)](#); S.I. 2015/1741, [reg. 2](#)
- F13** Words in s. 32(7) substituted (1.4.2015, with effect in accordance with s. 29(8) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [s. 29\(7\)\(d\)](#); S.I. 2015/1741, [reg. 2](#)

### Commencement Information

- I3** S. 32(2)(3) in force at 1.4.2014 for the purposes of the amendments made by those sub-sections by [S.I. 2014/2880](#), [art. 2](#)

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### 33 Television tax relief: activities to be treated as separate trade

- (1) Part 15A of CTA 2009 (television production) is amended as follows.
- (2) In section 1216A (overview), in subsection (3)(a), for “its” substitute “ each qualifying ”.
- (3) In section 1216B (activities of television production company treated as a separate trade)—
  - (a) in subsection (1), after the second “a” insert “ qualifying ”;
  - (b) in subsection (2), for “television” substitute “ qualifying relevant ”;
  - (c) at the end insert—
 

“(5) In this section “qualifying relevant programme” means a relevant programme in relation to which the conditions for television tax relief are met (see section 1216C(2)).”

### 34 Video games development

- (1) Part 15B of CTA 2009 (video games development) is amended as follows.
- (2) In section 1217A (overview), in subsection (3)(a), for “its” substitute “ each qualifying ”.
- (3) In section 1217AE—
  - (a) in the heading, for “UK” substitute “ EEA ”;
  - (b) for subsection (1) substitute—
 

“(1) In this Part, “EEA expenditure”, in relation to a video game, means expenditure on goods or services that are provided from within the European Economic Area.”;
  - (c) in subsection (2), for “UK expenditure and non-UK expenditure” substitute “ EEA expenditure and non-EEA expenditure ”.
- (4) In section 1217B (activities of video games development company treated as a separate trade)—
  - (a) in subsection (1), after the second “a” insert “ qualifying ”;
  - (b) in subsection (2), after the second “other” insert “ qualifying ”;
  - (c) at the end insert—
 

“(5) In this section “qualifying video game” means a video game in relation to which the conditions for video games tax relief are met (see section 1217C(2)).”
- (5) In section 1217CF (additional deduction for qualifying expenditure)—
  - (a) after subsection (3) insert—
 

“(3A) But if the core expenditure on the video game includes sub-contractor payments which (in total) exceed £1 million, the excess is not “qualifying expenditure”.”;
  - (b) in subsection (4)(a), for “subsection (3)” substitute “ subsections (3) and (3A) ”.
  - (c) at the end insert—



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“(5) In this section, “sub-contractor payment” means a payment made by the company to another person in respect of work on design, production or testing of the video game that is contracted out by the company to the person.”

(6) In the following provisions, for “UK expenditure” substitute “EEA expenditure”

- (a) section 1217C(2)(c);
- (b) the heading above section 1217CE;
- (c) the heading of section 1217CE;
- (d) section 1217CE(1);
- (e) section 1217CG(1)(a) and (2)(a);
- (f) the heading of section 1217EB;
- (g) section 1217EB(1)(a) and (b) and (3).

(7) In Schedule 4 to CTA 2009 (index of defined expressions)—

- (a) omit the entry for “UK expenditure (in Part 15B)”;
- (b) at the appropriate place insert—

“EEA expenditure (in Part 15B)	section 1217AE”.
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(8) The amendments made by this section have effect in relation to accounting periods beginning on or after the day specified in an order made by the Treasury under paragraph 3 of Schedule 17 to FA 2013 (and sub-paragraphs (3) and (4) of that paragraph apply accordingly).

### 35 Community amateur sports clubs

(1) Part 6 of CTA 2010 (charitable donations relief: payments to charity) is amended in accordance with subsections (2) to (7).

(2) In section 189 (relief for charitable donations), in subsection (5), after “subject to” insert “Chapter 2A of this Part, ”.

(3) In section 192 (condition as to repayment), in subsection (6), omit the “and” at the end of paragraph (a) and after that paragraph insert—

“(aa) the repayment is not non-qualifying expenditure for the purposes of Chapter 9 of Part 13 (see section 661(5)), and”.

(4) In section 200 (company wholly owned by a charity), after subsection (4) insert—

“(4A) In the case of a charity which is a registered club, ordinary share capital of a company is treated as owned by a charity if the charity beneficially owns that share capital.”

(5) In section 202 (meaning of “charity”), before paragraph (b) insert—

“(aa) a registered club,”.

(6) After that section insert—

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### **“202A “Registered club”**

In this Chapter “registered club” has the meaning given by section 658(6) (clubs registered as community amateur sports clubs).”

(7) After Chapter 2 insert—

## **“CHAPTER 2A**

### **PAYMENTS TO COMMUNITY AMATEUR SPORTS CLUBS: ANTI-ABUSE**

#### **202B Restriction on relief for payments to community amateur sports clubs**

- (1) Subsection (2) applies if—
  - (a) one or more qualifying payments are made by a company to a registered club (“the club”) in an accounting period (“the current period”),
  - (b) the company is wholly owned, or controlled, by the club or by a number of charities which include the club, for all or part of that period, and
  - (c) inflated member-related expenditure is incurred by the company in that period.
- (2) For the purposes of section 189 (relief for qualifying charitable donations), the total amount of those qualifying payments is treated as reduced (but not below nil) by the total amount of that inflated member-related expenditure.
- (3) Subsection (4) applies if—
  - (a) the total amount of that expenditure exceeds the total amount of those payments, and
  - (b) the company made one or more qualifying payments to the club in an earlier accounting period ending not more than 6 years before the end of the current period.
- (4) For the purposes of section 189, the total amount of the qualifying payments made in the earlier accounting period is treated as reduced (but not below nil) by the amount of the excess.
- (5) If subsection (3)(b) applies in relation to more than one earlier accounting period—
  - (a) subsection (4) applies to treat amounts paid in later accounting periods as reduced in priority to amounts paid in earlier ones (until the excess is exhausted or all amounts have been reduced to nil), and
  - (b) in applying subsection (4) in relation to an accounting period, the reference to the excess is to be read as a reference to so much of it as exceeds the total amount of qualifying payments which, under that subsection, have previously been reduced to nil by the excess.
- (6) For the purposes of subsections (3) and (4), a reference to the total amount of qualifying payments made in an earlier accounting period is to the total amount of those payments after—

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- (a) any reduction under subsection (2), and
  - (b) any previous reduction under subsection (4).
- (7) Such adjustments must be made (whether by way of the making of assessments or otherwise) as may be required in consequence of subsections (4) to (6).
- (8) Section 200 (company wholly owned by a charity) applies for the purposes of this section.
- (9) For the purposes of this section, the club controls the company if it has the power to secure—
  - (a) by means of the holding of shares or the possession of voting power in relation to the company or any other company, or
  - (b) as a result of any powers conferred by the articles of association or other document regulating the company or any other company,
 that the affairs of the company are conducted in accordance with the club's wishes.
- (10) For the purposes of this section two or more charities (including the club) control the company if, acting together, they have the power to secure, as mentioned in paragraph (a) or (b) of subsection (9), that the affairs of the company are conducted in accordance with the wishes of those charities.
- (11) In this section—
  - “charity” has the same meaning as in Chapter 2,
  - “qualifying payment” means a qualifying payment for the purposes of Chapter 2, and
  - “registered club” has the same meaning as in Chapter 2,
 and any reference to a member of the club includes a reference to a person connected with a member of the club.

## 202C “Inflated member-related expenditure”

- (1) This section applies for the purposes of section 202B.
- (2) “Inflated member-related expenditure” means—
  - (a) employment expenditure incurred in respect of the employment of a member of the club, by the company, where that employment is otherwise than on an arm's length basis, or
  - (b) expenditure incurred on a supply of goods and services to the club by—
    - (i) a member of the club, or
    - (ii) a member-controlled body,
 otherwise than on an arm's length basis.
- (3) But if the features of an employment or supply which cause it to be otherwise than on an arm's length basis, when taken together, are more advantageous to the company than if the employment or supply had been on an arm's length basis, any expenditure incurred in respect of the employment or on the supply is not inflated member-related expenditure.

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- (4) A company is “member-controlled” if a member of the club has (or two or more members acting together have) the power to secure—
  - (a) by means of the holding of shares or the possession of voting power in relation to that or any other body corporate, or
  - (b) as a result of any powers conferred by the articles of association or other document regulating that or any other body corporate,
 that the affairs of the company are conducted in accordance with the wishes of the member (or, as the case may be, members).
- (5) A partnership is “member-controlled” if a member of the club has (or two or more members acting together have) the right to a share of more than half the assets, or of more than half the income, of the partnership.
- (6) In this section any reference to a member of the club includes a reference to a person connected with a member of the club.
- (7) For the purposes of subsection (2)(a), the Treasury may by regulations specify—
  - (a) descriptions of expenditure which is to be treated as employment expenditure incurred in respect of the employment of a member of a club;
  - (b) descriptions of expenditure which is not to be so treated.
- (8) Section 1171(4) (orders and regulations subject to negative resolution procedure) does not apply to any regulations made under subsection (7) if a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons.”
- (8) Chapter 9 of Part 13 of that Act (other special types of company: community amateur sports clubs) is amended in accordance with subsections (9) to (12).
- (9) After section 661D (but before the italic heading) insert—

**“661E Tax treatment of gifts of money from companies**

If a registered club receives a gift of a sum of money from a company which is not a charity, the gift is treated as an amount in respect of which the registered club is chargeable to corporation tax, under the charge to corporation tax on income.”

- (10) In section 664 (exemption for interest and gift aid income)—
  - (a) in subsection (1), omit the “and” after paragraph (a) and after paragraph (b) insert “, and
  - (c) its company gift income for that period,”
  - (b) in that subsection, for “and gift aid income” substitute “, gift aid income and company gift income ”, and
  - (c) in subsection (3), after “this section—” insert—
 

““company gift income”, in relation to a club, means gifts of money made to the club by companies which are not charities,”.
- (11) In section 665A (claims in relation to interest and gift aid income), in subsection (1)
  - (b) for “and gift aid” substitute “, gift aid and company gift ”.

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(12) Accordingly—

- (a) in the italic heading before section 661D, omit “*qualifying for gift aid relief*”,
- (b) in the heading for section 664, for “**and gift aid**” substitute “**, gift aid and company gift**”
- (c) in the heading for section 665A, for “**and gift aid**” substitute “**, gift aid and company gift**”.

(13) The amendments made by this section have effect in relation to payments made on or after 1 April 2014.

(14) But the amendments made by subsections (1) to (7) are to be ignored for the purposes of section 199 of CTA 2010 (payment attributed to earlier accounting period) if the claim mentioned in subsection (1)(c) of that section is in respect of an accounting period ending before 1 April 2014.

(15) The earlier accounting periods mentioned in section 202B(3) of CTA 2010 (see subsection (7) of this section) do not include any accounting period ending before 1 April 2014.

### 36 Tax relief for theatrical production

Schedule 4 contains provision about relief in respect of theatrical productions.

### 37 Changes in company ownership

(1) Part 14 of CTA 2010 (change in company ownership) is amended as follows.

(2) In section 688 (meaning of “significant increase in the amount of a company's capital”), in subsection (2), for paragraph (b) and the “or” before it substitute “, and

(b) is at least 125% of amount A.”

(3) In section 723 (changes in indirect ownership), in subsection (1), after “section 724” insert “or 724A”.

(4) After section 724 insert—

#### “724A Disregard of change in parent company

(1) Where a new company (“N”) acquires all the issued share capital of another company (“C”), the resulting ownership change is disregarded for the purposes of Chapters 2 to 6 if, immediately after that acquisition (“the acquisition”), N—

- (a) possesses all of the voting power in C,
- (b) is beneficially entitled to 100% of any profits available for distribution to equity holders of C,
- (c) would be beneficially entitled to 100% of any assets of C available for distribution to its equity holders in the event of a winding up of C or in any other circumstances, and
- (d) meets the continuity requirements.

(2) “The resulting ownership change” means the change in the ownership of C by reason of Condition A in section 719 being met in relation to the acquisition.

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- (3) A company is “new” if, before the acquisition, it has neither—
  - (a) issued any shares other than subscriber shares, nor
  - (b) begun to carry on any trade or business.
- (4) N meets the continuity requirements if, and only if—
  - (a) the consideration for the acquisition consists only of the issue of shares in N to the shareholders of C,
  - (b) immediately after the acquisition, each person who immediately before the acquisition was a shareholder of C is a shareholder of N,
  - (c) immediately after the acquisition, the shares in N are of the same classes as were the shares in C immediately before the acquisition,
  - (d) immediately after the acquisition, the number of shares of any particular class in N bears to all the shares in N the same proportion, or as nearly as may be the same proportion, as the number of shares of that class in C bore to all the shares in C immediately before the acquisition, and
  - (e) immediately after the acquisition, the proportion of shares of any particular class in N held by any particular shareholder is the same, or as nearly as may be the same, as the proportion of shares of that class in C held by that shareholder immediately before the acquisition.
- (5) For the purposes of this section, N is treated as acquiring all the issued share capital of C for consideration consisting only of the issue of shares in N to the shareholders of C if, as a result of a scheme of reconstruction involving the cancellation of all shares in C and the issue of shares in N—
  - (a) N holds all the issued share capital of C by reason of that share capital being issued to N by C, and
  - (b) only shares in N are issued to the persons who were shareholders of C immediately before the shares in C were cancelled.
- (6) In a case within subsection (5), subsection (4) applies as if any reference to immediately before the acquisition were a reference to immediately before the shares in C were cancelled.
- (7) “Scheme of reconstruction” means a scheme carried out in pursuance of a compromise or arrangement—
  - (a) to which Part 26 of the Companies Act 2006 (arrangements and reconstructions) applies, or
  - (b) under any corresponding provision of the law of a country or territory outside the United Kingdom.
- (8) Chapter 6 of Part 5 (equity holders and profits or assets available for distribution) applies for the purposes of subsection (1)(b) and (c) as it applies for the purposes of section 151(4).”
- (5) In section 726 (interpretation of Chapter), after “acquisition” insert “ and shareholder”.
- (6) The amendments made by this section have effect in relation to any change of ownership which occurs on or after 1 April 2014.

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### 38 Transfer of deductions: research and development allowances

- (1) In section 730B(1) of CTA 2010 (interpretation of transfer of deductions provisions), in paragraph (a) of the definition of “deductible amount” after “trade,” insert “other than an amount treated as such an expense by section 450(a) of CAA 2001 (research and development allowances treated as expenses in calculating profits of a trade),”.
- (2) The amendment made by this section has effect in relation to a qualifying change if the relevant day is on or after 1 April 2014.

### <sup>F14</sup>39 Tax treatment of financing costs and income

.....

#### Textual Amendments

- F14** S. 39 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\(2\)\(e\)](#)

### 40 Determination of beneficial entitlement for purposes of group relief

- (1) CTA 2010 is amended as follows.
- (2) In section 169 (interpretation of provisions to determine proportion of beneficial entitlement)—
  - (a) in subsection (2), for the definition of “arrangements” substitute—
 

““arrangements”—

    - (a) means arrangements of any kind (whether or not in writing), but
    - (b) does not include 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
  - (b) after that subsection insert—
 

“(3) 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.”
- (3) In section 188 (other definitions for Part 5), in subsection (1), in the definition of “company” for “section 156(2A)” substitute “sections 156(2A) and 169(3) ”.
- (4) The amendments made by this section have effect in relation to accounting periods ending on or after 1 January 2015.

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## CHAPTER 4

### OTHER PROVISIONS

#### *Pensions*

#### **41 Pension flexibility: drawdown**

- (1) In section 165(1) of FA 2004 (rules about payment of pension by registered scheme to member) in pension rule 5 (payments of drawdown pension in a year not to exceed 120% of basis amount for year) for “120%” substitute “ 150% ”.
- (2) In section 167(1) of FA 2004 (rules about payment of pension death benefits by registered scheme in respect of member) in pension death benefit rule 4 (payments of dependants' drawdown pension not to exceed 120% of basis amount for year) for “120%” substitute “ 150% ”.
- (3) In paragraph 14A(2) of Schedule 28 to FA 2004 (amount of minimum income requirement for flexible drawdown by member) for “£20,000” substitute “ £12,000 ”.
- (4) In paragraph 24C(2) of Schedule 28 to FA 2004 (amount of minimum income requirement for flexible drawdown by dependant) for “£20,000” substitute “ £12,000 ”.
- (5) In consequence of subsections (1) and (2), in FA 2013 omit section 50(1) and (2).
- (6) The amendments made by subsections (1), (2) and (5) have effect in relation to pension drawdown years beginning on or after 27 March 2014.
- (7) The amendment made by subsection (3) has effect in relation to declarations made under section 165(3A) of FA 2004 on or after 27 March 2014.
- (8) The amendment made by subsection (4) has effect in relation to declarations made under section 167(2A) of FA 2004 on or after 27 March 2014.

#### **42 Pension flexibility: taking low-value pension rights as lump sum**

- (1) In paragraph 7(4) of Schedule 29 to FA 2004 (amount of commutation limit for purposes of trivial commutation lump sum) for “£18,000” substitute “ £30,000 ”.
- (2) In paragraph 8 of Schedule 29 to FA 2004 (value of crystallised pension rights for trivial commutation purposes)—
  - (a) in sub-paragraph (1)(a) omit “, as adjusted under sub-paragraph (2)”,
  - (b) in sub-paragraph (1)(b) omit “, as adjusted under sub-paragraph (3)”, and
  - (c) omit sub-paragraphs (2) and (3), as originally enacted and as substituted by FA 2013.
- (3) In consequence of subsection (1), in FA 2011 omit paragraph 4(2) of Schedule 18.
- (4) In consequence of subsection (2)(c), in FA 2013 omit paragraph 8(4) of Schedule 22.
- (5) In article 23C(4) of the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572) (modifications of Schedule 29 to FA 2004) in the inserted paragraph 7A(1)(a) (limit at or below which additional sums can be trivial commutation lump sums) for “£2,000” substitute “ £10,000 ”.



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- (6) In the Registered Pension Schemes (Authorised Payments) Regulations 2009 (S.I. 2009/1171)—
- (a) in each of regulations 6(1)(b), 8(1)(a), 11(1)(c), 11A(1)(b) and 12(1)(e) (limit at or below which certain payments by registered pension scheme can be authorised payments) for “£2,000” substitute “ £10,000 ”,
  - (b) in regulation 10(3)(b) (certain payments by registered pension scheme which can be authorised payments if value of member's pension rights is not more than £18,000) for “£18,000” substitute “ £30,000 ”,
  - (c) in regulation 11(1)(d) (upper limit on total value of member's benefits under the scheme which would make the payment and all related schemes) for “£2,000” substitute “ £10,000 ”,
  - (d) in regulation 11A(2) (may not be more than one previous payment under regulation 11A) for “one payment” substitute “ two payments ”, and
  - (e) in regulation 12(4) (certain payments by registered pension scheme can be authorised payments only if property held in respect of at least 20 members exceeds £2,000) for “£2,000” substitute “ £10,000 ”.
- (7) In consequence of subsection (6)(b), in the Registered Pension Schemes (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/1751) omit regulation 8(4).
- (8) The amendments made by subsections (1) to (4) have effect for commutation periods beginning on or after 27 March 2014 and do so irrespective of whether the nominated date is before, on or after 27 March 2014.
- (9) The amendment made by subsection (5)—
- (a) has effect for lump sums paid on or after 27 March 2014, and
  - (b) is to be treated as having been made by the Treasury under the powers to make orders conferred by section 283(2) of FA 2004.
- (10) The amendments made by subsections (6) and (7) have effect for payments made on or after 27 March 2014.
- (11) The amendments made by subsection (6) are to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs under the powers to make regulations conferred by section 164(1)(f) and (2) of FA 2004.

#### **43 Pension flexibility: further amendments**

Schedule 5 makes further provision in connection with pension flexibility.

#### **44 Transitional provision for new standard lifetime allowance for 2014-15 etc**

Schedule 6 contains transitional provision in relation to the new standard lifetime allowance for the tax year 2014-15 etc.

#### **45 Taxable specific income: effect on pension input amount for non-UK schemes**

- (1) Schedule 34 to FA 2004 (application of certain charges to non-UK pension schemes) is amended as follows.
- (2) In paragraph 10 (pension input amount for cash balance and defined benefits arrangements), for sub-paragraph (2) substitute—

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“(2) The appropriate fraction is—

$$\frac{TE + TSI}{EI}$$

where—

EI is the total amount of employment income of the individual from any relevant employment or employments for the tax year, excluding any such income which is exempt income (within the meaning of section 8 of ITEPA 2003),

TE is so much of EI as constitutes taxable earnings from any such employment (within the meaning of section 10(2) of that Act), and

TSI is so much of EI as constitutes taxable specific income from any such employment (within the meaning of section 10(3) to (5) of that Act).”

- (3) In paragraph 11 (pension input amount for other money purchase arrangements), for sub-paragraph (2) substitute—

“(2) The appropriate fraction is—

$$\frac{TE + TSI}{EI}$$

where—

EI is the total amount of employment income of the individual from any employment or employments with the employer for the tax year, excluding any such income which is exempt income (within the meaning of section 8 of ITEPA 2003),

TE is so much of EI as constitutes taxable earnings from any such employment (within the meaning of section 10(2) of that Act), and

TSI is so much of EI as constitutes taxable specific income from any such employment (within the meaning of section 10(3) to (5) of that Act).”

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

## 46 Pension schemes

Schedule 7 makes provision in relation to pension schemes.

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## *Sporting events*

### **47 Glasgow Grand Prix**

- (1) An accredited competitor who performs a Grand Prix 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 Grand Prix activities—
  - (a) competing at the Glasgow Grand Prix, and
  - (b) any activity that is performed during the games period the main purpose of which is to support or promote the Glasgow Grand Prix.
- (3) The non-residence condition is that—
  - (a) the accredited competitor is non-UK resident for the tax year 2014-15, or
  - (b) the accredited competitor is UK resident for the tax year 2014-15 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 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 games period” means the period—
    - (a) beginning with 5 July 2014, and
    - (b) ending with 14 July 2014;
  - “the Glasgow Grand Prix” means the Glasgow Grand Prix athletics event held at Hampden Park Stadium in Glasgow in July 2014;
  - “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 2014.

### **48 Major sporting events: power to provide for tax exemptions**

- (1) Where a major sporting event is to be held in the United Kingdom, the Treasury may make regulations providing for exemption from income tax and corporation tax in relation to the event.
- (2) The regulations may, in particular—
  - (a) exempt specified classes of person, income or activity from income tax;
  - (b) exempt specified classes of person, profit, income or activity from corporation tax;
  - (c) provide for specified classes of activity to be disregarded in determining for fiscal purposes whether a person has a permanent establishment in the United Kingdom;

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- (d) disapply a duty on a person to deduct a sum representing income tax before making a payment.
- (3) The regulations may specify classes of person wholly or partly by reference to—
  - (a) residence outside the United Kingdom, determined in accordance with the regulations;
  - (b) documents issued or authority given by persons exercising functions in connection with the sporting event.
- (4) Regulations under this section—
  - (a) may apply (with or without modifications) or disapply any enactment,
  - (b) may modify, amend, repeal or revoke any enactment,
  - (c) may make different provision for different purposes, and
  - (d) may include incidental, consequential, supplementary or transitional provision.
- (5) Regulations under this section may not be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, the House of Commons.
- (6) In this section, “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978), and includes an enactment whenever passed or made.

#### *Employee share schemes*

### **49 Share incentive plans: increases in maximum annual awards etc**

- (1) Schedule 2 to ITEPA 2003 (share incentive plans) is amended as follows.
- (2) In paragraph 35(1) (free shares: maximum annual award) for “£3,000” substitute “£3,600”.
- (3) In paragraph 46(1) (partnership shares: maximum amount of deductions from employee's salary) for “£1,500” substitute “£1,800”.
- (4) The amendments made by this section are treated as having come into force on 6 April 2014.

### **50 Share incentive plans: power to adjust maximum annual awards etc**

- (1) Schedule 2 to ITEPA 2003 (share incentive plans) is amended as follows.
- (2) In paragraph 35 (free shares: maximum annual award) after sub-paragraph (2) insert—
 

“(2A) The Treasury may by order amend sub-paragraph (1) by substituting for any amount for the time being specified there an amount specified in the order.”
- (3) In paragraph 46 (partnership shares: maximum amount of deductions from employee's salary) after sub-paragraph (5) insert—
 

“(6) The Treasury may by order amend sub-paragraph (1) by substituting for any amount for the time being specified there an amount specified in the order.”

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- (4) In paragraph 60 (matching shares: maximum ratio of matching shares to partnership shares) after sub-paragraph (3) insert—

“(4) The Treasury may by order amend sub-paragraph (2) by substituting for any ratio for the time being specified there a ratio specified in the order.”

## **51 Employee share schemes**

Schedule 8 makes provision in relation to employee share schemes.

## **52 Employment-related securities etc**

Schedule 9 contains provision relating to employment-related securities.

### *Investment reliefs*

## **53 Venture capital trusts**

Schedule 10 contains provision about venture capital trusts.

## **54 Removing time limit on seed enterprise investment scheme relief**

- (1) Section 257A of ITA 2007 (meaning of “SEIS relief” and commencement) is amended as follows.

- (2) For subsection (3) (which limits SEIS relief to shares issued on or after 6 April 2012 but before 6 April 2017) substitute—

“(3) This Part has effect in relation to shares issued on or after 6 April 2012 only.”

- (3) Omit subsection (4) (which allows the Treasury to extend SEIS relief by order).

## **55 Removing time limit on CGT relief in respect of re-investment under SEIS**

- (1) In Schedule 5BB to TCGA 1992 (seed enterprise investment scheme: re-investment), in paragraph 1 (SEIS re-investment relief)—

- (a) in sub-paragraph (2)(a), for “or the tax year 2013-14” substitute “ or any subsequent tax year ”, and
- (b) in sub-paragraph (5A), in the definition of “the relevant percentage”, in paragraph (b), for “the tax year 2013-14” substitute “ any subsequent tax year ”.

- (2) Accordingly, in section 150G of TCGA 1992 (which introduces Schedule 5BB), omit “in the tax years 2012-13 and 2013-14”.

## **56 Exclusion of incentivised electricity or heat generation activities**

- (1) ITA 2007 is amended as follows.

- (2) In section 192 (EIS: meaning of “excluded activities”)—

- (a) in subsection (1), omit the “and” at the end of paragraph (ka) and after that paragraph insert—

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- “(kb) the subsidised generation of heat or subsidised production of gas or fuel, and”, and
  - (b) in subsection (2), omit the “and” at the end of paragraph (f) and after paragraph (g) insert “, and
  - (h) section 198B (subsidised generation of heat and subsidised production of gas or fuel).”
- (3) In section 198A (excluded activities: subsidised generation or export of electricity)—
  - (a) for subsection (3) substitute—
    - “(3) The generation of electricity is “subsidised” if—
    - (a) a person receives a FIT subsidy in respect of the electricity generated,
      - (b) a renewables obligation certificate is issued in connection with the generation of the electricity, or
      - (c) a scheme established in a territory outside the United Kingdom, and corresponding to that set out in a renewables obligation order under section 32 of the Electricity Act 1989, operates to incentivise the generation of the electricity.”,
  - <sup>F15</sup>(b) .....
  - (c) in subsection (9), at the end insert—
    - ““renewables obligation certificate” means a certificate issued under section 32B of the Electricity Act 1989 or Article 54 of the Energy (Northern Ireland) Order 2003.”
- (4) After that section insert—

**“198B Excluded activities: subsidised generation of heat and subsidised production of gas or fuel**

- (1) This section supplements section 192(1)(kb).
- (2) The generation of heat, or production of gas or fuel, is “subsidised” if a payment is made, or another incentive is given, under—
  - (a) a scheme established by regulations under section 100 of the Energy Act 2008 or section 113 of the Energy Act 2011 (renewable heat incentives), or
  - (b) a similar scheme established in a territory outside the United Kingdom,
 in respect of the heat generated, or gas or fuel produced.
- (3) But the generation of heat, or production of gas or fuel, is not to be taken to fall within section 192(1)(kb) if Condition A or B is met.
- (4) Condition A is that the generation or production is carried on by—
  - (a) a community interest company,
  - (b) a co-operative society,
  - (c) a community benefit society,
  - (d) a NI industrial and provident society, or
  - (e) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society.

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- (5) Condition B is that the plant used for the generation of the heat, or production of the gas or fuel, relies wholly or mainly on anaerobic digestion.
- (6) Section 198A(9) (definitions) applies for the purposes of this section as for the purposes of section 198A.”
- (5) In section 303 (VCTs: meaning of “excluded activities”)—
  - (a) in subsection (1), omit the “and” at the end of paragraph (ka) and after that paragraph insert—
    - “(kb) the subsidised generation of heat or subsidised production of gas or fuel, and”, and
  - (b) in subsection (2), omit the “and” at the end of paragraph (f) and after paragraph (g) insert “, and
    - (h) section 309B (subsidised generation of heat and subsidised production of gas and fuel).”
- (6) In section 309A (excluded activities: subsidised generation or export of electricity)—
  - (a) for subsection (3) substitute—
    - “(3) The generation of electricity is “subsidised” if—
      - (a) a person receives a FIT subsidy in respect of the electricity generated,
      - (b) a renewables obligation certificate is issued in connection with the generation of the electricity, or
      - (c) a scheme established in a territory outside the United Kingdom, and corresponding to that set out in a renewables obligation order under section 32 of the Electricity Act 1989, operates to incentivise the generation of the electricity.”,
- <sup>F16</sup>(b) .....
- (c) in subsection (9), at the end insert—
  - ““renewables obligation certificate” means a certificate issued under section 32B of the Electricity Act 1989 or Article 54 of the Energy (Northern Ireland) Order 2003.”
- (7) After that section insert—

**“309B Excluded activities: subsidised generation of heat and subsidised production of gas or fuel**

- (1) This section supplements section 303(1)(kb).
- (2) The generation of heat, or production of gas or fuel, is “subsidised” if a payment is made, or another incentive is given, under—
  - (a) a scheme established by regulations under section 100 of the Energy Act 2008 or section 113 of the Energy Act 2011 (renewable heat incentives), or
  - (b) a similar scheme established in a territory outside the United Kingdom,
 in respect of the heat generated or gas or fuel produced.

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- (3) But the generation of heat, or production of gas or fuel, is not to be taken to fall within section 303(1)(kb) if Condition A or B is met.
- (4) Condition A is that the generation or production is carried on by—
  - (a) a community interest company,
  - (b) a co-operative society,
  - (c) a community benefit society,
  - (d) a NI industrial and provident society, or
  - (e) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society.
- (5) Condition B is that the plant used for the generation of the heat, or production of the gas or fuel, relies wholly or mainly on anaerobic digestion.
- (6) Section 309A(9) (definitions) applies for the purposes of this section as for the purposes of section 309A.”
- (8) The amendments made by subsections (2) to (4) have effect in relation to shares issued on or after the day on which this Act is passed.
- (9) The amendments made by subsections (5) to (7) have effect in relation to a relevant holding issued on or after the day on which this Act is passed.

#### Textual Amendments

- F15** S. 56(3)(b) omitted (with application in accordance with Sch. 6 para. 14 of the amending Act) by virtue of Finance Act 2015 (c. 11), Sch. 6 para. 12(a)
- F16** S. 56(6)(b) omitted (with application in accordance with Sch. 6 para. 14 of the amending Act) by virtue of Finance Act 2015 (c. 11), Sch. 6 para. 12(a)

### *Social investment relief*

#### 57 Relief for investments in social enterprises

- (1) Schedule 11 makes provision for and in connection with social investment tax relief.
- (2) Schedule 12 makes provision for relief under TCGA 1992 in connection with investments in social enterprises.

### *Capital gains*

#### 58 Relief on disposal of private residence

- (1) TCGA 1992 is amended as follows.
- (2) In section 223 (relief on disposal of private residence: amount of relief)—
  - (a) in subsections (1) and (2)(a), for “36 months” substitute “ 18 months ”;
  - (b) omit subsections (5) and (6);
  - (c) in subsection (8), omit the “and” after paragraph (aa) and after that paragraph insert—



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“(ab) section 225E (disposals by disabled persons or persons in care homes etc), and”.

(3) After section 225D insert—

**“225E Disposals by disabled persons or persons in care homes etc**

- (1) This section applies where a gain to which section 222 applies accrues to an individual and—
  - (a) the conditions in subsection (2) are met, or
  - (b) the conditions in subsection (3) are met.
- (2) The conditions mentioned in subsection (1)(a) are that at the time of the disposal—
  - (a) the individual is a disabled person or a long-term resident in a care home, and
  - (b) the individual does not have any other relevant right in relation to a private residence.
- (3) The conditions mentioned in subsection (1)(b) are that at the time of the disposal—
  - (a) the individual's spouse or civil partner is a disabled person or a long-term resident in a care home, and
  - (b) neither the individual nor the individual's spouse or civil partner has any other relevant right in relation to a private residence.
- (4) Where this section applies, the references in section 223(1) and (2)(a) to 18 months are treated as references to 36 months.
- (5) An individual is a “long-term resident” in a care home at the time of the disposal if at that time the individual —
  - (a) is resident there, and
  - (b) has been resident there, or can reasonably be expected to be resident there, for at least three months.
- (6) An individual has “any other relevant right in relation to a private residence” at the time of the disposal if—
  - (a) at that time—
    - (i) the individual owns or holds an interest in a dwelling-house or part of a dwelling-house other than that in relation to which the gain accrued, or
    - (ii) the trustees of a settlement own or hold an interest in a dwelling-house or part of a dwelling-house other than that in relation to which the gain accrued, and the individual is entitled to occupy that dwelling-house or part under the terms of the settlement, and
  - (b) section 222 would have applied to any gain accruing to the individual or trustees on the disposal at that time of, or of that interest in, that dwelling house or part (or would have applied if a notice under subsection (5) of that section had been given).

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(7) In the application of this section in relation to a gain to which section 222 applies by virtue of section 225 (private residence occupied under terms of settlement)—

- (a) the reference in subsection (1) of this section to an individual is to the trustees of the settlement;
- (b) the references in subsections (2) to (6) of this section to the individual are to the person entitled under the terms of the settlement, as mentioned in section 225.

(8) In this section—

“care home” means an establishment that provides accommodation together with nursing or personal care;

“disabled person” has the meaning given by Schedule 1A to FA 2005.”

(4) The amendments made by this section have effect in relation to disposals made on or after 6 April 2014.

## 59 Remittance basis and split year treatment

(1) Section 12 of TCGA 1992 (non-UK domiciled individuals to whom remittance basis applies) is amended as follows.

(2) After subsection (1) insert—

“(1A) But it does not apply to foreign chargeable gains accruing to an individual in the overseas part of a split year as respects that individual, regardless of the part of the year (the overseas part or the UK part) in which the foreign chargeable gains are remitted.”

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

## 60 Termination of life interest and death of life tenant: disabled persons

(1) TCGA 1992 is amended as follows.

(2) In section 72 (termination of life interest on death of person entitled)—

- (a) in subsection (1B)(a)(iii), for “within section 89B(1)(c) or (d)” substitute “, within the meaning given by section 89B ”, and
- (b) at the end insert—

“(6) An interest which is a disabled person's interest by virtue of section 89B(1)(a) or (b) of the Inheritance Tax Act 1984 is to be treated as an interest in possession for the purposes of this section.”

(3) In section 73(3) (death of life tenant: exclusion of chargeable gain), for “to (5)” substitute “to (6) ”.

(4) The amendments made by this section have effect in relation to deaths occurring on or after 5 December 2013.

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## **61 Capital gains roll-over relief: relevant classes of assets**

- (1) Section 155 of TCGA 1992 (relevant classes of assets) is amended as follows.
- (2) After the heading “CLASS 7A” insert—

“Assets within heads A and B below.

Head A”
- (3) Before the heading “CLASS 8” insert—

“Head B

Payment entitlements under the basic payment scheme (that is, the scheme of income support for farmers in pursuance of [Regulation \(EU\) No 1307/2013](#) of the European Parliament and of the Council).”
- (4) The amendments made by this section have effect where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) is on or after 20 December 2013.

## **62 Capital gains roll-over relief: intangible fixed assets**

- (1) In section 156ZB of TCGA 1992 (intangible fixed assets: interaction with relief under Chapter 7 of Part 8 of CTA 2009), in subsection (1), for “This section” substitute “Subsection (2) ”.
- (2) In Chapter 14 of Part 8 of CTA 2009 (intangible fixed assets: miscellaneous provisions), after section 870 insert—

*“Roll-over relief under TCGA 1992*

### **870A Claims for relief made under sections 152 and 153 of TCGA 1992**

- (1) Subsection (2) applies where—
    - (a) a company has made a claim for relief under section 152 or 153 of TCGA 1992 (roll-over relief) during the period beginning with 1 April 2009 and ending with 19 March 2014, and
    - (b) the relief claimed relates to disposal proceeds that are applied in acquiring an intangible fixed asset within the meaning of this Part.
  - (2) The company is treated for the purposes of this Part as if the cost of the asset recognised for tax purposes were reduced on 19 March 2014 by the amount in respect of which the relief under section 152 or 153 of TCGA 1992 is given.
  - (3) But the effect of subsection (2) must not be to reduce the tax written-down value of the asset to below nil.
  - (4) The references to adjustments in sections 742(3) and 743(3) (assets written down) include any adjustment required by subsection (2).”
- (3) The amendment made by subsection (1) has effect in relation to claims for relief under section 152 or 153 of TCGA 1992 made on or after 19 March 2014.

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- (4) The amendment made by subsection (2) has effect in relation to accounting periods beginning on or after 19 March 2014.
- (5) For the purposes of subsection (4), an accounting period beginning before, and ending on or after, 19 March 2014 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.

### 63 Avoidance involving losses

- (1) In section 184G of TCGA 1992 (avoidance involving losses: schemes converting income to capital)—
  - (a) for subsections (2) and (3) substitute—
    - “(2) Condition A is that a receipt or other amount arises to a company directly or indirectly in consequence of, or otherwise in connection with, any arrangements.
    - (3) Condition B is that—
      - (a) that amount falls to be taken into account in calculating a chargeable gain (the “relevant gain”) which accrues to a company (“the relevant company”), and
      - (b) losses accrue (or have accrued) to the relevant company (whether before or after or as part of the arrangements).”, and
  - (b) in subsection (4), for “the receipt” substitute “ the amount mentioned in subsection (2) ”.
- (2) In section 184H of that Act (avoidance involving losses: schemes securing deductions) —
  - (a) in subsection (2)(b), omit “on any disposal of any asset”,
  - (b) for subsection (3) substitute—
    - “(3) Condition B is that the relevant company, or a company connected with the relevant company, becomes entitled to an income deduction directly or indirectly in consequence of, or otherwise in connection with, the arrangements.”,
  - (c) in subsection (4), for paragraph (a) substitute—
    - “(a) that income deduction, and”, and
  - (d) in subsection (10), after the definition of “arrangements” insert—
    - ““income deduction” means—
      - (a) a deduction in calculating income for corporation tax purposes, or
      - (b) a deduction from total profits,”.
- (3) The amendments made by this section have effect—
  - (a) in relation to arrangements entered into on or after 30 January 2014, and
  - (b) in relation to arrangements entered into before that date but only to the extent that any chargeable gain accrues on a disposal which occurs on or after that date.

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## *Capital allowances*

### **64 Extension of capital allowances**

- (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.
- (2) In section 45D (expenditure on cars with low carbon dioxide emissions), after subsection (1) insert—

“(1A) The Treasury may by order amend subsection (1)(a) so as to extend the period specified.”
- (3) In section 45DA (expenditure on zero-emission goods vehicles), after subsection (1) insert—

“(1A) The Treasury may by order amend subsection (1)(a) so as to extend the period specified.”
- (4) In section 45E (expenditure on plant or machinery for gas refuelling station), after subsection (1) insert—

“(1A) The Treasury may by order amend subsection (1)(a) so as to extend the period specified.”
- (5) In section 45K (expenditure on plant and machinery for used in designated assisted areas)—
  - (a) in subsection (1), in paragraph (b) for “5 years” substitute “ 8 years ”, and
  - (b) after that subsection insert—

“(1A) The Treasury may by order amend subsection (1)(b) so as to extend the period specified.”

### **65 General Block Exemption Regulation**

Schedule 13 makes provision in relation to [Commission Regulation \(EU\) No 651/2014](#) (General block exemption Regulation).

### **66 Business premises renovation allowances**

- (1) Section 360B of CAA 2001 (business premises renovation allowances: meaning of “qualifying expenditure”) is amended in accordance with subsections (2) to (6).
- (2) For subsection (1) substitute—

“(1) In this Part “qualifying expenditure” means capital expenditure incurred before the expiry date—
  - (a) in respect of which Conditions A and B are met, and
  - (b) which is not excluded by subsection (3), (3B) or (3D).”
- (3) After subsection (2) insert—

“(2A) Condition A is that the expenditure is incurred on—
  - (a) the conversion of a qualifying building into qualifying business premises,

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- (b) the renovation of a qualifying building if it is or will be qualifying business premises, or
- (c) repairs to a qualifying building or, where the building is part of a building, to the building of which the qualifying building forms part, to the extent that the repairs are incidental to expenditure within paragraph (a) or (b).

(2B) Condition B is that the expenditure is incurred on—

- (a) building works,
- (b) architectural or design services,
- (c) surveying or engineering services,
- (d) planning applications, or
- (e) statutory fees or statutory permissions.

(2C) But Condition B is treated as met in respect of expenditure incurred on matters not mentioned in that Condition to the extent that that expenditure (in total) does not exceed 5% of the qualifying expenditure incurred on the matters mentioned in subsection (2B)(a) to (c).”

(4) In subsection (3)—

- (a) for “not qualifying expenditure” substitute “ excluded ”, and
- (b) in paragraph (d), for “as defined by section 173(1)” substitute “ (as defined by section 173(1)) and falls within subsection (3A) ”.

(5) After that subsection insert—

“(3A) The fixtures which fall within this subsection are—

- (a) integral features within the meaning of section 33A (taking account of section 33A(6) and any provision for the time being made under section 33A(7)) or part of such a feature;
- (b) automatic control systems for opening and closing doors, windows and vents;
- (c) window cleaning installations;
- (d) fitted cupboards and blinds;
- (e) protective installations such as lightning protection, sprinkler and other equipment for containing or fighting fires, fire alarm systems and fire escapes;
- (f) building management systems;
- (g) cabling in connection with telephone, audio-visual data installations and computer networking facilities, which are incidental to the occupation of the building;
- (h) sanitary appliances, and bathroom fittings which are hand driers, counters, partitions, mirrors or shower facilities;
- (i) kitchen and catering facilities for producing and storing food and drink for the occupants of the building;
- (j) signs;
- (k) public address systems;
- (l) intruder alarm systems.

(3B) Expenditure is excluded if, and to the extent that, it exceeds the market value amount for the works, services or other matters to which it relates.

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- (3C) “The market value amount” means the amount of expenditure which it would have been normal and reasonable to incur on the works, services or other matters—
- (a) in the market conditions prevailing when the expenditure was incurred, and
  - (b) assuming the transaction as a result of which the expenditure was incurred was between persons dealing with each other at arm's length in the open market.
- (3D) Expenditure is excluded if the qualifying building was used at any time during the period of 12 months ending with the day on which the expenditure is incurred.”
- (6) In subsection (5), after “regulations” insert “—
- (a) amend this section so as to add a description of fixture to the list in subsection (3A), or vary or remove a description of fixture in that list;
  - (b)”
- (7) After that section insert—

**“360BA Expenditure not treated as qualifying expenditure if delay in carrying out works etc**

- (1) This section applies where—
- (a) (ignoring this section) qualifying expenditure is incurred on works, services or other matters in a chargeable period, and
  - (b) those works, services or other matters are not completed or provided before the end of the period of 36 months beginning with the date the expenditure was incurred.
- (2) To the extent that it relates to so much of those works, services or other matters as are not completed or provided before the end of that period, the expenditure is to be treated for the purposes of this Part as never having been incurred (unless and until subsection (6) applies).
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (2).
- (4) 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 this section, the person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.
- (5) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.
- (6) If, at any time after the end of the period mentioned in subsection (1)(b), those works, services or other matters are completed or provided, the expenditure to which subsection (2) applies is to be treated for the purposes of this Part as incurred at that time.”
- (8) For section 360L of that Act (grants affecting entitlement to allowances) substitute—

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### **“360L Grants affecting entitlement to allowances**

- (1) No initial allowance or writing-down allowance under this Part is to be made in respect of qualifying expenditure in respect of a qualifying building if a relevant grant or relevant payment is made towards—
  - (a) that expenditure, or
  - (b) any other expenditure which is incurred by any person in respect of the same building, and on the same single investment project as that expenditure.
- (2) An initial allowance or writing-down allowance made in respect of qualifying expenditure is to be withdrawn if—
  - (a) after it is made, a relevant grant or relevant payment is made towards that expenditure, or
  - (b) within the period of 3 years beginning when that expenditure was incurred, a relevant grant or relevant payment is made towards any other expenditure which is incurred by any person in respect of the same building, and on the same single investment project, as that expenditure.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (2).
- (4) If a person who has made a return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, that person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.
- (5) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.
- (6) In this section—

“General Block Exemption Regulation” means [Commission Regulation \(EU\) No 651/2014](#) (General block exemption Regulation);

“relevant grant or relevant payment” means a grant or payment which is—

  - (a) a State aid, other than an allowance under this Part, or
  - (b) a grant or subsidy, other than a State aid, which the Treasury by order declares to be relevant for the purposes of the withholding of allowances under this Part;

“single investment project” has the same meaning as in the General Block Exemption Regulation.
- (7) Nothing in this section limits references to “State aid” to State aid which is required to be notified to and approved by the European Commission.
- (8) The Treasury may by order amend this section to make provision consequential upon the General Block Exemption Regulation being replaced by another instrument.”



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- (9) In section 360M of that Act (when balancing adjustments are made), in subsection (4) for “7” substitute “ 5 ”.
- (10) Subject to subsection (11), the amendments made by this section have effect for expenditure incurred on or after the specified day.
- (11) Section 360L of CAA 2001 (inserted by subsection (8)) has effect—
  - (a) in relation to a relevant grant or relevant payment made at any time (whether before or on or after the specified day) towards expenditure incurred on or after that day, and
  - (b) in relation to a relevant grant or relevant payment made on or after the specified day towards expenditure incurred before that day.
- (12) “The specified day” means—
  - (a) for income tax purposes, 6 April 2014, and
  - (b) for corporation tax purposes, 1 April 2014.
- (13) In the application of section 360L of CAA 2001 in relation to expenditure incurred before the day on which this Act is passed, the definition of “General Block Exemption Regulation” in subsection (6) of that section is to be treated as referring to Commission Regulation [\(EC\) No 800/2008](#).

## **67 Mineral extraction allowances: activities not within charge to tax**

- (1) CAA 2001 is amended as follows.
- (2) In section 394(2) (meaning of mineral extraction trade), after “deposits” insert “ but to the extent only that the profits or gains from that trade are, or (if there were any) would be, chargeable to tax ”.
- (3) In section 399 (expenditure excluded from being qualifying expenditure), after subsection (1) insert—

“(1A) Expenditure incurred by a person for the purposes of a mineral extraction trade is not qualifying expenditure if—

  - (a) when the expenditure is incurred, the person is carrying on the trade but the trade is not at that time a mineral extraction trade, or
  - (b) the person has not begun to carry on the trade when the expenditure is incurred and, when the person begins to carry on the trade, the trade is not a mineral extraction trade.

(1B) Section 577(2) (references to commencement etc of a trade) does not apply to subsection (1A).”
- (4) In section 160 (expenditure treated as incurred for purposes of mineral extraction trade)—
  - (a) the existing text becomes subsection (1), and
  - (b) after that subsection insert—

“(2) Subsection (1) does not apply to expenditure if—

    - (a) when it is incurred, the person is carrying on the trade but the trade is not at that time a mineral extraction trade, or

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- (b) when it is incurred, the person has not begun to carry on the trade and, when the person begins to carry on the trade, the trade is not a mineral extraction trade.
- (3) Section 577(2) (references to commencement etc of a trade) does not apply to subsection (2)."
- (5) For section 161(4)(a) (pre-trading expenditure on plant or machinery for mineral exploration and access), substitute—
  - “(a) pre-trading expenditure” means capital expenditure incurred before the day on which a person begins to carry on a trade that is a mineral extraction trade, but only if there is no prior time when the person carried on that trade and the trade was not a mineral extraction trade,”.
- (6) After section 161(4) insert—
  - “(4A) Section 577(2) (references to commencement etc of a trade) does not apply to subsection (4)(a).”
- (7) After section 431 (discontinuance of trade) insert—

**“431A Foreign permanent establishment exemption**

- (1) Subsection (2) applies if—
  - (a) an election under section 18A of CTA 2009 has effect in relation to a company, and
  - (b) the company carries on any trade which consists of, or includes, the working of a source of mineral deposits.
- (2) That trade so far as carried on through one or more permanent establishments outside the United Kingdom is treated for the purposes of this Part as a trade—
  - (a) separate from any other trade of the company, and
  - (b) all the profits and gains from which are not, or (if there were any) would not be, chargeable to tax.

**431B Disposal value: no allowance/no charge cases**

- (1) If—
  - (a) an election under section 18A of CTA 2009 has effect in relation to a company, and
  - (b) the operation of sections 431A and 421(1)(b)(ii) and (2) requires the company to bring the disposal value of an asset into account,
 the disposal value is such an amount as gives rise to neither a balancing allowance nor a balancing charge.
- (2) Subsection (1) does not apply if—
  - (a) the company's qualifying expenditure in respect of the asset exceeds £5 million,
  - (b) the company has claimed any capital allowance in respect of any of that expenditure, and
  - (c) the company has, at any time in a relevant accounting period, used the asset otherwise than for the purposes of a permanent establishment outside the United Kingdom.

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- (3) In subsection (2)(c) “relevant accounting period” means an accounting period ending before, but ending not more than 6 years before, “the relevant day” as defined by section 18F of CTA 2009.

### **431C Notional allowances**

- (1) Subsection (2) applies if—
- (a) an election under section 18A of CTA 2009 has effect in relation to a company, and
  - (b) but for section 18A of CTA 2009 and section 431A(2)(b), an allowance under this Part (“the notional allowance”) could be claimed under section 3(1) in respect of assets provided for the purposes of a permanent establishment outside the United Kingdom through which business is or has been carried on by the company.
- (2) The notional allowance (and any charge in connection with it which would have arisen if the allowance had been claimed) is to be made automatically and reflected in any calculation, for any relevant accounting period of the company, of the profits or losses attributable to business carried on by the company through such a permanent establishment.
- (3) Subsection (4) applies if, at the time an election under section 18A of CTA 2009 takes effect in relation to a company, the company is, by reason of sections 431A and 421(1)(b)(ii) and (2), required to bring into account the disposal value of any asset provided for the purposes of a foreign permanent establishment through which business is or has been carried on by the company.
- (4) For the purposes of subsections (1) and (2), the company is treated as having incurred at that time, for the purposes of the trade mentioned in section 431A(2), qualifying expenditure of an amount equal to that disposal value.
- (5) In subsection (2) “relevant accounting period”, in relation to a company by which an election under section 18A of CTA 2009 is made, means an accounting period of the company to which the election applies (as to which see section 18F of that Act).”
- (8) The amendments made by subsections (1) to (6) of this section have effect—
- (a) for the purposes of corporation tax, in relation to claims made on or after 1 April 2014, and
  - (b) for the purposes of income tax, in relation to claims made on or after 6 April 2014,
- and in relation to those claims the amendments are treated as always having had effect.
- (9) The amendment made by subsection (7) has effect in relation to elections under section 18A of CTA 2009 which start to have effect on or after 1 April 2014.

## **68 Mineral extraction allowances: expenditure on planning permission**

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

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- (2) In section 396 (meaning of “mineral exploration and access”), in subsection (2) for “if planning permission is not granted” substitute “ and not as expenditure on acquiring a mineral asset ”.
- (3) In section 398 (relationship between main types of qualifying expenditure), after “Subject to” insert “ section 396(2) and ”.
- (4) The amendments made by this section have effect in relation to expenditure incurred on or after the day on which this Act is passed.

### *Oil and gas*

## **F17 69 Extended ring fence expenditure supplement for onshore activities**

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### **Textual Amendments**

**F17** S. 69 repealed (with effect in accordance with Sch. 11 para. 14 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 11 para. 13\(2\)](#)

## **70 Supplementary charge: onshore allowance**

Schedule 15 contains provision about the reduction of adjusted ring fence profits by means of an onshore allowance.

## **71 Oil and gas: reinvestment after pre-trading disposal**

- (1) In Chapter 2 of Part 6 of TCGA 1992 (oil and mineral industries), after section 198I insert—

### **“198J Oil and gas: reinvestment after pre-trading disposal**

- (1) This section applies if a company which is an E&A company makes a disposal of, or of the company's interest in, relevant E&A assets and that disposal is—
  - (a) a disposal of, or of an interest in, a UK licence which relates to an undeveloped area, or
  - (b) a disposal of an asset used in an area covered by a licence under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act (Northern Ireland) 1964 which authorises the company to undertake E&A activities.
- (2) If—
  - (a) the consideration which the company obtains for the disposal is applied by the company, within the permitted reinvestment period—
    - (i) on E&A expenditure at a time when the company is an E&A company, or
    - (ii) on oil assets taken into use, and used only, for the purposes of a ring fence trade carried on by it, and

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- (b) the company makes a claim under this subsection in relation to the disposal,

any gain accruing to the company on the disposal is not a chargeable gain.
- (3) If part only of the amount or value of the consideration for the disposal is applied as described in subsection (2)(a)—
  - (a) subsection (2) does not apply, but
  - (b) subsection (4) applies if all of the amount or value of the consideration is so applied except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal.
- (4) If the company makes a claim under this subsection in relation to the disposal, the company is to be treated for the purposes of this Act as if the amount of the gain accruing on the disposal were reduced to the amount of the part mentioned in subsection (3)(b) (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain).
- (5) The incurring of expenditure is within “the permitted reinvestment period” if the expenditure is incurred in the period beginning 12 months before and ending 3 years after the disposal, or at such earlier or later time as the Commissioners for Her Majesty’s Revenue and Customs may by notice allow.
- (6) Subsections (6), (7), (10) and (11) of section 152 apply for the purposes of this section as they apply for the purposes of section 152, except that—
  - (a) in subsection (6) the reference to a trade is to be read as a reference to E&A activities or a ring fence trade,
  - (b) in subsection (7), the reference to the old assets is to be read as a reference to the assets disposed of as mentioned in subsection (1) of this section, and
  - (c) in subsection (7), the references to the trade are to be read as references to the E&A activities.
- (7) In this section—
  - “E&A activities” means oil and gas exploration and appraisal in the United Kingdom or an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964;
  - “E&A company” means a company which carries on E&A activities and does not carry on a ring fence trade;
  - “E&A expenditure” means expenditure on E&A activities which is treated as such under generally accepted accounting practice;
  - “oil asset” has the same meaning as in section 198E, and section 198I applies for the purposes of this section as it applies for the purposes of section 198E;
  - “relevant E&A assets” means assets which—
    - (a) are used, and used only, for the purposes of E&A activities carried on by the company throughout the period of ownership, and
    - (b) are within the classes of assets listed in section 155 (with references to “the trade” in that section being read as references to the E&A activities);
  - “ring fence trade” has the meaning given by section 277 of CTA 2010;

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“UK licence” means a licence within the meaning of Part 1 of the Oil Taxation Act 1975;

and a reference to a UK licence which relates to an undeveloped area has the same meaning as in section 194 (see section 196).

### **198K Provisional application of section 198J**

- (1) This section applies where a company for a consideration disposes of, or of an interest in, any assets at a time when it is an E&A company and declares, in the company's return for the chargeable period in which the disposal takes place—
  - (a) that the whole or any specified part of the consideration will be applied, within the permitted reinvestment period—
    - (i) on E&A expenditure at a time when the company is an E&A company, or
    - (ii) on expenditure on oil assets which are taken into use, and used only, for the purposes of the company's ring fence trade, and
  - (b) that the company intends to make a claim under section 198J(2) or (4) in relation to the disposal.
- (2) Until the declaration ceases to have effect, section 198J applies as if the expenditure had been incurred and the person had made such a claim.
- (3) The declaration ceases to have effect as follows—
  - (a) if and to the extent that it is withdrawn before the relevant day, or is superseded before that day by a valid claim under section 198J, on the day on which it is so withdrawn or superseded, and
  - (b) if and to the extent that it is not so withdrawn or superseded, on the relevant day.
- (4) On the declaration ceasing to have effect in whole or in part, all necessary adjustments—
  - (a) are to be made by making or amending assessments or by repayment or discharge of tax, and
  - (b) are to be so made despite any limitation on the time within which assessments or amendments may be made.
- (5) In this section “the relevant day” means the fourth anniversary of the last day of the accounting period in which the disposal took place.
- (6) For the purposes of this section—
  - (a) sections (6), (10) and (11) of section 152 apply as they apply for the purposes of that section, except that in subsection (6) the reference to a trade is to be read as a reference to E&A activities or a ring fence trade, and
  - (b) terms used in this section which are defined in section 198J have the meaning given by that section.

### **198L Expenditure by member of same group**

- (1) Section 198J applies where—

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- (a) the disposal is by a company which, at the time of the disposal, is a member of a group of companies (within the meaning of section 170),
- (b) the E&A expenditure or expenditure on oil assets is by another company which, at the time the expenditure is incurred, is a member of the same group, and
- (c) the claim under section 198J is made by both companies, as if both companies were the same person.

(2) “E&A company”, “E&A expenditure” and “oil assets” have the meaning given by section 198J.”

(2) The amendment made by this section has effect in relation to disposals made on or after 1 April 2014.

## **72 Substantial shareholder exemption: oil and gas**

(1) In Schedule 7AC to TCGA 1992 (exemption for disposals by companies with substantial shareholding), in paragraph 15A (effect of transfer of trading assets within a group), after sub-paragraph (2) insert—

“(2A) For the purposes of sub-paragraph (2)(b) and (d), “trade” includes oil and gas exploration and appraisal.”

(2) The amendment made by this section has effect in relation to disposals made on or after 1 April 2014.

## **73 Oil contractor activities: ring-fence trade etc**

Schedule 16 contains provision about the corporation tax treatment of oil contractor activities.

### *Partnerships*

## **74 Partnerships**

Schedule 17 makes provision in relation to partnerships.

### *Transfer pricing*

## **75 Transfer pricing: restriction on claims for compensation adjustments**

(1) Chapter 4 of Part 4 of TIOPA 2010 (transfer pricing: position of disadvantaged person) is amended as follows.

(2) In section 174 (claim by the affected person who is potentially advantaged), in subsection (3), before the entry for section 175 insert— “ section 174A (claim not allowed in some cases where the disadvantaged person is within the charge to income tax), ”.

(3) After that section insert—

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**“174A Claims under section 174 where disadvantaged person within charge to income tax**

A claim under section 174 may not be made if—

- (a) the disadvantaged person is a person (other than a company) within the charge to income tax in respect of profits arising from the relevant activities, and
- (b) the advantaged person is a company.”

(4) After section 187 insert—

*“Treatment of interest where claim prevented by section 174A*

**187A Excess interest treated as a qualifying distribution**

- (1) Subsection (2) applies if Conditions A to C in section 187 are met in circumstances where section 174A prevents a claim under section 174.
- (2) The interest paid under the actual provision, so far as it exceeds ALINT, is treated for the purposes of the Income Tax Acts as a dividend paid by the company which paid the interest (and, accordingly, as a qualifying distribution).”
- (5) The amendments made by this section have effect in relation to any amount arising on or after 25 October 2013, except pre-commencement interest.
- (6) “Pre-commencement interest” means an amount of interest to the extent that it is, in accordance with generally accepted accounting practice, referable to a period before 25 October 2013.

## PART 2

### EXCISE DUTIES AND OTHER TAXES

#### *Alcohol*

## 76 Rates of alcoholic liquor duties

- (1) ALDA 1979 is amended as follows.
- (2) In section 36(1AA) (rates of general beer duty)—
  - (a) in paragraph (za) (rate of duty on lower strength beer), for “£9.17” substitute “£8.62”, and
  - (b) in paragraph (a), (standard rate of duty on beer), for “£19.12” substitute “£18.74”.
- (3) In section 37(4) (rate of high strength beer duty), for “£5.09” substitute “£5.29”.
- (4) In section 62(1A) (rates of duty on cider), in paragraph (a) (rate of duty per hectolitre on sparkling cider of a strength exceeding 5.5%), for “£258.23” substitute “£264.61”.



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(5) For Part 1 of the table in Schedule 1 substitute—

## “PART 1

### WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22%

<i>Description of wine or made-wine</i>	<i>Rates of duty per hectolitre £</i>
Wine or made-wine of a strength not exceeding 4%	84.21
Wine or made-wine of a strength exceeding 4% but not exceeding 5.5%	115.80
Wine or made-wine of a strength exceeding 5.5% but not exceeding 15% and not being sparkling	273.31
Sparkling wine or sparkling made-wine of a strength exceeding 5.5% but less than 8.5%	264.61
Sparkling wine or sparkling made-wine of a strength of at least 8.5% but not exceeding 15%	350.07
Wine or made-wine of a strength exceeding 15% but not exceeding 22%	364.37”.

(6) The amendments made by this section are treated as having come into force on 24 March 2014.

## *Tobacco*

### 77 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% of the retail price plus £184.10 per thousand cigarettes
2. Cigars	£229.65 per kilogram
3. Hand-rolling tobacco	£180.46 per kilogram
4. Other smoking tobacco and chewing tobacco	£100.96 per kilogram”.

(2) The amendment made by this section is treated as having come into force at 6 pm on 19 March 2014.

## *Air passenger duty*

### 78 Air passenger duty: rates of duty from 1 April 2014

(1) Section 30 of FA 1994 (air passenger duty: rates of duty) is amended as follows.

(2) In subsection (3)—

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- (a) in paragraph (a), for “£67” substitute “ £69 ”, and
  - (b) in paragraph (b), for “£134” substitute “ £138 ”.
- (3) In subsection (4)—
  - (a) in paragraph (a), for “£83” substitute “ £85 ”, and
  - (b) in paragraph (b), for “£166” substitute “ £170 ”.
- (4) In subsection (4A)—
  - (a) in paragraph (a), for “£94” substitute “ £97 ”, and
  - (b) in paragraph (b), for “£188” substitute “ £194 ”.
- (5) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2014.

## 79 Air passenger duty: rates of duty from 1 April 2015

- (1) Chapter 4 of Part 1 of FA 1994 (air passenger duty) is amended in accordance with subsections (2) to (10).
- (2) Section 30 (rates of duty), as amended by section 78 of this Act, is amended as follows.
- (3) Omit subsections (3) and (4).
- (4) In subsection (4A)—
  - (a) in paragraph (a) for “£97” substitute “ £71 ”, and
  - (b) in paragraph (b) for “£194” substitute “ £142 ”.
- (5) In subsection (4E)—
  - (a) in paragraph (a) for “twice the rate in subsection (2)(b)” substitute “ six times the rate in subsection (2)(a) ”,
  - (b) after paragraph (a) insert “ and ”,
  - (c) omit paragraph (b),
  - (d) omit paragraph (c) and the “and” after it, and
  - (e) in paragraph (d) for “twice the rate in subsection (4A)(b)” substitute “ six times the rate in subsection (4A)(a) ”.
- (6) Section 30A (Northern Ireland long haul rates of duty) is amended as follows.
- (7) Omit subsections (2) to (4).
- (8) In subsection (5) for “If the passenger's journey ends at any other place” substitute “ Air passenger duty is chargeable on the carriage of the chargeable passenger at the rate determined as follows ”.
- (9) In subsection (5A)—
  - (a) omit paragraph (a),
  - (b) omit paragraph (b) and the “and” after it, and
  - (c) in paragraph (c)—
    - (i) omit the words from the beginning to “(5)(a) or (b),”,
    - (ii) after “instead” insert “ of the rate set for the purposes of subsection (5) (a) or (b) ”, and

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- (iii) in sub-paragraph (ii) for “twice the rate set for the purposes of subsection (5)(b)” substitute “ six times the rate set for the purposes of subsection (5)(a) ”.
- (10) In Schedule 5A (territories) omit Parts 2 and 3.
- (11) Accordingly, in section 1 of the Air Passenger Duty (Setting of Rate) Act (Northern Ireland) 2012 (setting of rate of air passenger duty)—
- (a) in subsection (1)—
- (i) omit “(3)(a) and (b), (4)(a) and (b),” and
- (ii) for “(5A)(a), (b) and (c)” substitute “ (5A)(c) ”, and
- (b) omit subsections (2) to (5), (8) and (9).
- (12) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2015.

## 80 Air passenger duty: adjustments to Part 3 of Schedule 5A to FA 1994

- (1) In Part 3 of Schedule 5A to FA 1994 (air passenger duty: territories)—
- (a) omit “Ascension Island”, “Netherlands Antilles” and “Saint Helena”, and
- (b) at the appropriate places insert— “ Bonaire ”, “ Curaçao ”, “ Saba ”, “ Saint Helena, Ascension and Tristan da Cunha ”, “ Sint Eustatius ”, and “ Sint Maarten ”.
- (2) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after the day on which this Act is passed.

## Vehicle excise duty

## 81 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 “£225” substitute “ £230 ”, and
- (b) in sub-paragraph (2A) (vehicle not covered elsewhere in Schedule with engine cylinder capacity not exceeding 1,549cc), for “£140” substitute “ £145 ”.
- (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

<i>CO<sub>2</sub> emissions figure</i>		<i>Rate</i>	
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>Exceeding</i>	<i>Not exceeding</i>	<i>Reduced rate</i>	<i>Standard rate</i>

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<i><b>g/km</b></i>	<i><b>g/km</b></i>	<i><b>£</b></i>	<i><b>£</b></i>
130	140	120	130
140	150	135	145
150	165	170	180
165	175	280	290
175	185	335	345
185	200	475	485
200	225	625	635
225	255	850	860
255		1080	1090

TABLE 2

RATES PAYABLE ON ANY OTHER VEHICLE LICENCE FOR VEHICLE

<i><b>CO<sub>2</sub> emissions figure</b></i>		<i><b>Rate</b></i>	
<i><b>(1)</b></i>	<i><b>(2)</b></i>	<i><b>(3)</b></i>	<i><b>(4)</b></i>
<i><b>Exceeding</b></i>	<i><b>Not exceeding</b></i>	<i><b>Reduced rate</b></i>	<i><b>Standard rate</b></i>
<i><b>g/km</b></i>	<i><b>g/km</b></i>	<i><b>£</b></i>	<i><b>£</b></i>
100	110	10	20
110	120	20	30
120	130	100	110
130	140	120	130
140	150	135	145
150	165	170	180
165	175	195	205
175	185	215	225
185	200	255	265
200	225	275	285
225	255	475	485
255		490	500”;

(b) in the sentence immediately following the tables, for paragraphs (a) and (b) substitute—

- “(a) in column (3), in the last two rows, “275” were substituted for “475” and “ 490 ”, and
- (b) in column (4), in the last two rows, “285” were substituted for “485” and “ 500 ”.”

(4) In paragraph 1J (VED rates for light goods vehicles), in paragraph (a), for “£220” substitute “ £225 ”.

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- (5) In paragraph 2(1) (VED rates for motorcycles)—
  - (a) in paragraph (b), for “£37” substitute “ £38 ”,
  - (b) in paragraph (c), for “£57” substitute “ £58 ”, and
  - (c) in paragraph (d), for “£78” substitute “ £80 ”.
- (6) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2014.

## 82 VED rates: rigid goods vehicle with trailers

- (1) For paragraph 10 of Schedule 1 to VERA 1994 (supplement to annual rate of duty for rigid goods vehicle with trailer), substitute—

- “10 (1) This paragraph applies to relevant rigid goods vehicles.
- (2) A “relevant rigid goods vehicle” is a rigid goods vehicle which—
- (a) has a revenue weight exceeding 11,999 kgs,
  - (b) is not a vehicle falling within paragraph 9(2), and
  - (c) is used for drawing a trailer which has a plated gross weight exceeding 4,000 kgs and when so drawn is used for the conveyance of goods or burden.
- (3) The annual rate of vehicle excise duty applicable to a relevant rigid goods vehicle is to be determined in accordance with the following tables by reference to—
- (a) whether or not the vehicle has road-friendly suspension,
  - (b) the number of axles on the vehicle,
  - (c) the appropriate HGV road user levy band for the vehicle (see column (1) in the tables),
  - (d) the plated gross weight of the trailer (see columns (2) and (3) in the tables), and
  - (e) the total of the revenue weight for the vehicle and the plated gross weight of the trailer (the “total weight”) (see columns (4) and (5) in the tables).
- (4) For the purposes of this paragraph a vehicle does not have road-friendly suspension if any driving axle of the vehicle has neither —
- (a) an air suspension (that is, a suspension system in which at least 75% of the spring effect is caused by an air spring), nor
  - (b) a suspension which is regarded as being equivalent to an air suspension for the purposes under Annex II of Council Directive [96/53/EC](#).
- (5) The “appropriate HGV road user levy band” in relation to a vehicle means the band into which the vehicle falls for the purposes of calculating the rate of HGV road user levy that is charged in respect of the vehicle (see Schedule 1 to the HGV Road User Levy Act 2013).
- (6) The tables are arranged as follows—
- (a) table 1 applies to relevant rigid goods vehicles with road-friendly suspension on which there are 2 axles;

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- (b) table 2 applies to relevant rigid goods vehicles with road-friendly suspension on which there are 3 axles;
- (c) table 3 applies to relevant rigid goods vehicles with road-friendly suspension on which there are 4 or more axles;
- (d) table 4 applies to relevant rigid goods vehicles which do not have road-friendly suspension and on which there are 2 axles;
- (e) table 5 applies to relevant rigid goods vehicles which do not have road-friendly suspension and on which there are 3 axles;
- (f) table 6 applies to relevant rigid goods vehicles which do not have road-friendly suspension and on which there are 4 or more axles.

TABLE 1

## VEHICLES WITH ROAD-FRIENDLY SUSPENSION AND 2 AXLES

<i>Appropriate HGV road user levy band</i>	<i>Plated gross weight of trailer</i>	<i>gross weight of</i>	<i>Total weight</i>	<i>Rate</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>
B(T)	4,000	12,000		27,000
B(T)	12,000			33,000
B(T)	12,000		33,000	36,000
B(T)	12,000		36,000	38,000
B(T)	12,000		38,000	
D(T)	4,000	12,000		30,000
D(T)	12,000			38,000
D(T)	12,000		38,000	

TABLE 2

## VEHICLES WITH ROAD-FRIENDLY SUSPENSION AND 3 AXLES

<i>Appropriate HGV road user levy band</i>	<i>Plated gross weight of trailer</i>	<i>gross weight of</i>	<i>Total weight</i>	<i>Rate</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>
				£

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B(T)	4,000	12,000		33,000	230
B(T)	12,000			38,000	295
B(T)	12,000		38,000	40,000	392
B(T)	12,000		40,000		295
C(T)	4,000	12,000		35,000	305
C(T)	12,000			38,000	370
C(T)	12,000		38,000	40,000	392
C(T)	12,000		40,000		370
D(T)	4,000	10,000		33,000	365
D(T)	4,000	10,000	33,000	36,000	401
D(T)	10,000	12,000		38,000	365
D(T)	12,000				430

TABLE 3

VEHICLES WITH ROAD-FRIENDLY  
SUSPENSION AND 4 OR MORE AXLES

<i>Appropriate HGV road user levy band</i>	<i>Plated gross weight of trailer</i>	<i>gross weight of</i>	<i>Total weight</i>		<i>Rate</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>
	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>£</i>
B(T)	4,000	12,000		35,000	230
B(T)	12,000				295
C(T)	4,000	12,000		37,000	305
C(T)	12,000				370
D(T)	4,000	12,000		39,000	365
D(T)	12,000				430
E(T)	4,000	12,000			535
E(T)	12,000				600

TABLE 4

VEHICLES WITHOUT ROAD-FRIENDLY SUSPENSION WITH 2 AXLES

<i>Appropriate HGV road</i>	<i>Plated gross weight of trailer</i>	<i>gross weight of</i>	<i>Total weight</i>	<i>Rate</i>
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<i>user levy band</i>					
(1)	(2)	(3)	(4)	(5)	(6)
	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>£</i>
B(T)	4,000	12,000		27,000	230
B(T)	12,000			31,000	295
B(T)	12,000		31,000	33,000	401
B(T)	12,000		33,000	36,000	609
B(T)	12,000		36,000	38,000	444
B(T)	12,000		38,000		604
D(T)	4,000	12,000		30,000	365
D(T)	12,000			33,000	430
D(T)	12,000		33,000	36,000	609
D(T)	12,000		36,000	38,000	444
D(T)	12,000		38,000		604

TABLE 5

## VEHICLES WITHOUT ROAD-FRIENDLY SUSPENSION WITH 3 AXLES

<i>Appropriate HGV road user levy band</i>	<i>Plated gross weight of trailer</i>		<i>Total weight</i>		<i>Rate</i>
(1)	(2)	(3)	(4)	(5)	(6)
	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>£</i>
B(T)	4,000	10,000		29,000	230
B(T)	4,000	10,000	29,000	31,000	289
B(T)	10,000	12,000		33,000	230
B(T)	12,000			36,000	295
B(T)	12,000		36,000	38,000	392
B(T)	12,000		38,000		542
C(T)	4,000	10,000		31,000	305
C(T)	4,000	10,000	31,000	33,000	401
C(T)	10,000	12,000		35,000	305
C(T)	12,000			36,000	370



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C(T)	12,000		36,000	38,000	392
C(T)	12,000		38,000		542
D(T)	4,000	10,000		31,000	365
D(T)	4,000	10,000	31,000	33,000	401
D(T)	4,000	10,000	33,000	35,000	609
D(T)	10,000	12,000		36,000	365
D(T)	10,000	12,000	36,000	37,000	392
D(T)	12,000			38,000	430
D(T)	12,000		38,000		542

TABLE 6

VEHICLES WITHOUT ROAD-FRIENDLY  
SUSPENSION WITH 4 OR MORE AXLES

<i>Appropriate HGV road user levy band</i>	<i>Plated gross weight of trailer</i>	<i>gross weight of</i>	<i>Total weight</i>		<i>Rate</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>
	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>Exceeding (kgs)</i>	<i>Not exceeding (kgs)</i>	<i>£</i>
B(T)	4,000	12,000		35,000	230
B(T)	12,000				295
C(T)	4,000	12,000		37,000	305
C(T)	12,000				370
D(T)	4,000	10,000		36,000	365
D(T)	4,000	10,000	36,000	37,000	444
D(T)	10,000	12,000		39,000	365
D(T)	12,000				430
E(T)	4,000	10,000		38,000	535
E(T)	4,000	10,000	38,000		604
E(T)	10,000	12,000			535

(7) The annual rate of vehicle excise duty for a relevant rigid goods vehicle which does not fall within any of tables 1 to 6 is £609.”

(2) In paragraph 2(2) of Schedule 1 to the HGV Road User Levy Act 2013, for “within paragraph 10” substitute “ which is a relevant rigid goods vehicle within the meaning of paragraph 10 ”.

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(3) The amendment made by subsection (1) has effect in relation to licences taken out on or after 1 April 2014.

(4) The amendment made by subsection (2) is treated as having come into force on 1 April 2014.

### **83 VED rates: use for exceptional loads, rigid goods vehicles and tractive units**

(1) Schedule 1 to VERA 1994 (annual rates of duty) is amended as follows.

(2) In paragraph 6(2A)(a) (vehicles used for exceptional loads which do not satisfy reduced pollution requirements), for “£2,585” substitute “ £1,585 ”.

(3) In paragraph 9 (rigid goods vehicles which do not satisfy reduced pollution requirements), for the table in sub-paragraph (1) substitute—

<i>“Revenue weight of vehicle</i>		<i>Rate</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not exceeding</i>	<i>Two</i>	<i>axle</i>	<i>Three</i>
<i>kgs</i>	<i>kgs</i>	<i>vehicle</i>	<i>vehicle</i>	<i>axle</i>
		<i>£</i>	<i>£</i>	<i>£</i>
3,500	7,500	165	165	165
7,500	11,999	200	200	200
11,999	14,000	95	95	95
14,000	15,000	105	95	95
15,000	19,000	300	95	95
19,000	21,000	300	125	95
21,000	23,000	300	210	95
23,000	25,000	300	300	210
25,000	27,000	300	300	300
27,000	44,000	300	300	560”

(4) In paragraph 9(3) (rigid goods vehicles over 44,000 kgs which do not satisfy the reduced pollution requirements), for “£2,585” substitute “ £1,585 ”.

(5) For the italic heading immediately before paragraph 9 substitute “ *Rigid goods vehicles exceeding 3,500 kgs revenue weight* ”.

(6) In paragraph 11(1) (tractive units which do not satisfy reduced pollution requirements)

(a) for “table” substitute “ tables ”, and

(b) for the table substitute—

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“TABLE 1

## TRACTIVE UNIT WITH TWO AXLES

<i>Revenue weight of vehicle</i>		<i>Rate</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not exceeding</i>	<i>Any no of semi-trailer axles</i>	<i>2 or more semi-trailer axles</i>	<i>3 or more semi-trailer axles</i>
<i>kgs</i>	<i>kgs</i>	<i>£</i>	<i>£</i>	<i>£</i>
3,500	11,999	165	165	165
11,999	22,000	80	80	80
22,000	23,000	84	80	80
23,000	25,000	151	80	80
25,000	26,000	265	100	80
26,000	28,000	265	146	80
28,000	31,000	300	300	80
31,000	33,000	560	560	210
33,000	34,000	560	609	210
34,000	38,000	690	690	560
38,000	44,000	850	850	850

TABLE 2

## TRACTIVE UNIT WITH THREE OR MORE AXLES

<i>Revenue weight of vehicle</i>		<i>Rate</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not exceeding</i>	<i>Any no of semi-trailer axles</i>	<i>2 or more semi-trailer axles</i>	<i>3 or more semi-trailer axles</i>
<i>kgs</i>	<i>kgs</i>	<i>£</i>	<i>£</i>	<i>£</i>
3,500	11,999	165	165	165
11,999	25,000	80	80	80
25,000	26,000	100	80	80
26,000	28,000	146	80	80
28,000	29,000	210	80	80
29,000	31,000	289	80	80
31,000	33,000	560	210	80

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33,000	34,000	609	300	80
34,000	36,000	609	300	210
36,000	38,000	690	560	300
38,000	44,000	850	850	560”

- (7) In paragraph 11(3) (tractive units above 44,000 kgs which do not satisfy reduced pollution requirements), for “£2,585” substitute “ £1,585 ”.
- (8) In paragraph 11C(2) (tractive units: special cases)—
  - (a) omit “Subject to paragraph 11D,”, and
  - (b) in paragraph (a), for “£650” substitute “ £10 ”.
- (9) Omit paragraph 11D (vehicles without road friendly suspension) and the italic heading before it.
- (10) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2014.

#### **84 VED: extension of old vehicles exemption from 1 April 2014**

- (1) In Schedule 2 to VERA 1994 (exempt vehicles) in paragraph 1A(1) (exemption for old vehicles) for “1973” substitute “ 1974 ”.
- (2) The amendment made by subsection (1) is treated as having come into force on 1 April 2014.
- (3) While a vehicle licence is in force in respect of a vehicle which is an exempt vehicle by virtue of subsection (1)—
  - (a) nothing in that subsection has the effect that a nil licence is required to be in force in respect of the vehicle, but
  - (b) for the purposes of section 33 of VERA 1994 the vehicle is to be treated as one in respect of which vehicle excise duty is chargeable.

#### **85 VED: extension of old vehicles exemption from 1 April 2015**

- (1) In Schedule 2 to VERA 1994 (exempt vehicles) in paragraph 1A(1) (exemption for old vehicles) for “1974” (as substituted by section 84) substitute “ 1975 ”.
- (2) The amendment made by subsection (1) comes into force on 1 April 2015; but nothing in that subsection has the effect that a nil licence is required to be in force in respect of a vehicle while a vehicle licence is in force in respect of it.

#### **86 Abolition of reduced VED rates for meeting reduced pollution requirements**

Schedule 18 contains provision abolishing the reduced rates of vehicle excise duty for vehicles satisfying reduced pollution requirements.

#### **87 Six month licence: tractive units**

- (1) In section 3 of VERA 1994 (duration of licences), for subsection (2) substitute—

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“(2) A vehicle licence may be taken out for a vehicle for a period of six months running from the beginning of the month in which the licence first has effect if—

- (a) the annual rate of vehicle excise duty in respect of the vehicle exceeds £50, or
- (b) the vehicle is one to which the annual rate of vehicle excise duty specified in paragraph 11C(2)(a) of Schedule 1 applies (tractive units: special cases).”

(2) The amendment made by this section has effect in relation to licences taken out on or after 1 April 2014.

## **88 Vehicles subject to HGV road user levy: amount of 6 month licence**

(1) Section 4 of VERA 1994 (amount of duty) is amended as follows.

(2) In subsection (2), for “Where” substitute “ Subject to subsection (2A), where ”.

(3) After subsection (2) insert—

“(2A) In the case of a vehicle which is charged to HGV road user levy, the reference in subsection (2) to fifty-five per cent is to be read as a reference to fifty per cent.”

(4) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2014.

## **89 Payment of vehicle excise duty by direct debit**

(1) VERA 1994 is amended as follows.

(2) In section 4 (amount of duty) for subsections (1) to (2A) substitute—

“(1) Where a vehicle licence for a vehicle of any description is taken out for a period of 12 months, vehicle excise duty is to be paid on the licence—

- (a) at the annual rate of duty applicable to vehicles of that description, or
- (b) if the duty is to be paid by more than one instalment pursuant to an agreement under section 19B, at a rate equal to 105% of that annual rate.

(2) Subject to subsection (2A), where a vehicle licence for a vehicle of any description is taken out for a period of 6 months, vehicle excise duty is to be paid on the licence—

- (a) at a rate equal to 55% of the annual rate of duty applicable to vehicles of that description, or
- (b) if the duty is to be paid by direct debit pursuant to an agreement under section 19B, at a rate equal to 52.5% of that annual rate.

(2A) In the case of a vehicle which is charged to HGV road user levy, the reference in subsection (2)(a) to 55% is to be read as a reference to 50%.”

(3) In section 13 (trade licences: duration and amount of duty)—

- (a) in subsection (3), after “calendar year” insert “ (“the applicable annual rate”) ”,
- (b) after subsection (3) insert—

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- “(3A) Where a trade licence is taken out for a calendar year and the duty is to be paid by more than one instalment pursuant to an agreement under section 19B, the rate of duty is 105% of the applicable annual rate.”,
- (c) for subsection (4) substitute—
- “(4) The rate of duty applicable to a trade licence taken out for a period of 6 months is—
- (a) 55% of the applicable annual rate for a corresponding trade licence taken out for a calendar year, or
- (b) if the duty is to be paid by direct debit pursuant to an agreement under section 19B, 52.5% of that applicable annual rate.”,
- (d) in subsection (5)(a), for “rate applicable to the” substitute “ applicable annual rate for a ”, and
- (e) in subsection (6), for “subsection (4)” substitute “ subsection (3A), (4) ”.
- (4) In section 13 (trade licences: duration and amount of duty) as set out in paragraph 8(1) of Schedule 4 to VERA 1994 to have effect on and after a day appointed by order—
- (a) in subsection (4), after “twelve months” insert “ (“the applicable annual rate”) ”,
- (b) after subsection (4) insert—
- “(4A) Where a trade licence is taken out for a period of 12 months and the duty is to be paid by more than one instalment pursuant to an agreement under section 19B, the rate of duty is 105% of the applicable annual rate.”,
- (c) for subsection (5) substitute—
- “(5) The rate of duty applicable to a trade licence taken out for a period of 6 months is—
- (a) 55% of the applicable annual rate for a corresponding trade licence taken out for 12 months, or
- (b) if the duty is to be paid by direct debit pursuant to an agreement under section 19B, 52.5% of that applicable annual rate.”, and
- (d) in subsection (6), for “subsection (5)” substitute “ subsection (4A) or (5) ”.
- (5) In section 19A (payment by cheque)—
- (a) in subsection (2)(b) omit “by post”, and
- (b) in subsection (3)(b) and (d) omit “by post”.
- (6) In section 19B (issue of licences before payment of duty)—
- (a) after subsection (1) insert—
- “(1A) An agreement to pay the duty payable on a vehicle licence or a trade licence may provide—
- (a) for the duty to be paid by instalments,
- (b) that if any of the rebate conditions in section 19(3) is satisfied in relation to the vehicle for which the licence was issued, the licence is to cease to be in force from the time specified in the agreement and any instalments falling due after that time are no longer to be due, and

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- (c) for any instalments falling due after a request under section 14(2) is received by the Secretary of State no longer to be due.”
- (b) in subsection (2)(c) omit “by post”,
- (c) in subsection (3)(b) and (d) omit “by post”, and
- (d) after subsection (3) insert—
  - “(4) But subsections (2) and (3) do not apply in a case where the agreement under subsection (1) provides for the duty payable to be paid by more than one instalment (and for this case see subsection (5)).
- (5) In a case where—
  - (a) a vehicle licence or a trade licence is issued to a person in accordance with subsection (1),
  - (b) the duty payable on the licence is not received by the Secretary of State in accordance with the agreement,
  - (c) the agreement provides for the duty payable to be paid by more than one instalment,
  - (d) the Secretary of State sends a notice to the person requiring the person to secure that the duty payable on the licence (both in respect of instalments which have fallen due and in respect of future instalments) is paid within the period specified in the notice,
  - (e) the requirement in the notice is not complied with, and
  - (f) the Secretary of State sends a further notice to the person informing that person that the licence is void from the time specified in the notice,

the licence is to be void from the time specified.”
- (7) In section 35A (dishonoured cheques)—
  - (a) in subsection (1)(a), for “or 19B(3)(d)” substitute “, 19B(3)(d) or 19B(5)(f)”,
  - (b) after subsection (7) insert—
    - “(8) In a case where a notice is sent as mentioned in section 19B(5)(f) the amounts specified in subsections (2)(b) and (4) are to be calculated on the basis of the rate described in section 4(1)(b) or 13(3A) (whichever is relevant).”, and
  - (c) in the heading, for “Dishonoured cheques” substitute “Failed payments”.
- (8) In section 36 (dishonoured cheques: additional liability)—
  - (a) after subsection (6) insert—
    - “(7) In a case where a notice is sent as mentioned in section 19B(5)(f) the amount specified in subsection (2) is to be calculated on the basis of the rate described in section 4(1)(b) or 13(3A) (whichever is relevant).”, and
  - (b) in the heading, for “Dishonoured cheques” substitute “Failed payments”.
- (9) In Schedule 4 (transitionals etc), after paragraph 8(3) insert—
  - “(4) In cases in which the provisions set out in sub-paragraph (1) have effect, sections 35A(8) and 36(7) are to be read as referring to section 13(4A) instead of section 13(3A).”

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(10) The amendments made by this section come into force on 1 October 2014.

## **90 Definition of “revenue weight”**

- (1) VERA 1994 is amended as follows.
- (2) In section 60A (revenue weight), in subsection (9)(b)—
  - (a) for “at which” substitute “ which must not be equalled or exceeded in order for ”, and
  - (b) for “may lawfully” substitute “ to lawfully ”.
- (3) In section 61 (vehicle weights)—
  - (a) in subsection (1)(b), after “not be” insert “ equalled or ”, and
  - (b) in subsection (2), after “not be” insert “ equalled or ”.
- (4) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2014.

## **91 Vehicle excise and registration: other provisions**

Schedule 19 contains other provisions relating to vehicle excise and registration.

### *HGV road user levy*

## **92 HGV road user levy: rates tables**

- (1) Schedule 1 to the HGV Road User Levy Act 2013 (rates of HGV road user levy) is amended as follows.
- (2) In paragraph 4, for “is Band G” substitute “is—
  - (a) Band E(T), in the case of a rigid goods vehicle which is a relevant rigid goods vehicle within the meaning of paragraph 10 of Schedule 1 to the 1994 Act (rigid goods vehicles used for drawing trailers of more than 4,000 kilograms), and
  - (b) Band G, in all other cases.”
- (3) For Tables 2 to 5 substitute—

“TABLE 2: RIGID GOODS VEHICLE

<i>Revenue weight of vehicle</i>		<i>2 axle vehicle</i>	<i>3 axle vehicle</i>	<i>4 or more axle vehicle</i>
<i>More than</i>	<i>Not more than</i>			
<i>kgs</i>	<i>kgs</i>	<i>Band</i>	<i>Band</i>	<i>Band</i>
11,999	15,000	B	B	B
15,000	21,000	D	B	B
21,000	23,000	D	C	B
23,000	25,000	D	D	C



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25,000	27,000	D	D	D
27,000	44,000	D	D	E

TABLE 3: RIGID GOODS VEHICLE WITH TRAILER OVER 4,000 KGS

Revenue weight of vehicle		2 axle vehicle	3 axle vehicle	4 or more axle vehicle
More than kgs	Not more than kgs	Band	Band	Band
11,999	15,000	B(T)	B(T)	B(T)
15,000	21,000	D(T)	B(T)	B(T)
21,000	23,000	E(T)	C(T)	B(T)
23,000	25,000	E(T)	D(T)	C(T)
25,000	27,000	E(T)	D(T)	D(T)
27,000	44,000	E(T)	E(T)	E(T)

TABLE 4: TRACTIVE UNITS WITH TWO AXLES

Revenue weight of tractive vehicle		Any no of semi-trailer axles	2 or more semi-trailer axles	3 or more semi-trailer axles
More than kgs	Not more than kgs	Band	Band	Band
11,999	25,000	A	A	A
25,000	28,000	C	A	A
28,000	31,000	D	D	A
31,000	34,000	E	E	C
34,000	38,000	F	F	E
38,000	44,000	G	G	G

TABLE 5: TRACTIVE UNIT WITH THREE OR MORE AXLES

Revenue weight of tractive vehicle		Any no of semi-trailer axles	2 or more semi-trailer axles	3 or more semi-trailer axles
More than kgs	Not more than kgs	Band	Band	Band
11,999	28,000	A	A	A
28,000	31,000	C	A	A
31,000	33,000	E	C	A
33,000	34,000	E	D	A

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34,000	36,000	E	D	C
36,000	38,000	F	E	D
38,000	44,000	G	G	E”

- (4) The amendments made by this section are treated as having come into force on 1 April 2014.

### 93 HGV road user levy: disclosure of information by HMRC

- (1) After section 14 of the HGV Road User Levy Act 2013 insert—

#### “14A Disclosure of information by Revenue and Customs

- (1) Information which is held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005 (confidentiality) may be disclosed by or with the authority of the Commissioners for Her Majesty's Revenue and Customs to—
    - (a) the Secretary of State, or
    - (b) a person providing services to the Secretary of State,
 for the purpose of enabling or assisting the exercise of any of the Secretary of State's functions under or by virtue of this Act.
  - (2) Information disclosed in accordance with subsection (1) may not be further disclosed except—
    - (a) to any other person to whom it could have been disclosed in accordance with that subsection, or
    - (b) with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
  - (3) If, in contravention of subsection (2), any revenue and customs information relating to a person is disclosed and the identity of the person—
    - (a) is specified in the disclosure, or
    - (b) can be deduced from it,
 section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.
  - (4) In subsection (3) “revenue and customs information relating to a person” has the meaning given by section 19(2) of the Commissioners for Revenue and Customs Act 2005.
  - (5) Nothing in this section authorises the making of a disclosure which contravenes the Data Protection Act 1998.”
- (2) In regulation 2 of the HGV Road User Levy (HMRC Information Gateway) Regulations 2013 (S.I. 2013/3186), omit paragraphs (1) and (2).

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### *Aggregates levy*

#### **F1894 Aggregates levy: removal of certain exemptions**

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##### **Textual Amendments**

**F18** S. 94 repealed (retrospective to 1.8.2015) by Finance (No. 2) Act 2015 (c. 33), s. 48(2)(6)

#### **F1995 Aggregates levy: power to restore exemptions**

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##### **Textual Amendments**

**F19** S. 95 repealed (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), s. 48(2)

### *Climate change levy*

#### **96 Climate change levy: main rates for 2015-16**

(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

<i><b>Taxable commodity supplied</b></i>	<i><b>Rate at which levy payable if supply is not a reduced-rate supply</b></i>
Electricity	£0.00554 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	£0.00193 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.01240 per kilogram
Any other taxable commodity	£0.01512 per kilogram”

(2) The amendment made by this section has effect in relation to supplies treated as taking place on or after 1 April 2015.

#### **97 Climate change levy: carbon price support rates for 2014-15 and 2015-16**

(1) Paragraph 42A of Schedule 6 to FA 2000 (climate change levy: carbon price support rates) is amended as follows.

(2) In the table in sub-paragraph (3), as substituted by paragraph 23 of Schedule 42 to FA 2013, for “ £0.85489 per gigajoule ” substitute “£0.81906 per gigajoule”.

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- (3) The amendment made by subsection (2) has effect in relation to supplies treated as taking place on or after 1 April 2014.
- (4) In the table in sub-paragraph (3), as substituted by paragraph 24 of Schedule 42 to FA 2013, for “£1.62534 per gigajoule” substitute “£1.56860 per gigajoule”.
- (5) The amendment made by subsection (4) has effect in relation to supplies treated as taking place on or after 1 April 2015.

## 98 Climate change levy: carbon price support rates for 2016-17

- (1) In paragraph 42A of Schedule 6 to FA 2000 (climate change levy: carbon price support rates) for sub-paragraph (3) substitute—

“(3) The carbon price support rates are as follows.

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<i>Carbon price support rate commodity</i>	<i>Carbon price support rate</i>
Any gas in a gaseous state that is of a kind supplied by a gas utility	£0.00331 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, in a liquid state	£0.05280 per kilogram
Any commodity falling within paragraph 3(1)(d) to (f)	£1.54790 per gigajoule”

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- (2) The amendment made by this section has effect in relation to supplies treated as taking place on or after 1 April 2016.

## 99 Climate change levy: exemptions: mineralogical & metallurgical processes etc

Schedule 20 makes provision in relation to climate change levy.

### *Landfill tax*

## 100 Rates 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 “£80” substitute “£82.60”.
- (3) In subsection (2) (reduced rate for disposal of qualifying material)—
  - (a) for “£80” substitute “£82.60”, and
  - (b) for “£2.50” substitute “£2.60”.
- (4) The amendments made by this section have effect in relation to disposals made (or treated as made) on or after 1 April 2015.

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### *Excise and customs duties: general*

#### **101 Goods carried as stores**

Schedule 21 contains provision about goods shipped or carried as stores on ships or aircraft.

#### **102 Penalties under section 26 of FA 2003: extension to excise duty**

(1) In this section—

“dutiable excise goods” means goods of a class or description subject to any duty of excise, whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods;

“relevant excise rule” means any duty, obligation, requirement or condition imposed by section 78 of CEMA 1979 (customs and excise control of persons entering or leaving the United Kingdom), so far as that section relates to—

- (a) dutiable excise goods a person has obtained outside the United Kingdom, or
- (b) dutiable excise goods a person has obtained in the United Kingdom without payment of excise duty,

and in respect of which the person is not entitled to exemption from excise duty by virtue of any order under section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (personal reliefs).

(2) Sections 26 and 27 and 29 to 41 of FA 2003 (taxes and duties on importation and exportation: penalties) apply in relation to excise duty as they apply in relation to a relevant tax or duty (as defined by section 24(2) of that Act) except that, for this purpose, “relevant rule” in sections 26 and 33 means a relevant excise rule.

### *Value added tax*

#### **<sup>F20</sup>103 VAT: special schemes**

.....

##### **Textual Amendments**

**F20** S. 103 repealed (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 132\(I\)](#) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

#### **104 VAT: place of belonging**

- (1) Section 9 of VATA 1994 (place where supplier or recipient of services belongs) is amended as follows.
- (2) In subsection (3)(c), after “usual place of residence” insert “ or permanent address ”.
- (3) In subsection (5), for the words from “belonging” to the end substitute “belonging—

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- (a) in the country in which the person's usual place of residence or permanent address is (except in the case of a body corporate or other legal person);
- (b) in the case of a body corporate or other legal person, in the country in which the place where it is established is.”

<sup>F21</sup>(4) .....

- (5) The amendments made by this section have effect in relation to supplies made on or after 1 January 2015.

#### Textual Amendments

**F21** S. 104(4) repealed (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 132\(1\)](#) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with [reg. 7](#))

### 105 VAT: place of supply orders: disapplication of transitional provision

- (1) Section 97A of VATA 1994 (place of supply orders: transitional provision) is to be ignored for the purpose of giving effect to any new order under section 7A(6) of that Act which—
  - (a) is expressed as having effect in relation to supplies made on or after 1 January 2015, and
  - (b) makes provision about the place of supply of electronically supplied services, telecommunication services and radio and television broadcasting services.
- (2) In subsection (1) “new order” means an order made on or after the day on which this Act is passed.
- (3) Subsection (1) applies only so far as the order makes provision about supplies to which Article 2 of Council Implementing [Regulation \(EU\) No 1042/2013](#) (transitional provision for changes in the law affecting electronically supplied, telecommunication and radio and television broadcasting services) applies.

### 106 VAT: supply of services through agents

- (1) Section 47 of VATA 1994 (agents) is amended as follows.
- (2) In subsection (3), after “services” insert “, other than electronically supplied services and telecommunication services, ”.
- (3) After subsection (3) insert—
  - “(4) Where electronically supplied services or telecommunication services are supplied through an agent, the supply is to be treated both as a supply to the agent and as a supply by the agent.
  - (5) For the purposes of subsection (4) “agent” means a person (“A”) who acts in A's own name but on behalf of another person within the meaning of Article 28 of Council Directive [2006/112/EC](#) on the common system of value added tax.

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(6) In this section “electronically supplied services” and “telecommunication services” have the same meaning as in Schedule 4A (see paragraph 9(3) and (4) and paragraph 8(2) of that Schedule).”

(4) The amendments made by this section have effect in relation to supplies made on or after 1 January 2015.

## **107 VAT: refunds to health service bodies**

(1) In section 41(7) of VATA 1994 (application to the Crown: list of bodies regarded as Government departments) after “Excellence” insert “, Health Education England (established by the Care Act 2014), and the Health Research Authority (also established by that Act), ”.

(2) In section 41(7) of VATA 1994 as amended by subsection (1)—

- (a) for “above,” substitute “—  
(a)”;
- (b) “for the “and” after “1990,” substitute—  
(b)”;
- (c) after “1978” insert “,  
(c)”;
- (d) for the “and” after “foundation trust” substitute “,  
(d)”;
- (e) for the “and” after “Care Trust” substitute “,  
(e)”;
- (f) for the “and” after “Health Board” substitute “,  
(f)”;
- (g) after “group,” insert—  
“(g)”;
- (h) after “Centre,” insert—  
“(h)”;
- (i) for the “and” after “Commissioning Board” substitute “,  
(i)”;
- (j) before “Health Education England” insert—  
“(j)”;
- (k) before “the Health Research Authority” insert—  
“(k)”;
- (l) the words from “shall be regarded” to the end are to follow, rather than form part of, the paragraph (k) so formed, and
- (m) in those words, for “shall” substitute “ are each to ”.

## **108 VAT: prompt payment discounts**

(1) In Part 2 of Schedule 6 to VATA 1994 (valuation: special cases), for paragraph 4 (prompt payment discounts), substitute—

“4 (1) Sub-paragraph (2) applies where—

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- (a) goods or services are supplied for a consideration which is a price in money,
  - (b) the terms on which those goods or services are so supplied allow a discount for prompt payment of that price,
  - (c) payment of that price is not made by instalments, and
  - (d) payment of that price is made in accordance with those terms so that the discount is realised in relation to that payment.
- (2) For the purposes of section 19 (value of supply of goods or services) the consideration is the discounted price paid.”
- (2) The amendment made by this section has effect in relation to relevant supplies made on or after 1 May 2014.
- (3) The Treasury may by order made by statutory instrument provide that the amendment has effect in relation to supplies of a description specified in the order made on or after a date so specified (being a date before 1 April 2015).
- (4) Subject to that, the amendment has effect in relation to supplies made on or after 1 April 2015.
- (5) In this section—
  - “relevant supply” means a supply of radio or television broadcasting services or telecommunication services made by a taxable person who is not required by or under any enactment to provide a VAT invoice to the person supplied;
  - “telecommunication services” has the same meaning as in paragraph 8(2) of Schedule 4A to VATA 1994.

*Stamp duty land tax and annual tax on enveloped dwellings*

**109 ATED: reduction in threshold from 1 April 2015**

- (1) Part 3 of FA 2013 (annual tax on enveloped dwellings) is amended as follows.
- (2) In section 94(2)(a) (charge to tax), for “£2 million” substitute “ £1 million ”.
- (3) In section 99 (amount of tax chargeable), in the table in subsection (4), before the first entry insert—

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“£7,000	More than £1 million but not more than £2 million.”
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- (4) The amendments made by subsections (1) to (3) have effect for chargeable periods beginning on or after 1 April 2015.
- (5) In a case where tax is charged for the chargeable period beginning with 1 April 2015 with respect to a single-dwelling interest the taxable value of which on the relevant day (see section 99(5) of FA 2013) is not more than £2 million, sections 159 and 163 of FA 2013 have effect with the following modifications.
- (6) Section 159 (annual tax on enveloped dwellings return) has effect as if for subsections (2) and (3) there were substituted—



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“(2) A return under subsection (1) must be delivered by the end of 1 October 2015 if the days on which the person is within the charge with respect to the interest include 1 April 2015.

(3) If the days on which the person is within the charge with respect to the interest do not include 1 April 2015, the return must be delivered—

- (a) by the end of 1 October 2015, 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.”

(7) Section 163 (payment of tax) has effect as if for subsection (1) there were substituted—

“(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 2015, or
- (b) if later, by the end of the filing date for the return.”

## **110 ATED: further reduction in threshold from 1 April 2016**

(1) Part 3 of FA 2013 (annual tax on enveloped dwellings) is amended as follows.

(2) In section 94(2)(a) (charge to tax), for “£1 million” substitute “ £500,000 ”.

(3) In section 99 (amount of tax chargeable), in the table in subsection (4), before the first entry insert—

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“£3,500	More than £500,000 but not more than £1 million.”
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(4) The amendments made by this section have effect for chargeable periods beginning on or after 1 April 2016.

## **111 SDLT: threshold for higher rate applying to certain transactions**

(1) Schedule 4A to FA 2003 (SDLT: higher rate for certain transactions) is amended as follows.

(2) In paragraph 1(2) (meaning of “higher threshold interest”) for “£2,000,000” substitute “ £500,000 ”.

(3) In consequence of the amendment made by subsection (2), in the following provisions, for “£2,000,000” substitute “ £500,000 ”

- (a) paragraph 4(1)(c);
- (b) paragraph 6(2);
- (c) paragraph 6(3)(b).

(4) The amendments made by this section have effect in relation to any chargeable transaction of which the effective date is on or after 20 March 2014.

(5) But the amendments do not have effect in relation to a transaction—

- (a) effected in pursuance of a contract entered into and substantially performed before 20 March 2014,

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- (b) effected in pursuance of a contract entered into before that date and not excluded by subsection (6), or
  - (c) excepted by subsection (7).
- (6) A transaction effected in pursuance of a contract entered into before 20 March 2014 is excluded by this subsection if—
- (a) there is any variation of the contract, or assignment (or assignation) of rights under the contract, on or after 20 March 2014,
  - (b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
  - (c) on or after that date there is an assignment (or assignation), subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.
- (7) A transaction treated as occurring under paragraph 17(2) or 17A(4) of Schedule 15 to FA 2003 (partnerships) is excepted by this subsection if the effective date of the land transfer referred to in sub-paragraph (1)(a) of the paragraph concerned is before 20 March 2014.

## **112 SDLT: exercise of collective rights by tenants of flats**

- (1) In section 74 of FA 2003 (exercise of collective rights by tenants of flats), in subsection (1A) for “£2,000,000”, in each place it occurs, substitute “ £500,000 ”.
- (2) The amendments made by this section have effect in relation to any chargeable transaction of which the effective date is on or after 1 July 2014.
- (3) But the amendments do not have effect in relation to a transaction—
  - (a) effected in pursuance of a contract entered into and substantially performed before 20 March 2014, or
  - (b) effected in pursuance of a contract entered into before that date and not excluded by subsection (4).
- (4) A transaction effected in pursuance of a contract entered into before 20 March 2014 is excluded by this subsection if—
  - (a) there is any variation of the contract, or assignment (or assignation) of rights under the contract, on or after 20 March 2014,
  - (b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
  - (c) on or after that date there is an assignment (or assignation), subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.

## **113 SDLT: charities relief**

Schedule 23 amends Schedule 8 to FA 2003 (stamp duty land tax: charities relief).

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### *Stamp duty reserve tax and stamp duty*

#### **114 Abolition of SDRT on certain dealings in collective investment schemes**

- (1) Part 2 of Schedule 19 to FA 1999 (which provides for a charge to stamp duty reserve tax on certain dealings with units in unit trusts) is omitted.
- (2) In section 90(1B) of FA 1986 (exception to charge to stamp duty reserve tax on certain agreements to transfer property from a unit trust)—
  - (a) after “unit trust scheme” insert “ if the unit holder is to receive only such part of each description of asset in the trust property as is proportionate to, or as nearly as practicable proportionate to, the unit holder's share. ”, and
  - (b) for the second sentence substitute “For these purposes there is a surrender of a unit where—
    - “(a) a person (“P”) authorises or requires the trustees or managers of a unit trust scheme to treat P as no longer interested in a unit under the scheme, or
    - (b) a unit under the unit trust scheme is transferred to the managers of the scheme,and the unit is a chargeable security. ”
- (3) Accordingly—
  - (a) in FA 1999, in section 123(3), for “Parts I to III” substitute “ Parts I and III ”,
  - (b) in FA 2001, omit sections 93 and 94,
  - (c) in FA 2004, in Schedule 35, omit paragraph 46 and the italic heading before that paragraph,
  - (d) in FA 2005, omit section 97(3), (4) and (6), and
  - (e) in FA 2010, in Schedule 6, omit paragraph 15(2).
- (4) The amendments made by this section have effect in relation to surrenders made or effected on or after 30 March 2014.
- (5) Provision made by regulations under section 98 of FA 1986, section 152 of FA 1995 or section 17 of F(No.2)A 2005 in connection with the coming into force of this section may be made so as to have effect in relation to surrenders made or effected on or after 30 March 2014 (even if the regulations are made after that date).
- (6) In subsections (4) and (5) a reference to surrenders is to be read in accordance with paragraph 2 of Schedule 19 to FA 1999.

#### **115 Abolition of stamp duty and SDRT: securities on recognised growth markets**

Schedule 24 contains provision abolishing stamp duty and stamp duty reserve tax on instruments and transfers of securities traded on recognised growth markets.

#### **116 Temporary statutory effect of House of Commons resolution**

- (1) Section 50 of FA 1973 (temporary statutory effect of House of Commons resolution affecting stamp duties) is amended as follows.
- (2) In subsection (2), for paragraph (c) (and the “and” after it) substitute—
  - “(c) the dissolution of Parliament;

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- (ca) the prorogation of Parliament in a case where subsection (2B) does not apply; and”.
- (3) In that subsection, in paragraph (d), for “six” substitute “ seven ”.
- (4) After that subsection insert—
  - “(2A) Subsection (2B) applies where Parliament is prorogued at the end of a session if—
    - (a) during the session a Bill containing provisions to the same effect as the resolution is read a second time by the House or a Bill is amended (whether by the House or a Committee of the House or a Public Bill Committee) so as to include such provisions,
    - (b) the Standing Orders or Sessional Orders of the House provide, or during the session the House orders, that proceedings on the Bill not completed before the end of the session shall be resumed in the next session, and
    - (c) proceedings on the Bill are not completed during the session.
  - (2B) A resolution shall cease to have statutory effect under this section if, during the period of thirty sitting days beginning with the first sitting day of the next session, no Bill containing provisions to the same effect as the resolution is presented to the House.
  - (2C) In subsection (2B) “sitting day” means a day on which the House sits.
  - (2D) Where a Bill is amended as mentioned in subsection (2A)(a), it does not matter for the purposes of subsection (2A)(b) if the House orders as mentioned in subsection (2A)(b) before the amendment to the Bill is made.”

### *Inheritance tax*

## **117 Inheritance tax**

Schedule 25 contains provision about inheritance tax.

### *Estate duty*

## **118 Gifts to the nation: estate duty**

- (1) In Schedule 14 to FA 2012 (gifts to the nation), before paragraph 33 insert—
  - “32A (1) This paragraph applies where a person (“the donor”) makes a qualifying gift of an object in circumstances where, had the donor instead sold the object to an individual at market value, a charge to estate duty would have arisen under section 40 of FA 1930 on the proceeds of sale.
  - (2) At the time when the gift is made, estate duty becomes chargeable under that section as if the gift were such a sale (subject to any limitation imposed by paragraph 33(2)).

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- (3) In the application of this paragraph to Northern Ireland, the references to section 40 of FA 1930 are to be read as references to section 2 of the Finance Act (Northern Ireland) 1931.”
- (2) Subsection (3) applies where a person (“the donor”) has, before the day on which this Act is passed, made a qualifying gift of an object in circumstances where, had the donor instead sold the object to an individual at market value, a charge to estate duty would have arisen under section 40 of FA 1930 on the proceeds of sale.
- (3) No liability to estate duty under section 40 of FA 1930 arises in respect of the object on or after the day on which this Act is passed.
- (4) In subsection (2) “qualifying gift” has the same meaning as in Schedule 14 to FA 2012.
- (5) In the application of subsections (2) and (3) to Northern Ireland, the references to section 40 of FA 1930 are to be read as references to section 2 of the Finance Act (Northern Ireland) 1931.

### *Bank levy*

## **119 Bank levy: rates from 1 January 2014**

- (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 “0.065%” substitute “ 0.078% ”, and
  - (b) for “0.130%” substitute “ 0.156% ”.
- (3) In paragraph 7 (special provision for chargeable periods falling wholly or partly before 1 January 2013)—
- (a) in sub-paragraph (1) for “2013” substitute “ 2014 ”,
  - (b) in sub-paragraph (2), in the first column of the table in the substituted Step 7, for “ Any time on or after 1 January 2013 ” substitute “1 January 2013 to 31 December 2013”, and
  - (c) at the end of that table add—

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“Any time on or after 1 January 2014	0.078%	0.156%”;
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and in the italic heading immediately before paragraph 7, for “2013” substitute “ 2014 ”.

- (4) Section 203 of FA 2013 (bank levy rates from 1 January 2014) is repealed.
- (5) The amendments made by subsections (2) to (4) are treated as having come into force on 1 January 2014 (and accordingly the section 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 2014, and

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- (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.
- (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.

## 120 Bank levy: miscellaneous changes

Schedule 26 contains miscellaneous changes to the bank levy.

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### *Gaming duty*

#### **121 Rates of gaming duty**

- (1) In section 11(2) of FA 1997 (rates of gaming duty) for the table substitute—

“TABLE

<i>Part of gross gaming yield</i>	<i>Rate</i>
The first £2,302,000	15 per cent
The next £1,587,000	20 per cent
The next £2,779,000	30 per cent
The next £5,865,500	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 2014.

### *Bingo duty*

#### **122 Rate of bingo duty**

- (1) In section 17(1)(b) of BGDA 1981 (bingo duty chargeable at 20 per cent of bingo promotion profits), for “20” substitute “ 10 ”.
- (2) The amendment made by subsection (1) has effect in relation to accounting periods beginning on or after 30 June 2014.

#### **123 Exemption from bingo duty: small-scale amusements provided commercially**

- (1) In paragraph 5(1) of Schedule 3 to BGDA 1981 (exemptions from bingo duty for small-scale amusements provided commercially), for paragraph (b) substitute—
- “(b) on any premises if, for the time being—
- (i) a machine in respect of which a person is liable for machine games duty is located on the premises, and
  - (ii) an adult gaming centre premises licence issued under Part 8 of the Gambling Act 2005 (see section 150(1)(c)) is in force in respect of the premises; or”.
- (2) The amendment made by this section has effect in relation to games of bingo which begin to be played on or after the day on which this Act is passed.

### *Machine games duty*

#### **124 Rates of machine games duty**

- (1) Schedule 24 to FA 2012 is amended as follows.
- (2) For paragraph 5 substitute—

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## 5 “Types of machine

- (1) Machines are divided into three types for the purposes of machine games duty.
  - (2) A machine is a “type 1 machine” if it can be demonstrated that—
    - (a) the highest charge payable for playing a dutiable machine game on the machine does not exceed 20p, and
    - (b) the maximum amount of cash that can be won from playing a dutiable machine game on the machine does not exceed £10.
  - (3) A machine is a “type 2 machine” if—
    - (a) it is not a type 1 machine, and
    - (b) it can be demonstrated that the highest charge payable for playing a dutiable machine game on the machine does not exceed £5.
  - (4) Any other machine is a “type 3 machine”.
  - (5) The Treasury may by order substitute for a sum for the time being specified in sub-paragraph (2)(a) or (b) or (3)(b) such higher sum as may be specified in the order.”
- (3) For paragraph 6(2) substitute—
- “(2) The amount of the duty is found by—
- (a) applying the lower rate to the person's total net takings in the accounting period for type 1 machines,
  - (b) applying the standard rate to the person's total net takings in the accounting period for type 2 machines,
  - (c) applying the higher rate to the person's total net takings in the accounting period for type 3 machines, and
  - (d) aggregating the results.”
- (4) For paragraph 9 substitute—

## 9 “The rates

- (1) The lower rate is 5%.
  - (2) The standard rate is 20%.
  - (3) The higher rate is 25%.
  - (4) If a rate changes during an accounting period—
    - (a) the old rate is to be applied to the person's total net takings in the part of the period before the change, and
    - (b) the new rate is to be applied to the person's total net takings in the part of the period after the change.
  - (5) If it is not possible to identify for the purposes of sub-paragraph (4) the part of the period to which an amount relates, it is to be apportioned on a just and reasonable basis.”
- (5) The Machine Games Duty (Types of Machine) Order 2014 (S.I. 2014/47) is revoked.



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- (6) The amendments and revocation made by this section have effect in relation to the playing of machine games on or after 1 March 2015.

## PART 3

### GENERAL BETTING DUTY, POOL BETTING DUTY AND REMOTE GAMING DUTY

## CHAPTER 1

### GENERAL BETTING DUTY

#### *The duty*

#### **125 General betting duty**

A duty of excise, to be known as general betting duty, is charged in accordance with this Chapter.

#### *General and spread bets*

#### **126 General bets**

- (1) A bet is a general bet for the purposes of this Part if—
- (a) it is not an on-course bet,
  - (b) it is not a spread bet,
  - (c) it is not made by way of pool betting, and
  - (d) one or more of conditions A to C is met in relation to it.
- (2) Condition A is that the person who makes the bet (whether as principal or agent) does so while present at a place in the United Kingdom where betting facilities are provided in the course of a business and the bet is made using those facilities.
- (3) Condition B is that—
- (a) the person who makes the bet as principal is a UK person, and
  - (b) the bet is not an excluded bet.
- (4) Condition C is that—
- (a) the person who makes the bet as principal is a body corporate not legally constituted in the United Kingdom,
  - (b) the bookmaker with whom the bet is made knows or has reasonable cause to believe that at least one potential beneficiary of any winnings from the bet is a UK person, and
  - (c) the bet is not an excluded bet.

#### **127 General betting duty charge on general bets**

- (1) General betting duty is charged on a general bet made with a bookmaker.

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- (2) It is charged at the rate of 15% of the bookmaker's profits on general bets for an accounting period.
- (3) The bookmaker's profits on general bets for an accounting period are the aggregate of—
  - (a) the amount of the bookmaker's ordinary profits for the period in respect of general bets (calculated in accordance with section 131), and
  - (b) the amount of the bookmaker's retained winnings profits for the period in respect of general bets (calculated in accordance with section 132).
- (4) Where the calculation for an accounting period under subsection (3) produces a negative amount—
  - (a) the bookmaker's profits on general bets for the accounting period are treated as nil, and
  - (b) the amount produced by the calculation may be carried forward in reduction of the bookmaker's profits on general bets for one or more later accounting periods.

## **128 Spread bets**

- (1) A bet is a spread bet for the purposes of this Part if it constitutes a contract the making or accepting of which is a regulated activity within the meaning of section 22 of the Financial Services and Markets Act 2000.
- (2) In this Part—
 

“financial spread bet” means a spread bet the subject of which is a financial matter, and

“non-financial spread bet” means any other spread bet.
- (3) The Commissioners may by regulations provide that a specified matter—
  - (a) is to be treated as a financial matter for the purposes of subsection (2), or
  - (b) is not to be treated as a financial matter for those purposes.

## **129 General betting duty charge on financial spread bets**

- (1) General betting duty is charged on a financial spread bet made with a bookmaker who is in the United Kingdom.
- (2) It is charged at the rate of 3% of the bookmaker's profits on financial spread bets for an accounting period.
- (3) The bookmaker's profits on financial spread bets for an accounting period are the aggregate of—
  - (a) the amount of the bookmaker's ordinary profits for the period in respect of financial spread bets (calculated in accordance with section 131), and
  - (b) the amount of the bookmaker's retained winnings profits for the period in respect of financial spread bets (calculated in accordance with section 132).
- (4) Where the calculation for an accounting period under subsection (3) produces a negative amount—
  - (a) the bookmaker's profits on financial spread bets for the accounting period are treated as nil, and

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- (b) the amount produced by the calculation may be carried forward in reduction of the bookmaker's profits on financial spread bets for one or more later accounting periods.

### **130 General betting duty charge on non-financial spread bets**

- (1) General betting duty is charged on a non-financial spread bet made with a bookmaker who is in the United Kingdom.
- (2) It is charged at the rate of 10% of the bookmaker's profits on non-financial spread bets for an accounting period.
- (3) The bookmaker's profits on non-financial spread bets for an accounting period are the aggregate of—
  - (a) the amount of the bookmaker's ordinary profits for the period in respect of non-financial spread bets (calculated in accordance with section 131), and
  - (b) the amount of the bookmaker's retained winnings profits for the period in respect of non-financial spread bets (calculated in accordance with section 132).
- (4) Where the calculation for an accounting period under subsection (3) produces a negative amount—
  - (a) the bookmaker's profits on non-financial spread bets for the accounting period are treated as nil, and
  - (b) the amount produced by the calculation may be carried forward in reduction of the bookmaker's profits on non-financial spread bets for one or more later accounting periods.

### **131 Ordinary profits**

Take the following steps to calculate the amount of a bookmaker's ordinary profits in respect of a class of bets for an accounting period.

*Step 1* Calculate the aggregate of the stake money falling due to the bookmaker in the accounting period in respect of bets of that class made with the bookmaker.

*Step 2* Calculate the aggregate of the amounts paid by the bookmaker in that period by way of winnings to persons who made bets of that class with the bookmaker (irrespective of when the bets were made or determined).

*Step 3* Subtract the amount calculated under Step 2 from the amount calculated under Step 1.

### **132 Retained winnings profits**

- (1) The amount of a bookmaker's retained winnings profits in respect of a class of bets for an accounting period is the aggregate of amounts which cease to be qualifying amounts in the accounting period.
- (2) An amount is a qualifying amount for the purposes of this section if, as a result of a person ("P") being notified as mentioned in section 140(2)(b), it has been taken into account in calculating the bookmaker's ordinary profits for bets of that class in any accounting period.

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- (3) An amount ceases to be a qualifying amount for the purposes of this section if, otherwise than by virtue of being withdrawn by P as mentioned in section 140(2)(b), P ceases to be entitled to withdraw it.
- (4) The Commissioners may by notice published by them direct that subsection (3) is not to apply in a specified case or class of cases.

### **133 Bet-brokers**

- (1) This section applies where—
  - (a) one person (the “bettor”) makes a bet with another person (the “bet-taker”) using facilities provided in the course of a business, other than a betting exchange business, by a third person (the “bet-broker”), or
  - (b) one person (the “bet-broker”) in the course of a business makes a bet with another person (the “bet-taker”) as the agent of a third person (the “bettor”) (whether the bettor is a disclosed principal or an undisclosed principal).
- (2) For the purposes of sections 126 to 132—
  - (a) the bet is to be treated as if it were made separately by the bettor with the bet-broker and by the bet-broker with the bet-taker,
  - (b) the bet-broker is to be treated as a bookmaker in respect of the bet,
  - (c) the aggregate of amounts due to be paid by the bettor in respect of the bet is to be treated as being due separately to the bet-broker and to the bet-taker (and any amount due to be paid by the bet-broker to the bet-taker is to be disregarded), and
  - (d) a sum paid by the bet-taker by way of winnings in respect of the bet is to be treated as having been paid separately by the bet-taker and by the bet-broker at that time and for that purpose (and any sum paid by the bet-broker is to be disregarded).
- (3) Where there is any doubt as to which of two persons is the bettor and which the bet-taker for the purposes of subsection (1)(a), whichever of the two was the first to use the facilities of the bet-broker to offer the bet is to be treated as the bet-taker.
- (4) In this section “betting exchange business” means a business such as is mentioned in section 141(1).

#### *Pool betting on horse and dog races*

### **134 Chapter 1 pool bets**

- (1) A bet is a “Chapter 1 pool bet” for the purposes of this Part if—
  - (a) it relates only to horse racing or dog racing,
  - (b) it is not an on-course bet,
  - (c) it is made by way of pool betting, and
  - (d) one or more of conditions A to C is met in relation to it.
- (2) Condition A is that the person who makes the bet (whether as principal or agent) does so while present at a place in the United Kingdom where betting facilities are provided in the course of a business and the bet is made using those facilities.
- (3) Condition B is that—

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- (a) the person who makes the bet as principal is a UK person, and
  - (b) the bet is not an excluded bet.
- (4) Condition C is that—
  - (a) the person who makes the bet as principal is a body corporate not legally constituted in the United Kingdom,
  - (b) the bookmaker with whom the bet is made knows or has reasonable cause to believe that at least one potential beneficiary of any winnings from the bet is a UK person, and
  - (c) the bet is not an excluded bet.
- (5) A Chapter 1 pool bet is a “pooled stake Chapter 1 pool bet” for the purposes of this Part if all or any part of the stake money on the bet is assigned by or on behalf of the bookmaker with whom it is made to a fund (referred to in this Part as a “Chapter 1 stake fund”) from which winnings are to be paid in respect of pool betting.
- (6) A Chapter 1 pool bet is an “ordinary Chapter 1 pool bet” for the purposes of this Part if it is not a pooled stake Chapter 1 pool bet.

### **135 General betting duty charge on Chapter 1 pool bets**

- (1) General betting duty is charged on a Chapter 1 pool bet made with a bookmaker.
- (2) It is charged at the rate of 15% of the bookmaker's profits on Chapter 1 pool bets for an accounting period.
- (3) The bookmaker's profits on Chapter 1 pool bets for an accounting period are the aggregate of—
  - (a) the amount of the bookmaker's profits for the period in respect of pooled stake Chapter 1 pool bets (calculated in accordance with section 136), and
  - (b) the amount of the bookmaker's profits for the period in respect of ordinary Chapter 1 pool bets (calculated in accordance with section 137), and
  - (c) the amount of the bookmaker's profits for the period in respect of retained winnings on Chapter 1 pool bets (calculated in accordance with section 138).
- (4) Where the calculation for an accounting period under subsection (3) produces a negative amount—
  - (a) the bookmaker's profits on Chapter 1 pool bets for the accounting period are treated as nil, and
  - (b) the amount produced by the calculation may be carried forward in reduction of the bookmaker's profits on Chapter 1 pool bets for one or more later accounting periods.

### **136 Profits on pooled stake Chapter 1 pool bets**

- (1) Take the following steps to calculate the amount of a bookmaker's profits for an accounting period in respect of pooled stake Chapter 1 pool bets.
  - Step 1* Take the aggregate of the relevant stake money falling due to the bookmaker in the accounting period and deduct the aggregate of any of that stake money that is assigned by or on behalf of the bookmaker to Chapter 1 stake funds during the period.

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*Step 2* If in the accounting period any amount contained in a Chapter 1 stake fund to which relevant stake money has been assigned by or on behalf of the bookmaker is used otherwise than to provide winnings to persons who made bets by way of pool betting, multiply each amount so used in the accounting period by the relevant proportion that applies in relation to it.

*Step 3* Add the aggregate of the amounts calculated under Step 2 to the amount calculated under Step 1.

*Step 4* If in the accounting period any top-up payment is assigned to a Chapter 1 stake fund by the bookmaker, multiply the amount of each top-up payment so assigned in the accounting period by the appropriate proportion that applies in relation to it.

*Step 5* Subtract the aggregate of the amounts calculated under Step 4 from the amount calculated under Step 3.

- (2) For the purposes of Step 2 the relevant proportion, in relation to any amount which is used otherwise than to provide winnings, is—
  - (a) if the amount relates to bets on a specific event, the proportion of that amount that consists of relevant stake money that fell due to the bookmaker in respect of the bets,
  - (b) if the amount does not relate to bets on a specific event but relates to amounts assigned to the fund during a specific period, the proportion of that amount that consists of relevant stake money assigned to the fund by or on behalf of the bookmaker during that period, and
  - (c) in any other case, the proportion of the total amount contained in the fund immediately before the amount is so used which consists of relevant stake money assigned to the fund by or on behalf of the bookmaker.
- (3) For the purposes of Step 4—
  - (a) a top-up payment is assigned to a Chapter 1 stake fund if the bookmaker assigns an amount (other than stake money on a bet) to the fund to satisfy a guarantee given by the bookmaker that a specified minimum amount of winnings will be available in respect of bets made with the bookmaker, and
  - (b) the appropriate proportion, in relation to such a payment, is the proportion determined in accordance with a notice published by the Commissioners.
- (4) A notice under subsection (3)(b) may provide for top-up payments to be ignored for the purposes of Step 4 in a specified case or class of cases.
- (5) In this section “relevant stake money” means stake money in respect of a pooled stake Chapter 1 pool bet.

### 137 Profits on ordinary Chapter 1 pool bets

To calculate the amount of a bookmaker's profits for an accounting period in respect of ordinary Chapter 1 pool bets—

- (a) take the aggregate of the stake money falling due to the bookmaker in the accounting period in respect of such bets, and
- (b) subtract the aggregate of the expenditure by or on behalf of the bookmaker for the period on winnings in respect of such bets.

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### **138 Profits on retained winnings on Chapter 1 pool bets**

- (1) The amount of a bookmaker's profits for an accounting period in respect of retained winnings on Chapter 1 pool bets is the aggregate of the amounts which cease to be qualifying amounts in the accounting period.
- (2) An amount is a qualifying amount for the purposes of this section if, as a result of a person ("P") being notified as mentioned in section 140(2)(b), it has been taken into account in calculating the bookmaker's profits for any accounting period under section 136 or 137.
- (3) An amount ceases to be a qualifying amount for the purposes of this section if, otherwise than by virtue of being withdrawn from the account by P as mentioned in section 140(2)(b), P ceases to be entitled to withdraw it.
- (4) The Commissioners may by notice published by them direct that subsection (3) is not to apply in a specified case or class of cases.

#### *Stake money and winnings*

### **139 Chapter 1: stake money**

- (1) For the purposes of this Chapter the stake money on a bet is the aggregate of the amounts which fall due in respect of the bet.
- (2) If the stake money falls due to a person other than the bookmaker with whom the bet is made, it is to be treated as falling due to the bookmaker.
- (3) Where the bet is not a spread bet and the sum which the person who makes the bet will lose if unsuccessful is known when the bet is made, that sum is to be treated as falling due when the bet is made (irrespective of when it is actually paid or required to be paid).
- (4) Where the person who makes the bet does so in pursuance of an offer which permits the person to pay nothing or less than the amount which the person would have been required to pay without the offer, the person is to be treated as being due to pay that amount—
  - (a) to the bookmaker with whom the bet is made, and
  - (b) at the time when the bet is made.
- (5) All payments made—
  - (a) for or on account of or in connection with the bet,
  - (b) in addition to amounts falling due in respect of the bet, and
  - (c) by the person making the bet,are to be treated as amounts due in respect of the bet except so far as the contrary is proved by the bookmaker whose profits on the bet are being calculated.
- (6) In calculating any amount falling due in respect of the bet, no deduction is to be made in respect of—
  - (a) any other benefit secured by the person who makes the bet as a result of paying the money,
  - (b) a person's expenses, whether in paying duty or otherwise, or
  - (c) any other matter.

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## **140 Chapter 1: winnings**

- (1) Only winnings in the form of money are to be taken into account when determining for the purposes of this Chapter what are winnings on a bet.
- (2) For those purposes, winnings on a bet include—
  - (a) the return of a stake on the bet, and
  - (b) any winnings on the bet held in an account for a person (“P”) if P is notified that the amount is being held in the account and may be withdrawn by P on demand.
- (3) The Commissioners may by regulations make provision as to when, for the purposes of any calculation under this Chapter—
  - (a) winnings are to be treated as paid or provided, and
  - (b) expenditure on winnings is to be treated as incurred.

### *Exchanges*

## **141 General betting duty charge on betting exchanges**

- (1) This section applies where—
  - (a) one person makes a bet with another person using facilities provided by a third person in the course of a business, and
  - (b) that business is one that does not involve the provision of premises for use by persons making or taking bets.
- (2) General betting duty is charged on the amounts (“commission charges”) that any party to the bet who is a UK person is charged, whether by deduction from winnings or otherwise, for using those facilities.
- (3) No deductions are allowed from commission charges.
- (4) The amount of duty charged under this section in respect of bets determined in an accounting period is 15% of the commission charges relating to those bets.
- (5) Where a person arranges for facilities relating to a bet to be provided by another person, the facilities are to be treated for the purposes of this section and section 142(4) as provided by the person who makes the arrangements instead of by the person who provides the facilities.
- (6) For the purposes of this section it does not matter—
  - (a) whether the bet is made in the United Kingdom or elsewhere;
  - (b) whether the facilities are in the United Kingdom or elsewhere.

### *Payment*

## **142 Liability to pay**

- (1) All general betting duty chargeable in respect of—
  - (a) bets made in an accounting period, or
  - (b) in the case of duty chargeable under section 141, bets determined in an accounting period,



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becomes due at the end of that period.

- (2) In the case of bets made with a bookmaker in an accounting period the general betting duty is to be paid—
  - (a) when it becomes due, and
  - (b) by the bookmaker.
- (3) But general betting duty which is due to be paid by a bookmaker in respect of bets may be recovered from the following persons as if they and the bookmaker were jointly and severally liable to pay the duty—
  - (a) the holder of any licence which authorises—
    - (i) the provision of facilities for betting by the business in the course of which the bets were made, or
    - (ii) betting at the place where the bets were made;
  - (b) a person responsible for the management of the business mentioned in paragraph (a)(i);
  - (c) where the bookmaker is a company, a director.
- (4) In the case of bets made in an accounting period by means of facilities provided by a person as described in section 141 the general betting duty is to be paid—
  - (a) when it becomes due, and
  - (b) by the person who provides the facilities.

## CHAPTER 2

### POOL BETTING DUTY

#### 143 Chapter 2 pool bets

- (1) A bet is a Chapter 2 pool bet for the purposes of this Part if—
  - (a) it is not made wholly in relation to horse racing or dog racing,
  - (b) it is not made for community benefit,
  - (c) it does not constitute the taking of a ticket or chance in a lottery,
  - (d) it is made by way of pool betting, and
  - (e) one or more of conditions A to C is met in relation to it.
- (2) Condition A is that the person who makes the bet (whether as principal or agent) does so while present at a place in the United Kingdom where betting facilities are provided in the course of a business and the bet is made using those facilities.
- (3) Condition B is that—
  - (a) the person who makes the bet as principal is a UK person, and
  - (b) the bet is not an excluded bet.
- (4) Condition C is that—
  - (a) the person who makes the bet as principal is a body corporate not legally constituted in the United Kingdom,
  - (b) the bookmaker with whom the bet is made knows or has reasonable cause to believe that at least one potential beneficiary of any winnings from the bet is a UK person, and

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(c) the bet is not an excluded bet.

- (5) A Chapter 2 pool bet is a “pooled stake Chapter 2 pool bet” for the purposes of this Part if all or any part of the stake money on the bet is assigned by or on behalf of the bookmaker with whom the bet is made to a fund (referred to in this Part as a “Chapter 2 stake fund”) from which winnings are to be paid in respect of pool betting.
- (6) A Chapter 2 pool bet is an “ordinary Chapter 2 pool bet” for the purposes of this Part if it is not a pooled stake Chapter 2 pool bet.

#### **144 Pool betting duty charge on Chapter 2 pool bets**

- (1) A duty of excise, to be known as pool betting duty, is charged on a Chapter 2 pool bet made with a bookmaker.
- (2) It is charged at the rate of 15% of the bookmaker's profits on Chapter 2 pool bets for an accounting period.
- (3) The bookmaker's profits on Chapter 2 pool bets for an accounting period are the aggregate of—
- (a) the amount of the bookmaker's profits for the period in respect of pooled stake Chapter 2 pool bets (calculated in accordance with section 145),
  - (b) the amount of the bookmaker's profits for the period in respect of ordinary Chapter 2 pool bets (calculated in accordance with section 146), and
  - (c) the amount of the bookmaker's profits for the period in respect of retained winnings on Chapter 2 pool bets (calculated in accordance with section 147).
- (4) Where the calculation for an accounting period under subsection (3) produces a negative amount—
- (a) the bookmaker's profits on Chapter 2 pool bets for the accounting period are treated as nil, and
  - (b) the amount produced by the calculation may be carried forward in reduction of the bookmaker's profits on Chapter 2 pool bets for one or more later accounting periods.

#### **145 Profits on pooled stake Chapter 2 pool bets**

- (1) Take the following steps to calculate the amount of a bookmaker's profits for an accounting period in respect of pooled stake Chapter 2 pool bets.

*Step 1* Take the aggregate of the relevant stake money falling due to the bookmaker in the accounting period and deduct the aggregate of any of that stake money that is assigned by or on behalf of the bookmaker to Chapter 2 stake funds during the period.

*Step 2* If in the accounting period any amount contained in a Chapter 2 stake fund to which relevant stake money has been assigned by or on behalf of the bookmaker is used otherwise than to provide winnings to persons who made bets by way of pool betting, multiply each amount so used in the accounting period by the relevant proportion that applies in relation to it.

*Step 3* Add the aggregate of the amounts calculated under Step 2 to the amount calculated under Step 1.

*Step 4* If in the accounting period any top-up payment is assigned to a Chapter 2 stake fund by the bookmaker, multiply the amount of each top-up payment so

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assigned in the accounting period by the appropriate proportion that applies in relation to it.

*Step 5* Subtract the aggregate of the amounts calculated under Step 4 from the amount calculated under Step 3.

- (2) For the purposes of Step 2 the relevant proportion, in relation to any amount which is used otherwise than to provide winnings, is—
- (a) if the amount relates to bets on a specific event, the proportion of that amount that consists of relevant stake money that fell due to the bookmaker in respect of the bets,
  - (b) if the amount does not relate to bets on a specific event but relates to amounts assigned to the fund during a specific period, the proportion of that amount that consists of relevant stake money assigned to the fund by or on behalf of the bookmaker during that period, and
  - (c) in any other case, the proportion of the total amount contained in the fund immediately before the amount is so used which consists of relevant stake money assigned to the fund by or on behalf of the bookmaker.
- (3) For the purposes of Step 4—
- (a) a top-up payment is assigned to a Chapter 2 stake fund if the bookmaker assigns an amount (other than stake money on a bet) to the fund to satisfy a guarantee given by the bookmaker that a specified minimum amount of winnings will be available in respect of bets made with the bookmaker, and
  - (b) the appropriate proportion, in relation to such a payment, is the proportion determined in accordance with a notice published by the Commissioners.
- (4) A notice under subsection (3)(b) may provide for top-up payments to be ignored for the purposes of Step 4 in a specified case or class of cases.
- (5) In this section “relevant stake money” means stake money in respect of a pooled stake Chapter 2 pool bet.

## **146 Profits on ordinary Chapter 2 pool bets**

To calculate the amount of a bookmaker's profits for an accounting period in respect of ordinary Chapter 2 pool bets—

- (a) take the aggregate of the stake money falling due to the bookmaker in the accounting period in respect of such bets, and
- (b) subtract the aggregate of the expenditure by or on behalf of the bookmaker for the period on winnings in respect of such bets.

## **147 Profits on retained winnings on Chapter 2 pool bets**

- (1) The amount of a bookmaker's profits for an accounting period in respect of retained winnings on Chapter 2 pool bets is the aggregate of the amounts which cease to be qualifying amounts during the accounting period.
- (2) An amount is a qualifying amount for the purposes of this section if, as a result of a person (“P”) being notified as mentioned in section 149(2)(b), it has been taken into account in calculating the bookmaker's profits for any accounting period under section 145 or 146.

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- (3) An amount ceases to be a qualifying amount for the purposes of this section if, otherwise than by virtue of being withdrawn by P as mentioned in section 149(2)(b), P ceases to be entitled to withdraw it.
- (4) The Commissioners may by notice published by them direct that subsection (3) is not to apply in a specified case or class of cases.

## **148 Chapter 2: stake money**

- (1) For the purposes of this Chapter the stake money on a bet is the aggregate of the amounts which fall due in respect of the bet.
- (2) If the stake money falls due to a person other than the bookmaker with whom the bet is made, it is to be treated as falling due to the bookmaker.
- (3) Any payment that entitles a person to make the bet is, if the person makes the bet, to be treated as an amount falling due in respect of the bet.
- (4) All payments made—
  - (a) for or on account of or in connection with the bet,
  - (b) in addition to amounts falling due in respect of the bet, and
  - (c) by the person making the bet,
 are to be treated as amounts due in respect of the bet except so far as the contrary is proved by the bookmaker whose profits on the bet are being calculated.
- (5) Subsections (6) and (7) apply for the purposes of subsection (1) but have effect subject to any regulations under subsection (8).
- (6) Where—
  - (a) a person makes a bet, and
  - (b) the bet relates to a single event, or to two or more events taking place on the same day,
 any sum due to the bookmaker in respect of the bet is treated as falling due on the day on which the event or events take place.
- (7) Where—
  - (a) a person makes a bet, and
  - (b) subsection (6) does not apply,
 any sum due to the bookmaker in respect of the bet is treated as falling due when the bet is made.
- (8) The Commissioners may by regulations make provision as to when any sum due to the bookmaker in respect of a bet is to be treated as falling due.
- (9) Provision made by regulations under subsection (8) may not provide for a sum due to the bookmaker in respect of a bet to be treated as falling due—
  - (a) earlier than when the bet is made, or
  - (b) later than when the bet is determined.

## **149 Chapter 2: winnings**

- (1) Only winnings in the form of money are to be taken into account when determining for the purposes of this Chapter what are winnings on a bet.

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- (2) For those purposes, winnings on a bet include—
  - (a) the return of a stake on the bet, and
  - (b) any winnings on the bet held in an account for a person (“P”) if P is notified that the amount is being held in the account and may be withdrawn by P on demand.
- (3) Winnings on a bet for which no stake money fell due are to be ignored for the purposes of any calculation under this Chapter.
- (4) The Commissioners may by regulations make provision as to when, for the purposes of any calculation under this Chapter—
  - (a) winnings are to be treated as paid or provided, and
  - (b) expenditure on winnings is to be treated as incurred.

## **150 Payments treated as bets**

- (1) Where payments are made for the chance of winning any money or money's worth on terms under which the persons making the payments have a power of selection that may (directly or indirectly) determine the winner, those payments are (subject to section 183) to be treated as bets for the purposes of this Chapter even if the power is not exercised.
- (2) Where any payment entitles a person to take part in a transaction that is, on the person's part only, not a bet made by way of pool betting by reason of the person not in fact making any stake as if the transaction were such a bet, the transaction is to be treated as such a bet for the purposes of this Chapter (and section 148(4) applies to any such payment).

## **151 Payment and recovery**

- (1) Pool betting duty charged on a bookmaker's profits on Chapter 2 pool bets for an accounting period—
  - (a) becomes due at the end of the period,
  - (b) is to be paid by the bookmaker, and
  - (c) is to be paid when it becomes due.
- (2) Pool betting duty that is due to be paid may be recovered from the following persons as if they were jointly and severally liable to pay the duty—
  - (a) the bookmaker;
  - (b) a person responsible for the management of any business in the course of which any bets have been made that are Chapter 2 pool bets for the purposes of the calculation of the amount of the bookmaker's profits on Chapter 2 pool bets for any accounting period;
  - (c) a person responsible for the management of any totalisator used for the purposes of any such business;
  - (d) where a person within any of paragraphs (a) to (c) is a company, a director.

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## **152 Notification of reliance on community benefit exemption**

- (1) Where a bookmaker relies for the purposes of pool betting duty on the fact that a bet is not a Chapter 2 pool bet by virtue of being made for community benefit, the bookmaker must inform the Commissioners of that fact.
- (2) The Commissioners may by notice published by them—
  - (a) specify the manner in which, and the time at which, the Commissioners are to be informed as mentioned in subsection (1), and
  - (b) direct that subsection (1) is not to apply in a specified case or class of cases.

## **153 Bets made for community benefit**

- (1) For the purposes of this Part (but subject to any direction under subsection (3)), a bet is made “for community benefit” if—
  - (a) the promoter of the betting concerned is a community society or is bound to pay all benefits accruing from the betting to such a society, and
  - (b) the person making the bet knows, when making it, that the purpose of the betting is to benefit such a society.
- (2) In the case of a bet made by means of a totalisator, the reference in subsection (1) to the promoter of the betting concerned is a reference to the operator.
- (3) The Commissioners may direct that any bet specified by the direction, or of a description so specified, is not a bet made for community benefit.
- (4) The power conferred by subsection (3) may not be exercised unless the Commissioners consider that an unreasonably large part of the amounts paid in respect of the bets concerned will, or may, be applied otherwise than—
  - (a) in the payment of winnings, or
  - (b) for the benefit of a community society.
- (5) In this section “community society” means—
  - (a) a society established and conducted for charitable purposes only, or
  - (b) a society established and conducted wholly or mainly for the support of athletic sports or athletic games and not established or conducted for purposes of private or commercial gain.
- (6) In this section “society” includes any club, institution, organisation or association of persons, by whatever name called.

# **CHAPTER 3**

## **REMOTE GAMING DUTY**

## **154 Remote gaming**

- (1) For the purposes of this Part “remote gaming” is gaming in which persons participate by the use of—
  - (a) the internet,
  - (b) telephone,
  - (c) television,

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- (d) radio, or
  - (e) any other kind of electronic or other technology for facilitating communication.
- (2) Remote gaming is “pooled prize gaming” for the purposes of this Part if all or any part of the gaming payment is assigned by or on behalf of the gaming provider to a fund (referred to in this Part as a “gaming prize fund”) from which prizes are to be provided to participants in the gaming.
- (3) Remote gaming is “ordinary gaming” for the purposes of this Part if it is not pooled prize gaming.
- (4) The Treasury may by regulations—
- (a) amend the definition of “remote gaming” in subsection (1), and
  - (b) make such consequential amendments of section 17(2A) of BGDA 1981 (cases in which bingo duty is not charged on bingo played by means of remote communication) as appear to the Treasury to be necessary.
- (5) Nothing in subsection (4)(b) affects the generality of section 194(1).

## 155 Remote gaming duty

- (1) A duty of excise, to be known as remote gaming duty, is charged on a chargeable person's participation in remote gaming under arrangements (whether or not enforceable) between the chargeable person and another person (referred to in this Part as a “gaming provider”).
- (2) In this Part “chargeable person” means—
- (a) any UK person, and
  - (b) any body corporate not legally constituted in the United Kingdom if the person with whom the arrangements mentioned in subsection (1) are made knows, or has reasonable cause to believe, that at least one potential beneficiary of any prizes from remote gaming under the arrangements is a UK person.
- (3) Remote gaming duty is chargeable at the rate of [<sup>F22</sup>21%] of the gaming provider's profits on remote gaming for an accounting period.
- (4) The gaming provider's profits on remote gaming for an accounting period are the aggregate of—
- (a) the amount of the provider's profits for the period in respect of pooled prize gaming (calculated in accordance with section 156),
  - (b) the amount of the provider's profits for the period in respect of ordinary gaming (calculated in accordance with section 157), and
  - (c) the amount of the provider's profits for the period in respect of retained prizes (calculated in accordance with section 158).
- (5) Where the calculation for an accounting period under subsection (4) produces a negative amount—
- (a) the gaming provider's profits on remote gaming for the accounting period are treated as nil, and
  - (b) the amount produced by the calculation may be carried forward in reduction of the gaming provider's profits on remote gaming for one or more later accounting periods.

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### Textual Amendments

**F22** Word in [s. 155\(3\)](#) substituted (with effect in accordance with s. 62(2) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 62\(1\)](#)

## 156 Profits on pooled prize gaming

- (1) Take the following steps to calculate the amount of a gaming provider's profits for an accounting period in respect of pooled prize gaming.

*Step 1* Take the aggregate of the relevant gaming payments made to the provider in the accounting period and deduct the aggregate of any of those payments that are assigned by or on behalf of the provider to gaming prize funds during the period.

*Step 2* If in the accounting period any amount contained in a gaming prize fund to which relevant gaming payments have been assigned by or on behalf of the provider is used otherwise than to provide prizes to participants in pooled prize gaming, multiply each amount so used in the accounting period by the relevant proportion that applies in relation to it.

*Step 3* Add the aggregate of the amounts calculated under Step 2 to the amount calculated under Step 1.

*Step 4* If in the accounting period any top-up payment is assigned to a gaming prize fund by the gaming provider, multiply the amount of each top-up payment so assigned in the accounting period by the appropriate proportion that applies in relation to it.

*Step 5* Subtract the aggregate of the amounts calculated under Step 4 from the amount calculated under Step 3.

- (2) For the purposes of Step 2 the relevant proportion, in relation to any amount which is used otherwise than to provide prizes, is—

- (a) if the amount relates to a specific game of chance, the proportion of that amount that consists of relevant gaming payments made to the provider in respect of that game,
- (b) if the amount does not relate to a specific game of chance but relates to amounts assigned to the fund during a specific period, the proportion of that amount that consists of relevant gaming payments assigned to the fund by or on behalf of the provider during that period, and
- (c) in any other case, the proportion of the total amount contained in the fund immediately before the amount is so used which consists of relevant gaming payments assigned to the fund by or on behalf of the provider.

- (3) For the purposes of Step 4—

- (a) a top-up payment is assigned to a gaming prize fund if the gaming provider assigns an amount (other than a gaming payment) to the fund to satisfy a guarantee given by the gaming provider that prizes of a specified minimum amount will be available in respect of gaming under arrangements made with the provider, and
- (b) the appropriate proportion, in relation to such a top-up payment, is the proportion determined in accordance with a notice published by the Commissioners.



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- (4) A notice under subsection (3)(b) may provide for top-up payments to be ignored for the purposes of Step 4 in a specified case or class of cases.
- (5) In this section “relevant gaming payment” means a gaming payment in respect of pooled prize gaming.

### **157 Profits on ordinary gaming**

- (1) To calculate the amount of a gaming provider's profits for an accounting period in respect of ordinary gaming—
  - (a) take the aggregate of the gaming payments made to the provider in the accounting period in respect of ordinary gaming, and
  - (b) subtract the amount of the provider's expenditure for the period on prizes in respect of such gaming.
- (2) The amount of the gaming provider's expenditure on prizes for an accounting period in respect of ordinary gaming is the aggregate of the value of prizes provided by or on behalf of the provider in that period which have been won (at any time) by chargeable persons participating in ordinary gaming.

### **158 Profits on retained prizes**

- (1) The amount of a gaming provider's profits for an accounting period in respect of retained prizes is the aggregate of the amounts which cease to be qualifying amounts during the accounting period.
- (2) An amount is a qualifying amount for the purposes of this section if, as a result of a person (“P”) being notified as mentioned in section 160(1), it has been taken into account in calculating the provider's profits for any accounting period under section 156 or 157.
- (3) An amount ceases to be a qualifying amount for the purposes of this section if, otherwise than by virtue of being withdrawn by P as mentioned in section 160(1), P ceases to be entitled to withdraw it.
- (4) The Commissioners may by notice published by them direct that subsection (3) is not to apply in a specified case or class of cases.

### **159 Gaming payments**

- (1) Where a chargeable person participates in remote gaming, the “gaming payment” for the purposes of this Chapter is the aggregate of—
  - (a) any amount that entitles the person to participate in the gaming, and
  - (b) any other amount payable for or on account of or in connection with the person's participation in the gaming.
- (2) If the gaming payment is made to a person other than the gaming provider, it is to be treated for the purposes of this Chapter as made to the gaming provider.
- (3) If the gaming payment has not been made at the time when the chargeable person begins to participate in the remote gaming to which it relates, it is to be treated for the purposes of this Chapter as being made at that time.

[<sup>F23</sup>(4) For the purposes of this Chapter—

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- (a) where the chargeable person participates in the remote gaming in reliance on an offer which waives all of a gaming payment, the person is to be treated as having made a gaming payment of the amount which would have been required to be paid without the offer (“the full amount”), and
  - (b) where the chargeable person participates in the remote gaming in reliance on an offer which waives part of a gaming payment, the person is to be treated as having made an additional gaming payment of the difference between the gaming payment actually made and the full amount.
- (5) Where a person is treated by subsection (4) as having made a gaming payment, the payment is to be treated for the purposes of this Chapter—
- (a) as having been made to the gaming provider at the time when the chargeable person begins to participate in the remote gaming to which it relates, and
  - (b) as not having been—
    - (i) returned, or
    - (ii) assigned to a gaming prize fund.
- (6) The Commissioners may by regulations make further provision about how a gaming payment which a person is treated as having made under subsection (4) is to be treated for the purposes of this Chapter.
- (7) This section has effect subject to section 159A.]

#### Textual Amendments

**F23** S. 159(4)-(7) substituted for s. 159(4) (with effect in accordance with s. 46(9) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), s. 46(2)

#### [<sup>F24</sup>159A Play using the results of successful freeplay

- (1) Where a chargeable person participates in remote gaming, an amount is not to be taken into account in determining the “gaming payment” (if any) under section 159 so far as the amount is paid out of money in relation to which the first and second conditions are met (“excluded winnings”).
- (2) The first condition is that the money has been won by participation in the gaming either—
  - (a) in reliance on an offer which waives all or part of a gaming payment, or
  - (b) in a case where the gaming payment was paid out of money in relation to which this condition and the second condition were met.
- (3) The second condition is that the chargeable person is not entitled to use the money otherwise than for the purpose of participation in the gaming.
- (4) Subsection (5) applies where—
  - (a) a chargeable person participates in remote gaming in reliance on an offer which waives all or part of a gaming payment, and
  - (b) that offer has been won in the course of the person's participation in the gaming (and the person was not given the choice of receiving a different benefit instead of the offer).

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- (5) The amount which would, apart from this subsection, be treated by section 159(4)(a) or (b) as a gaming payment (or additional gaming payment) is not to be so treated.
- (6) For the purposes of this section, where a payment is made out of moneys which include both excluded winnings and money which is not excluded winnings (the “other funds”), the payment is not taken to be made out of excluded winnings except so far as the amount of the payment exceeds the amount of those other funds.
- (7) In this section “money” includes any amount credited and any other money's worth.]

#### Textual Amendments

**F24** S. 159A inserted (with effect in accordance with s. 46(9) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [s. 46\(3\)](#)

## 160 Prizes

- (1) A reference in section 156 or 157 to providing a prize to a person includes a reference to crediting money to an account [<sup>F25</sup>only] if the person is notified that—
  - (a) the money is being held in the account, and
  - (b) the person is entitled to withdraw it on demand.

<sup>F26</sup>(2) .....

- (3) The return of all or part of a gaming payment is to be treated for the purposes of sections 156 and 157 as the provision of a prize [<sup>F27</sup>(but where a gaming payment is returned by being credited to an account this subsection has effect subject to subsection (1))].
- (4) Where a prize is obtained by or on behalf of a gaming provider from a person not connected with the person who obtains the prize, the cost to the person who obtains the prize is to be treated as the expenditure on the prize for the purposes of sections 156 and 157.
- (5) Where a prize is a voucher which—
  - (a) may be used in place of money as whole or partial payment for benefits of a specified kind obtained from a specified person,
  - (b) specifies an amount as the sum or maximum sum in place of which the voucher may be used, and
  - (c) does not fall within subsection (4),the specified amount is the value of the voucher for the purposes of sections 156 and 157.
- (6) Where a prize is a voucher (whether or not it falls within subsection (4)) no expenditure is to be treated as having been incurred on the prize for the purposes of sections 156 and 157 if—
  - (a) it does not satisfy subsection (5)(a) and (b), or
  - (b) its use as described in subsection (5)(a) is subject to a specified restriction, condition or limitation which may make the value of the voucher to the recipient significantly less than the amount mentioned in subsection (5)(b).

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- (7) In the case of a prize which is neither money nor a voucher and which does not fall within subsection (4), the expenditure on the prize for the purposes of sections 156 and 157 is—
- (a) the amount which the prize would cost if obtained from a person not connected with the person who provides it, or
  - (b) where no amount can reasonably be determined in accordance with paragraph (a), nil.
- (8) For the purposes of this section—
- (a) a reference to connection between two persons is to be construed in accordance with section 1122 of CTA 2010 (connected persons), and
  - (b) an amount paid by way of value added tax on the acquisition of a thing is to be treated as part of its cost (irrespective of whether or not the amount is taken into account for the purpose of a credit or refund).

[<sup>F28</sup>(9) This section has effect subject to section 160A.]

#### Textual Amendments

- F25** Word in s. 160(1) inserted (with effect in accordance with s. 46(9) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 46\(4\)\(a\)](#)
- F26** S. 160(2) omitted (with effect in accordance with s. 46(9) of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\), s. 46\(4\)\(b\)](#)
- F27** Words in s. 160(3) inserted (with effect in accordance with s. 46(9) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 46\(4\)\(c\)](#)
- F28** S. 160(9) inserted (with effect in accordance with s. 46(9) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 46\(4\)\(d\)](#)

#### [<sup>F29</sup>160A Prizes: freeplay

- (1) Where a prize is a freeplay offer (whether or not in the form of a voucher) which does not fall within section 160(4)—
- (a) for the purposes of sections 156 and 157, the expenditure on the prize is nil, and
  - (b) subsections (5) to (7) of section 160 do not apply in relation to the prize.
- (2) Where a prize is a voucher which gives the recipient a choice of using it in place of money for freeplay or as whole or partial payment for another benefit, section 160(5) (b) has effect as if after “used” there were inserted “ if it is used as payment for a benefit other than freeplay ”.
- (3) In this section—
- “freeplay” means participation, in reliance on a freeplay offer, in—
    - (a) remote gaming, or
    - (b) an activity in respect of which a gambling tax listed in section 161(4) is charged;
  - “freeplay offer” means an offer which waives all or part of—
    - (a) a gaming payment, or
    - (b) a payment in connection with participation in an activity in respect of which a gambling tax listed in section 161(4) is charged.]

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### Textual Amendments

**F29** S. 160A inserted (with effect in accordance with s. 46(9) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), s. 46(5)

## 161 Exemptions

- (1) Remote gaming duty is not charged on participation by a chargeable person in remote gaming if—
  - (a) the arrangements between the chargeable person and the gaming provider are not entered into in or from the United Kingdom, and
  - (b) the facilities used to participate in the gaming are not capable of being used in or from the United Kingdom.
- (2) Remote gaming duty is not charged on participation by a chargeable person in remote gaming so far as the remote gaming—
  - (a) is charged with another gambling tax, or
  - (b) would be charged with another gambling tax but for an express exception.
- (3) Subsection (2)(b)—
  - (a) does not prevent remote gaming duty being charged where the remote gaming in question is the playing of bingo which is not licensed bingo (as to the meaning of which terms see section 20C of BGDA 1981), and
  - (b) does not apply in cases where the other gambling tax is machine games duty.
- (4) In this section “gambling tax” means—
  - (a) machine games duty,
  - (b) bingo duty,
  - (c) gaming duty,
  - (d) general betting duty,
  - (e) lottery duty, and
  - (f) pool betting duty.
- (5) The Treasury may by regulations—
  - (a) confer an exemption from remote gaming duty, or
  - (b) remove or vary (whether or not by textual amendment) an exemption under this section.
- (6) In calculating a gaming provider's profits on remote gaming for an accounting period, no account is to be taken of gaming payments, assignments of amounts to a pool or expenditure on prizes so far as they relate to remote gaming to which an exemption applies as a result of this section or regulations under it.

## 162 Liability to pay

- (1) A gaming provider is liable for any remote gaming duty charged on the provider's profits on remote gaming for an accounting period.
- (2) If the gaming provider is a body corporate, the provider and the provider's directors are jointly and severally liable for any remote gaming duty charged on the provider's profits on remote gaming for an accounting period.

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- (3) Remote gaming duty which is charged on the gaming provider's profits on remote gaming for an accounting period may be recovered from the holder of a remote operating licence for the business in the course of which the gaming took place as if the holder of the licence and the provider were jointly and severally liable to pay the duty.

## CHAPTER 4

### GENERAL

#### *Administration*

#### **163 Administration**

- (1) The Commissioners are responsible for the collection and management of general betting duty, pool betting duty and remote gaming duty.
- (2) General betting duty, pool betting duty and remote gaming duty are to be accounted for by such persons, and accounted for and paid at such times and in such manner, as may be required by or under regulations made by the Commissioners.
- (3) The Commissioners may make regulations providing for any matter for which provision appears to them to be necessary for the administration or enforcement of, or for the protection of the revenue from, general betting duty, pool betting duty and remote gaming duty.
- (4) Nothing in sections 164 to 169 affects the generality of the powers conferred by this section.

#### **164 Registration**

- (1) The Commissioners must maintain the following registers—
  - (a) a register of persons who, by virtue of being bookmakers, being treated by section 133 as bookmakers or providing facilities for making bets, are (or may become) liable to pay general betting duty,
  - (b) a register of persons who, by virtue of being bookmakers, are (or may become) liable to pay pool betting duty, and
  - (c) a register of persons who, by virtue of entering into arrangements for chargeable persons to participate in remote gaming, are (or may become) liable to pay remote gaming duty.
- (2) A person falling within any paragraph of subsection (1) may not carry on an activity by virtue of which the person falls within that paragraph without being registered in the register maintained under that paragraph.
- (3) The Commissioners may make regulations about registration; in particular, the regulations may include provision about—
  - (a) the procedure for applying for registration (including provision requiring applications to be made electronically);
  - (b) the timing of applications (including provision for applications to be made and determined before 1 December 2014);
  - (c) the information to be provided;

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- (d) notification of changes;
  - (e) de-registration;
  - (f) re-registration after a person ceases to be registered.
- (4) The regulations may require a person registered under this section to give notice to the Commissioners before applying for a remote operating licence.
- (5) The regulations may permit the Commissioners to impose conditions or requirements on persons registered under this section.
- (6) The regulations may include provision for the registration of groups of persons; and may provide for the modification of provisions of this Part in their application to groups.
- (7) The modifications may, for example, include a modification ensuring that each member of a group will be jointly and severally liable for the duty payable by any member of the group.

#### Commencement Information

**I4** [S. 164](#) partly in force; [s. 164\(1\)\(3\)-\(7\)](#) in force at Royal Assent; [s. 164\(2\)](#) in force at 1.12.2014, see [s. 198\(1\)\(2\)](#)

## 165 Accounting period

- (1) For the purposes of this Part—
- (a) a period of 3 consecutive months is an accounting period, but
  - (b) the Commissioners may by regulations provide for some other period specified in, or determined in accordance with, the regulations to be an accounting period.
- (2) The first day of an accounting period is such day as the Commissioners may direct.
- (3) The Commissioners may agree with a person to make either or both of the following changes for the purposes of that person's liability to general betting duty, pool betting duty or remote gaming duty—
- (a) to treat specified periods (whether longer or shorter than 3 months) as accounting periods;
  - (b) to begin accounting periods on days other than those applying by virtue of subsection (2).
- (4) The Commissioners may by direction make transitional arrangements for periods (whether of 3 months or otherwise) to be treated as accounting periods where—
- (a) a person becomes or ceases to be registered, or
  - (b) an agreement under subsection (3) begins or ends.
- (5) A direction under this section—
- (a) may apply generally or only to a particular case or class of case, and
  - (b) must be published unless it applies only to a particular case.

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## 166 Returns

- (1) The Commissioners may make regulations requiring returns to be made to the Commissioners in respect of general betting duty, pool betting duty and remote gaming duty.
- (2) The regulations may, in particular, make provision about—
  - (a) liability to make a return,
  - (b) timing,
  - (c) form,
  - (d) content,
  - (e) method of making (including provision requiring returns to be made electronically),
  - (f) declarations,
  - (g) authentication, and
  - (h) when a return is to be treated as made.

## 167 Payment

- (1) The Commissioners may by regulations make provision about payment of general betting duty, pool betting duty and remote gaming duty.
- (2) The regulations may, in particular, make provision about—
  - (a) timing (including provision requiring payments to be made on account),
  - (b) instalments,
  - (c) methods of payment (including provision requiring payments to be made electronically),
  - (d) when payment is to be treated as made, and
  - (e) the process and effect of assessments by the Commissioners of amounts due.
- (3) Subject to regulations under section 163 and this section, section 12 of FA 1994 (assessment) applies in relation to liability to pay general betting duty, pool betting duty and remote gaming duty.

## 168 Information and records

The Commissioners may by regulations require the provision to such persons, or display in such manner, of such information or records as the regulations may specify—

- (a) by persons engaging or proposing to engage in any activity by reason of which they are, or may be or become, liable for general betting duty, pool betting duty or remote gaming duty (or would be or might be or become liable to general betting duty if on-course bets were not excluded), and
- (b) by persons providing facilities for another to engage in such an activity or entering into any transaction in the course of any such activity.

## 169 Stake funds and gaming prize funds

- (1) The Treasury may by regulations make provision as to the circumstances in which—
  - (a) the stake money on a bet is, or is not, to be treated for the purposes of this Part as assigned to a Chapter 1 stake fund or a Chapter 2 stake fund,



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- (b) gaming payments are, or are not, to be treated for the purposes of this Part as assigned to a gaming prize fund,
  - (c) an amount contained in a Chapter 1 stake fund or a Chapter 2 stake fund is, or is not, to be treated for the purposes of this Part as being used otherwise than to provide winnings, and
  - (d) an amount contained in a gaming prize fund is, or is not, to be treated for the purposes of this Part as being used otherwise than to provide prizes.
- (2) The Commissioners may by notice published by them make provision about Chapter 1 stake funds, Chapter 2 stake funds and gaming prize funds, and such a notice may (in particular) make provision as to how such funds are to be held.

### *Security and enforcement*

## **170 Security for payment**

- (1) The Commissioners may by notice given to a registrable person require the person to give security, or further security, for the payment of any general betting duty, pool betting duty or remote gaming duty for which the person is or may become liable.
- (2) The Commissioners may give such a notice only if they consider—
  - (a) that there is a serious risk that the duty will not be paid, or
  - (b) that the person usually lives in or, if a body corporate, is legally constituted in a country or territory with which the United Kingdom does not have satisfactory arrangements for the enforcement of liabilities.
- (3) The notice must specify—
  - (a) the amount of security or further security to be given, and
  - (b) the manner in which, and the date by which, the security or further security is to be given.
- (4) That date must not be less than 30 days after the date when the notice is given (and must not be before 1 December 2014).
- (5) Any requirement imposed by the notice has no effect at any time when—
  - (a) the registrable person is entitled under Chapter 2 of Part 1 of FA 1994 to require a review of, or to bring an appeal against, the decision to give the notice,
  - (b) an appeal may ordinarily be brought against a decision on such a review or appeal, or
  - (c) proceedings on such a review, appeal or further appeal are in progress.
- (6) A person is a “registrable person” for the purposes of this Part if the person—
  - (a) is, or is required to be, registered under section 164, or
  - (b) has applied for registration under that section.

## **171 Appointment of UK representative**

- (1) The Commissioners may by notice given to a registrable person require the person to appoint a United Kingdom representative.

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- (2) The representative must be a person approved by the Commissioners for the purposes of this section.
- (3) The Commissioners may give such a notice only if they consider that the registrable person usually lives in or, if a body corporate, is legally constituted in a country or territory with which the United Kingdom does not have satisfactory arrangements for the enforcement of liabilities.
- (4) The notice must specify the date by which the representative must be appointed.
- (5) That date must not be less than 30 days after the date when the notice was given (and must not be before 1 December 2014).
- (6) It is for the registrable person to decide whether the representative is to have responsibility—
  - (a) for making returns in respect of general betting duty, pool betting duty or remote gaming duty on behalf of the registrable person, or
  - (b) for making such returns and for discharging the registrable person's liability to general betting duty, pool betting duty or remote gaming duty.
- (7) The notice may be combined with a notice under section 170, and in such a case any requirement contained in the notice under that section ceases to have effect if the registrable person appoints a representative with the responsibilities mentioned in subsection (6)(b).
- (8) Any requirement imposed by the notice has no effect at any time when—
  - (a) the registrable person is entitled under Chapter 2 of Part 1 of FA 1994 to require a review of, or to bring an appeal against, the decision to give the notice,
  - (b) an appeal may ordinarily be brought against a decision on such a review or appeal, or
  - (c) proceedings on such a review, appeal or further appeal are in progress.

## **172 Security and representatives: review and appeal**

- (1) A decision to give a notice under section 170(1) or 171(1) is to be treated as a relevant decision for the purposes of sections 15A and 15C to 16 of FA 1994 (customs and excise reviews and appeals) and, accordingly, the notice must include an offer of a review of the decision under section 15A of FA 1994.
- (2) Only the registrable person may bring an appeal under section 16 of FA 1994 as applied by subsection (1).
- (3) The decision appealed against is to be treated for the purposes of that section as a decision as to an ancillary matter.
- (4) Such amendments to the notice as are necessary to give effect to any decision on a review, appeal or further appeal must be made by whichever of the following is appropriate in the case in question—
  - (a) the Commissioners,
  - (b) the appeal tribunal, and
  - (c) the court which has determined an appeal from the appeal tribunal.

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- (5) An appeal under section 16 of FA 1994 as applied by subsection (1) may not be entertained unless any amount of general betting duty, pool betting duty or remote gaming duty (whether or not it is an amount to which the appeal relates) due from the registrable person at the date when the appeal is brought has been paid.
- (6) But an appeal may be entertained despite subsection (5) if, on the application of the registrable person, the Commissioners are satisfied or (the Commissioners not being so satisfied) the appeal tribunal decides that the requirement to pay the duty for which the person is liable would cause the person to suffer hardship.
- (7) Despite sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 (rights of appeal), the decision of the appeal tribunal as to the issue of hardship is final.
- (8) In this section “appeal tribunal” has the same meaning as in Chapter 2 of Part 1 of FA 1994.

### **173 Offence of failing to provide security or appoint representative**

- (1) A person who is, or is required to be, registered under section 164 is guilty of an offence if the person—
  - (a) is required to give security or further security by a notice under section 170 and does not comply with that requirement, or
  - (b) is required to appoint a representative by a notice under section 171 and does not comply with that requirement.
- (2) A person guilty of an offence under this section is liable, on summary conviction, to—
  - (a) in England and Wales, a fine, or
  - (b) in Scotland or Northern Ireland, a fine not exceeding level 5 on the standard scale.
- (3) The reference in subsection (2)(a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale in relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.

### **174 Fraudulent evasion**

- (1) A person commits an offence if the person is knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of general betting duty, pool betting duty or remote gaming duty.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to—
  - (a) imprisonment for a term not exceeding 12 months,
  - (b) a fine not exceeding—
    - (i) in England and Wales, £20,000 or, if greater, three times the duty which is unpaid or the payment of which is sought to be avoided, or
    - (ii) in Scotland or Northern Ireland, the statutory maximum or, if greater, three times the duty which is unpaid or the payment of which is sought to be avoided, or
  - (c) both.

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(3) A person guilty of an offence under subsection (1) is liable on conviction on indictment to—

- (a) imprisonment for a term not exceeding 7 years,
- (b) a fine, or
- (c) both.

[<sup>F30</sup>(3A) In the application of this section in England and Wales, the reference in subsection (2) (a) to 12 months is to be read as a reference to the general limit in a magistrates' court (or to 6 months in relation to an offence committed before 2 May 2022).]

(4) The reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months in relation to an offence committed—

- <sup>F31</sup>(a) .....
- (b) in Northern Ireland.

(5) Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 does not apply in relation to the offence under subsection (1), but where such an offence is committed before section 85(1) comes into force the reference in subsection (2)(b)(i) to £20,000 is to be read as a reference to the statutory maximum.

#### Textual Amendments

**F30** S. 174(3A) inserted (E.W.) (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), **30(2)**

**F31** S. 174(4)(a) omitted (E.W.) (7.2.2023 at 12.00 p.m.) by virtue of [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), **30(3)**

## 175 Penalties under section 9 of FA 1994

(1) Where general betting duty, pool betting duty or remote gaming duty is payable by a person, the person's failure to pay attracts a penalty under section 9 of FA 1994, which is to be calculated by reference to the amount of duty payable.

(2) Any such failure to pay as is mentioned in subsection (1) also attracts daily penalties under that section.

(3) Subsection (4) applies to a contravention of—

- (a) section 152 or a notice under that section,
- (b) section 164 or regulations under that section,
- (c) regulations under section 166,
- (d) regulations under section 167,
- (e) regulations under section 168,
- (f) a notice under section 169, or
- (g) a notice under section 186.

(4) Such a contravention—

- (a) is conduct to which section 9 of FA 1994 applies (penalties), and
- (b) attracts daily penalties under that section.

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## **176 Interest**

- (1) This section applies if an order is made under section 104(3) of FA 2009 appointing a day on which sections 101 to 103 of that Act are to come into force for the purposes of general betting duty, pool betting duty or remote gaming duty.
- (2) Interest charged under section 101 of that Act on an amount of such a duty (or an amount enforceable as if it were such a duty) may be enforced as if it were an amount of such a duty payable by the person liable for the amount on which the interest is charged.

## **177 Suspension and revocation of remote operating licences**

Schedule 27 makes provision about the suspension and revocation of remote operating licences.

### *Offences and evidence*

## **178 Offences by bodies corporate**

Where an offence under this Part is committed by a body corporate, every person who at the date of the commission of the offence is a director, general manager, secretary or other similar officer of the body corporate (or purporting to act in such a capacity) is also guilty of the offence unless—

- (a) the offence is committed without the person's consent or connivance, and
- (b) the person has exercised all such diligence to prevent its commission as the person ought to have exercised, having regard to the nature of the person's functions in that capacity and to all the circumstances.

## **179 Protection of officers**

Where an officer of Revenue and Customs takes any action in pursuance of instructions of the Commissioners given in connection with the enforcement of the enactments relating to general betting duty, pool betting duty or remote gaming duty and, apart from the provisions of this section, the officer would in taking that action be committing an offence under the enactments relating to betting or gaming, the officer is not guilty of that offence.

## **180 Evidence by certificate, etc**

- (1) A certificate of the Commissioners—
  - (a) that any notice required by or under this Part to be given to them had or had not been given at any date,
  - (b) that any registration required by or under this Part had or had not been effected at any date,
  - (c) that any return required by or under this Part had not been made at any date, or
  - (d) that any duty shown as due in any return made in pursuance of this Part or in any assessment made under section 12 of FA 1994 had not been paid at any date,

is sufficient evidence of that fact until the contrary is proved.

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- (2) A photograph of any document furnished to the Commissioners for the purposes of this Part and certified by them to be such a photograph is admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under subsection (1) or (2) is to be treated as being such a certificate until the contrary is proved.

### **181 Facilities capable of being used in United Kingdom: burden of proof**

- (1) This section applies where, in civil proceedings in any court or tribunal, it is necessary to determine whether the facilities used to make a bet or to participate in remote gaming were capable of being used in or from the United Kingdom.
- (2) The burden of proof lies on any person claiming that the facilities were not capable of being so used.

### *Review and appeal*

### **182 Review and appeal**

- (1) The decisions mentioned in subsection (2) are to be treated as if they were listed in subsection (2) of section 13A of FA 1994 (customs and excise decisions: meaning of “relevant decision”) and, accordingly, as if they were relevant decisions for the purposes mentioned in subsection (1) of that section.
- (2) The decisions are—
  - (a) a decision consisting in the giving of a direction under section 153(3),
  - (b) a decision to direct that section 160(2) is not to apply in a specified case,
  - (c) a decision under regulations by virtue of section 164(3), and
  - (d) a decision to refuse an agreement relating to a person's liability to general betting duty, pool betting duty or remote gaming duty under section 165(3).
- (3) A decision mentioned in subsection (2) is to be treated as an ancillary matter for the purposes of sections 14 to 16 of FA 1994.

### *Definitions*

### **183 Bet**

In this Part “bet” does not include any bet made or stake hazarded in the course of, or incidentally to, any gaming.

### **184 Pool betting**

- (1) For the purposes of this Part, a bet is to be treated as being made by way of pool betting unless it is a bet at fixed odds.
- (2) In particular, bets are to be treated as being made by way of pool betting wherever a number of persons make bets—
  - (a) on terms that the winnings of such of those persons as are winners are to be, or to be a share of, or to be determined by reference to, the stake money paid

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- or agreed to be paid by those persons, whether the bets are made by means of a totalisator, or by filling up and returning coupons or other printed or written forms, or in any other way,
- (b) on terms that the winnings of such of those persons as are winners are to be, or are to include, an amount (not determined by reference to the stake money paid or agreed to be paid by those persons) which is divisible in any proportions among such of those persons as are winners, or
  - (c) on the basis that the winners or their winnings are, to any extent, to be at the discretion of the promoter or some other person.
- (3) Where there is or has been issued any advertisement or other publication calculated to encourage in persons making bets of any description with or through a bookmaker a belief that such bets are made on the basis mentioned in subsection (2)(c), then any bets of that description subsequently made with or through the bookmaker are to be treated for the purposes of this section as being made on that basis.

## 185 Fixed odds

- (1) A bet is at fixed odds for the purposes of this Part only if, when making the bet, each of the persons making it knows or can know the amount the person will win, except in so far as that amount is to depend on—
- (a) the result of the event or events betted on,
  - (b) any such event taking place or producing a result,
  - (c) the numbers taking part in any such event,
  - (d) the starting prices or totalisator odds for any such event, or
  - (e) the time when the person's bet is received by any person with or through whom it is made.
- (2) A bet made with or through a person carrying on a business of receiving or negotiating bets and made in the course of that business is not a bet at fixed odds for the purposes of this Part if the winnings of the person by whom it is made consist or may consist wholly or in part of something other than money.
- (3) In this section—
- “starting prices” means, in relation to any event, the odds ruling at the scene of the event immediately before the start, and
  - “totalisator odds” means the odds paid on bets made—
    - (a) by means of a totalisator, and
    - (b) at the scene of the event to which the bets relate.

## 186 UK person

- (1) In this Part “UK person” means—
- (a) an individual who usually lives in the United Kingdom, or
  - (b) a body corporate which is legally constituted in the United Kingdom.
- (2) The Treasury may by regulations—
- (a) amend the definition of “UK person” in subsection (1),
  - (b) make provision as to the cases in which a person is, or is not, a UK person for the purposes of this Part, and

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- (c) make provision about bets made, and arrangements to participate in remote gaming entered into, by bodies of persons unincorporate.
- (3) The Commissioners may by notice published by them—
  - (a) specify steps that must be taken in order to determine whether a person making a bet or entering into arrangements to participate in remote gaming is a UK person,
  - (b) specify who must take those steps,
  - (c) specify circumstances in which a person making a bet or entering into arrangements to participate in remote gaming is to be treated as a UK person because of a failure to produce sufficient evidence to the contrary, and
  - (d) specify circumstances in which a person making a bet or entering into arrangements to participate in remote gaming is to be treated as not being a UK person on the basis of evidence of a description specified in the notice.

## 187 On-course betting and excluded betting

- (1) A bet is an on-course bet for the purposes of this Part if it—
  - (a) is made by a person present at a horse or dog race meeting or by a bookmaker,
  - (b) is not made through an agent of an individual making the bet or through an intermediary, and
  - (c) is made—
    - (i) with a bookmaker present at the meeting, or
    - (ii) by means of a totalisator situated in the United Kingdom, using facilities provided at the meeting by or by arrangement with the person operating the totalisator.
- (2) A bet is an excluded bet for the purposes of this Part if—
  - (a) it is not made in or from the United Kingdom, and
  - (b) the facilities used to receive or negotiate the bet or (in the case of pool betting) to conduct the pool betting operations are not capable of being used in or from the United Kingdom.
- (3) The Treasury may by regulations amend subsection (2).

## 188 Gaming

- (1) In this Part—
  - (a) “gaming” means playing a game of chance for a prize, and
  - (b) “game of chance” has the meaning given by section 6(2) of the Gambling Act 2005.
- (2) For the purposes of subsection (1)—
  - (a) “playing a game of chance” is to be read in accordance with section 6(3) of the Gambling Act 2005, and
  - (b) “prize” does not include the opportunity to play the game again.
- [<sup>F32</sup>(3) But a game is not a “game of chance” for the purposes of this Part if—
  - (a) it can only be played with the participation of two or more persons, and
  - (b) no amounts are paid or required to be paid—
    - (i) in respect of entitlement to participate in the game, or



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(ii) otherwise for, on account of or in connection with participation in the game.]

**Textual Amendments**

**F32** S. 188(3) inserted (with effect in accordance with s. 46(9) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), s. 46(6)

**189 Other definitions**

In this Part—

“betting facilities” means facilities for receiving or negotiating bets or conducting pool betting operations;

“bookmaker” means a person who—

- (a) carries on the business of receiving or negotiating bets or conducting pool betting operations (whether as principal or agent and whether regularly or not), or
- (b) holds himself or herself out or permits himself or herself to be held out, in the course of a business, as a person within paragraph (a);

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

“operator”, in relation to bets made by means of a totalisator, means the person who, as principal, operates the totalisator;

“promoter”, in relation to any betting, means the person to whom the persons making the bets look for the payment of their winnings, if any;

“remote operating licence” has the same meaning as in the Gambling Act 2005 (see section 67 of that Act);

“winnings”, in relation to any betting, includes winnings of any kind, and references to amount and to payment in relation to winnings are to be read accordingly.

**190 Index**

The Table lists the places where some of the expressions used in this Part are defined or otherwise explained.

bet	section 183
bet at fixed odds	section 185
bet made for community benefit	section 153
betting facilities	section 189
bookmaker	section 189
Chapter 1 pool bet	section 134(1) to (4)
Chapter 2 pool bet	section 143(1) to (4)
Chapter 1 stake fund	section 134(5)
Chapter 2 stake fund	section 143(5)

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chargeable person	section 155(2)
the Commissioners	section 189
excluded bet	section 187(2)
financial spread bet	section 128(2)
game of chance	section [F <sup>33</sup> 188(1)(b) and (3)]
gaming	section 188(1)(a)
gaming payment (in Chapter 3)	section 159
gaming prize fund	section 154(2)
gaming provider	section 155(1)
general bet	section 126
non-financial spread bet	section 128(2)
on-course bet	section 187(1)
operator	section 189
ordinary Chapter 1 pool bet	section 134(6)
ordinary Chapter 2 pool bet	section 143(6)
ordinary gaming	section 154(3)
pool betting	section 184
pooled prize gaming	section 154(2)
pooled stake Chapter 1 pool bet	section 134(5)
pooled stake Chapter 2 pool bet	section 143(5)
promoter	section 189
provision of, and expenditure on, a prize (in sections 156 and 157)	section 160
registrable person	section 170(6)
remote gaming	section 154(1)
remote operating licence	section 189
spread bet	section 128(1)
stake money (in Chapter 1)	section 139
stake money (in Chapter 2)	section 148
UK person	section 186
winnings (in Chapter 1)	sections 140 and 189
winnings (in Chapter 2)	sections 149 and 189

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### Textual Amendments

- F33** Words in s. 190 substituted (with effect in accordance with s. 46(9) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 46\(7\)](#)

## Supplementary

### 191 Amounts not in sterling

- (1) If any amount of stake money, gaming payment, winnings or prize is in a currency or method of payment other than sterling, it is to be treated for the purposes of this Part as being the equivalent amount in sterling.
- (2) The equivalent amount in sterling, in relation to any day, is to be determined by reference to—
  - (a) the London closing exchange rate for the previous day, or
  - (b) if no such rate exists, the rate specified in or determined in accordance with a notice published by the Commissioners.

### 192 Limited liability partnerships

- (1) This Part applies to limited liability partnerships as it applies to companies.
- (2) In its application to a limited liability partnership, references to a director of a company are references to a member of the limited liability partnership.

### 193 Effect of imposition of duties

The imposition by this Part of general betting duty, pool betting duty, or remote gaming duty does not make lawful anything which is unlawful apart from this Part.

### 194 Regulations

- (1) Regulations under this Part—
  - (a) may make provision which applies generally or only for specified cases or purposes,
  - (b) may make different provision for different cases or purposes,
  - (c) may include incidental, consequential, transitional or transitory provision,
  - (d) may confer a discretion on the Commissioners, and
  - (e) may make provision by reference to things specified in a notice published by the Commissioners in accordance with the regulations (and not withdrawn by a subsequent notice).
- (2) Regulations under this Part are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) But the following provisions of this section apply instead of subsection (3) in the case of—
  - [<sup>F34</sup>(za) regulations under section 159(6);]

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- (a) regulations under section 161(5) which have the effect of adding to the class of activities in respect of which remote gaming duty is chargeable;
  - (b) regulations under section 169(1) which have the effect of increasing the amount of duty that is chargeable in any case;
  - (c) regulations under section 186(2) which have the effect of adding to the class of persons falling within the definition of “UK person”;
  - (d) regulations under section 187(3).
- (5) In such a case—
- (a) the statutory instrument containing the regulations must be laid before the House of Commons, and
  - (b) the regulations cease to have effect at the end of the period of 28 days beginning with the day on which the instrument was made unless, before the end of that period, the instrument is approved by a resolution of the House of Commons.
- (6) In reckoning the 28-day period, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued, or
  - (b) the House of Commons is adjourned for more than 4 days.
- (7) If regulations cease to have effect as a result of subsection (5), that does not—
- (a) affect anything previously done under the regulations, or
  - (b) prevent the making of new regulations.

#### Textual Amendments

**F34** [S. 194\(4\)\(za\)](#) inserted (with effect in accordance with s. 46(9) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [s. 46\(8\)](#)

## 195 Notices

A notice published by the Commissioners under this Part may be revised or replaced by them.

## 196 Consequential amendments and repeals

Schedule 28 contains consequential amendments and repeals.

## 197 Transitional and saving provisions

Schedule 29 contains transitional and saving provisions.

## 198 Commencement and effect

- (1) This Part (except sections 164(2), 173 and 196 and Schedule 28) comes into force on the day on which this Act is passed.
- (2) The following provisions come into force on 1 December 2014—
  - (a) section 164(2),
  - (b) section 173, and

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- (c) paragraphs 1 to 27 and 31 of Schedule 28 (and section 196 so far as relating to those paragraphs).
- (3) Paragraphs 28 to 30 of Schedule 28 (and section 196 so far as relating to those paragraphs) come into force on such day as the Treasury may by order made by statutory instrument appoint.
- (4) An order under subsection (3)—
  - (a) may commence a provision generally or only for specified purposes, and
  - (b) may appoint different days for different provisions or for different purposes.
- (5) Sections 125 to 182 have effect for the purposes of accounting periods beginning on or after 1 December 2014, and—
  - (a) the charges under sections 127(1), 129(1), 130(1), 135(1) and 144(1) are on bets made on or after that date,
  - (b) the charge under section 141(2) is in respect of bets determined on or after that date, and
  - (c) the charge under section 155(1) is on games of chance that begin to be played on or after that date.

## PART 4

### FOLLOWER NOTICES AND ACCELERATED PAYMENTS

#### Modifications etc. (not altering text)

- C1 Pt. 4 applied (with modifications) by 1992 c. 7 (N.I.), s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 1 para. 12](#))
- C2 Pt. 4 applied (with modifications) by 1992 c. 4, s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 1 para. 3](#))
- C3 Pt. 4 modified (12.4.2015) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 2 Pt. 1](#) (with [Sch. 2 paras. 33, 35](#))
- C4 Pt. 4 applied (with modifications) by [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#), [s. 16\(1\)\(d\)](#) (as inserted (12.4.2015) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 2 para. 32](#))
- C5 Pt. 4 applied (with modifications) (retrospective) by 1970 c. 9, [s. 12ABZAA\(4\)](#) (as inserted (17.7.2014) by 2020 c. 14, [s. 104\(1\)\(2\)](#) (with s. 104(3)))

## CHAPTER 1

### INTRODUCTION

#### Overview

## 199 Overview of Part 4

In this Part—

**Changes to legislation:** *Finance Act 2014 is up to date with all changes known to be in force on or before 19 February 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*

- (a) sections 200 to 203 set out the main defined terms used in the Part,
- (b) Chapter 2 makes provision for follower notices and for penalties if account is not taken of judicial rulings which lay down principles or give reasoning relevant to tax cases,
- (c) Chapter 3 makes—
  - (i) provision for accelerated payments to be made on account of tax,
  - (ii) provision restricting the circumstances in which payments of tax can be postponed pending an appeal,<sup>F35</sup>...
  - (iii) provision to enable a court to prevent repayment of tax, for the purpose of protecting the public revenue<sup>F36</sup>, and
  - (iv) provision restricting the surrender of losses and other amounts for the purposes of group relief.]
- (d) Chapter 4—
  - (i) makes special provision about the application of this Part in relation to stamp duty land tax and annual tax for enveloped dwellings,
  - (ii) confers a power to extend the provisions of this Part to other taxes, and
  - (iii) makes amendments consequential on this Part.

#### Textual Amendments

**F35** Word in s. 199(c)(ii) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 2](#)

**F36** S. 199(c)(iv) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 2](#)

### *Main definitions*

#### **200 “Relevant tax”**

In this Part, “relevant tax” means—

- (a) income tax,
- (b) capital gains tax,
- (c) corporation tax, including any amount chargeable as if it were corporation tax or treated as if it were corporation tax,
- [<sup>F37</sup>(ca) apprenticeship levy,]
- (d) inheritance tax,
- (e) stamp duty land tax, and
- (f) annual tax on enveloped dwellings.

#### Textual Amendments

**F37** S. 200(ca) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [s. 104\(4\)](#) (with [s. 117](#))

#### **201 “Tax advantage” and “tax arrangements”**

- (1) This section applies for the purposes of this Part.
- (2) “Tax advantage” includes—

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- (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.
- (3) 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.
- (4) “Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

## 202 “Tax enquiry” and “return”

- (1) This section applies for the purposes of this Part.
- (2) “Tax enquiry” means—
- (a) an enquiry under section 9A or 12AC of TMA 1970 (enquiries into self-assessment returns for income tax and capital gains tax), including an enquiry by virtue of notice being deemed to be given under section 9A of that Act by virtue of section 12AC(6) of that Act,
  - (b) an enquiry under paragraph 5 of Schedule 1A to that Act (enquiry into claims made otherwise than by being included in a return),
  - (c) an enquiry under paragraph 24 of Schedule 18 to FA 1998 (enquiry into company tax return for corporation tax etc), including an enquiry by virtue of notice being deemed to be given under that paragraph by virtue of section 12AC(6) of TMA 1970,
  - (d) an enquiry under paragraph 12 of Schedule 10 to FA 2003 (enquiries into SDLT returns),
  - (e) an enquiry under paragraph 8 of Schedule 33 to FA 2013 (enquiries into annual tax for enveloped dwellings returns), or
  - (f) a deemed enquiry under subsection (6).
- (3) The period during which an enquiry is in progress—
- (a) begins with the day on which notice of enquiry is given, and
  - (b) ends with the day on which the enquiry is completed.
- (4) Subsection (3) is subject to subsection (6).
- (5) In the case of inheritance tax, each of the following is to be treated as a return—
- (a) an account delivered by a person under section 216 or 217 of IHTA 1984 (including an account delivered in accordance with regulations under section 256 of that Act);
  - (b) a statement or declaration which amends or is otherwise connected with such an account produced by the person who delivered the account;
  - (c) information or a document provided by a person in accordance with regulations under section 256 of that Act;
- and such a return is to be treated as made by the person in question.

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- (6) An enquiry is deemed to be in progress, in relation to a return to which subsection (5) applies, during the period which—
- (a) begins with the time the account is delivered or (as the case may be) the statement, declaration, information or document is produced, and
  - (b) ends when the person is issued with a certificate of discharge under section 239 of that Act, or is discharged by virtue of section 256(1)(b) of that Act, in respect of the return (at which point the enquiry is to be treated as completed).

## 203 “Tax appeal”

In this Part “tax appeal” means—

- (a) an appeal under section 31 of TMA 1970 (income tax: appeals against amendments of self-assessment, amendments made by closure notices under section 28A or 28B of that Act, etc), including an appeal under that section by virtue of regulations under Part 11 of ITEPA 2003 (PAYE),
- (b) an appeal under paragraph 9 of Schedule 1A to TMA 1970 (income tax: appeals against amendments made by closure notices under paragraph 7(2) of that Schedule, etc),
- (c) an appeal under section 705 of ITA 2007 (income tax: appeals against counteraction notices),
- (d) an appeal under paragraph 34(3) or 48 of Schedule 18 to FA 1998 (corporation tax: appeals against amendment of a company's return made by closure notice, assessments other than self-assessments, etc),
- (e) an appeal under section 750 of CTA 2010 (corporation tax: appeals against counteraction notices),
- [<sup>F38</sup>(ea) an appeal under section 114 of FA 2016 (apprenticeship levy: appeal against an assessment),]
- (f) an appeal under section 222 of IHTA 1984 (appeals against HMRC determinations) other than an appeal made by a person against a determination in respect of a transfer of value at a time when a tax enquiry is in progress in respect of a return made by that person in respect of that transfer,
- (g) an appeal under paragraph 35 of Schedule 10 to FA 2003 (stamp duty land tax: appeals against amendment of self-assessment, discovery assessments, etc),
- (h) an appeal under paragraph 35 of Schedule 33 to FA 2013 (annual tax on enveloped dwellings: appeals against amendment of self-assessment, discovery assessments, etc), or
- (i) an appeal against any determination of—
  - (i) an appeal within paragraphs (a) to (h), or
  - (ii) an appeal within this paragraph.

### Textual Amendments

**F38** S. 203(ea) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 104(5) (with s. 117)



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## CHAPTER 2

### FOLLOWER NOTICES

#### *Giving of follower notices*

#### **204 Circumstances in which a follower notice may be given**

- (1) HMRC may give a notice (a “follower notice”) to a person (“P”) if Conditions A to D are met.
- (2) Condition A is that—
  - (a) a tax enquiry is in progress into a return or claim made by P in relation to a relevant tax, or
  - (b) P has made a tax appeal (by notifying HMRC or otherwise) in relation to a relevant tax, but that appeal has not yet been—
    - (i) determined by the tribunal or court to which it is addressed, or
    - (ii) abandoned or otherwise disposed of.
- (3) Condition B is that the return or claim or, as the case may be, appeal is made on the basis that a particular tax advantage (“the asserted advantage”) results from particular tax arrangements (“the chosen arrangements”).
- (4) Condition C is that HMRC is of the opinion that there is a judicial ruling which is relevant to the chosen arrangements.
- (5) Condition D is that no previous follower notice has been given to the same person (and not withdrawn) by reference to the same tax advantage, tax arrangements, judicial ruling and tax period.
- (6) A follower notice may not be given after the end of the period of 12 months beginning with the later of—
  - (a) the day on which the judicial ruling mentioned in Condition C is made, and
  - (b) the day the return or claim to which subsection (2)(a) refers was received by HMRC or (as the case may be) the day the tax appeal to which subsection (2)(b) refers was made.

#### **205 “Judicial ruling” and circumstances in which a ruling is “relevant”**

- (1) This section applies for the purposes of this Chapter.
- (2) “Judicial ruling” means a ruling of a court or tribunal on one or more issues.
- (3) A judicial ruling is “relevant” to the chosen arrangements if—
  - (a) it relates to tax arrangements,
  - (b) the principles laid down, or reasoning given, in the ruling would, if applied to the chosen arrangements, deny the asserted advantage or a part of that advantage, and
  - (c) it is a final ruling.
- (4) A judicial ruling is a “final ruling” if it is—
  - (a) a ruling of the Supreme Court, or
  - (b) a ruling of any other court or tribunal in circumstances where—

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- (i) no appeal may be made against the ruling,
  - (ii) if an appeal may be made against the ruling with permission, the time limit for applications has expired and either no application has been made or permission has been refused,
  - (iii) if such permission to appeal against the ruling has been granted or is not required, no appeal has been made within the time limit for appeals, or
  - (iv) if an appeal was made, it was abandoned or otherwise disposed of before it was determined by the court or tribunal to which it was addressed.
- (5) Where a judicial ruling is final by virtue of sub-paragraph (ii), (iii) or (iv) of subsection (4)(b), the ruling is treated as made at the time when the sub-paragraph in question is first satisfied.

## **206 Content of a follower notice**

A follower notice must—

- (a) identify the judicial ruling in respect of which Condition C in section 204 is met,
- (b) explain why HMRC considers that the ruling meets the requirements of section 205(3), and
- (c) explain the effects of sections 207 to 210.

### *Representations*

## **207 Representations about a follower notice**

- (1) Where a follower notice is given under section 204, P has 90 days beginning with the day that notice is given to send written representations to HMRC objecting to the notice on the grounds that—
  - (a) Condition A, B or D in section 204 was not met,
  - (b) the judicial ruling specified in the notice is not one which is relevant to the chosen arrangements, or
  - (c) the notice was not given within the period specified in subsection (6) of that section.
- (2) HMRC must consider any representations made in accordance with subsection (1).
- (3) Having considered the representations, HMRC must determine whether to—
  - (a) confirm the follower notice (with or without amendment), or
  - (b) withdraw the follower notice,
 and notify P accordingly.

### *Penalties*

## **208 Penalty if corrective action not taken in response to follower notice**

- (1) This section applies where a follower notice is given to P (and not withdrawn).

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- (2) P is liable to pay a penalty if the necessary corrective action is not taken in respect of the denied advantage (if any) before the specified time.
- (3) In this Chapter “the denied advantage” means so much of the asserted advantage (see section 204(3)) as is denied by the application of the principles laid down, or reasoning given, in the judicial ruling identified in the follower notice under section 206(a).
- (4) The necessary corrective action is taken in respect of the denied advantage if (and only if) P takes the steps set out in subsections (5) and (6).
- (5) The first step is that—
  - (a) in the case of a follower notice given by virtue of section 204(2)(a), P amends a return or claim to counteract the denied advantage;
  - (b) in the case of a follower notice given by virtue of section 204(2)(b), P takes all necessary action to enter into an agreement with HMRC (in writing) for the purpose of relinquishing the denied advantage.
- (6) The second step is that P notifies HMRC—
  - (a) that P has taken the first step, and
  - (b) of the denied advantage and (where different) the additional amount which has or will become due and payable in respect of tax by reason of the first step being taken.
- (7) In determining the additional amount which has or will become due and payable in respect of tax for the purposes of subsection (6)(b), it is to be assumed that, where P takes the necessary action as mentioned in subsection (5)(b), the agreement is then entered into.
- (8) In this Chapter—

“the specified time” means—

  - (a) if no representations objecting to the follower notice were made by P in accordance with subsection (1) of section 207, the end of the 90 day post-notice period;
  - (b) if such representations were made and the notice is confirmed under that section (with or without amendment), the later of—
    - (i) the end of the 90 day post-notice period, and
    - (ii) the end of the 30 day post-representations period;

“the 90 day post-notice period” means the period of 90 days beginning with the day on which the follower notice is given;

“the 30 day post-representations period” means the period of 30 days beginning with the day on which P is notified of HMRC's determination under section 207.
- (9) No enactment limiting the time during which amendments may be made to returns or claims operates to prevent P taking the first step mentioned in subsection (5)(a) before the tax enquiry is closed (whether or not before the specified time).
- (10) No appeal may be brought, by virtue of a provision mentioned in subsection (11), 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 P to a return or claim in taking the first step mentioned in subsection (5)(a) (whether or not that amendment was made before the specified time).

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(11) 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.

**[<sup>F39</sup>208A Additional penalty for unreasonable tax appeal**

- (1) In the case of a follower notice given by virtue of section 204(2)(a) in relation to a tax enquiry into a return or claim made by P, this section applies where—
  - (a) P makes a tax appeal addressed to the tribunal in relation to the return or claim, and
  - (b) P is assessed to a penalty under section 208.
- (2) In the case of a follower notice given by virtue of section 204(2)(b) in relation to a tax appeal made by P, this section applies where—
  - (a) the tax appeal is addressed to the tribunal, and
  - (b) P is assessed to a penalty under section 208.
- (3) P is liable to pay a penalty (in addition to the penalty under section 208) if P or P's representative is found to have acted unreasonably in bringing or conducting relevant proceedings.
- (4) For the purposes of subsection (3), P or P's representative is found to have acted unreasonably in bringing or conducting relevant proceedings if (and only if) subsection (5) or (6) applies.
- (5) This subsection applies if—
  - (a) the proceedings are struck out—
    - (i) because there is no reasonable prospect of P's case, or part of it, succeeding, or
    - (ii) because of something that P or P's representative has done (or not done),
  - (b) the appeal period has ended, and
  - (c) the proceedings have not been reinstated or (where the strike out was not automatic) the decision to strike out the proceedings has not been set aside or overturned on appeal.
- (6) This subsection applies if—
  - (a) on an application by HMRC, the tribunal to which the proceedings are addressed makes a declaration that P or P's representative acted unreasonably in bringing or conducting the proceedings,
  - (b) the appeal period has ended, and
  - (c) the decision to make the declaration has not been set aside or overturned on appeal.
- (7) The powers of the tribunal in relation to relevant proceedings are to be taken to include the power to make a declaration for the purposes of subsection (6)(a).

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- (8) For the purposes of this section, the following are “relevant proceedings” in relation to P—
- (a) where the whole of the proceedings on P's tax appeal relate to the chosen arrangements, the whole of those proceedings;
  - (b) where part only of the proceedings on P's tax appeal relates to the chosen arrangements, that part of those proceedings;
  - (c) proceedings before the Upper Tribunal on any further appeal by P in relation to relevant proceedings within paragraph (a) or (b) (where those proceedings were determined by the First-tier Tribunal).
- (9) For the purposes of subsection (8), P's tax appeal is the tax appeal mentioned in subsection (1)(a) or (2)(a) (as the case may be).
- (10) For the purposes of this section, “the appeal period” is—
- (a) the period during which an appeal could be brought against the striking out of the proceedings or, as the case may be, the decision to make the declaration under subsection (6)(a) (ignoring any possibility of an appeal out of time), or
  - (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.
- (11) For the purposes of subsection (10), an appeal includes an application to reinstate proceedings that have been struck out or for the tribunal to set aside its decision.
- (12) In this section, “tribunal” means the First-tier Tribunal or Upper Tribunal.]

#### Textual Amendments

**F39** S. 208A inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 2](#)

## 209 Amount of a section 208 [<sup>F40</sup>or 208A] penalty

- (1) The penalty under section 208 is [<sup>F41</sup>30%] of the value of the denied advantage.
- [<sup>F42</sup>(1A) The penalty under section 208A is 20% of the value of the denied advantage.]
- (2) Schedule 30 contains provision about how the denied advantage is valued for the purposes of calculating penalties under this section.
- (3) Where P before the [<sup>F43</sup>relevant time] —
- (a) amends a return or claim to counteract part of the denied advantage only, or
  - (b) takes all necessary action to enter into an agreement with HMRC (in writing) for the purposes of relinquishing part of the denied advantage only,
- in subsections (1) [<sup>F44</sup>, (1A)] and (2) the references to the denied advantage are to be read as references to the remainder of the denied advantage.
- [<sup>F45</sup>(4) The “relevant time” means—
- (a) in the case of a penalty under section 208, the specified time;
  - (b) in the case of a penalty under section 208A, the day after the end of the appeal period.

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- (5) “The appeal period” has the same meaning for the purposes of this section as it has for the purposes of section 208A (see section 208A(10) and (11)).]

#### Textual Amendments

- F40** Words in s. 209 heading inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(2)**
- F41** Word in s. 209(1) substituted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(3)**
- F42** S. 209(1A) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(4)**
- F43** Words in s. 209(3) substituted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(5)(a)**
- F44** Words in s. 209(3) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(5)(b)**
- F45** S. 209(4)(5) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(6)**

## 210 Reduction of a section 208 penalty for co-operation

- (1) Where—
- (a) P is liable to pay a penalty under section 208 of the amount specified in section 209(1),
  - (b) the penalty has not yet been assessed, and
  - (c) P has co-operated with HMRC,
- HMRC may reduce the amount of that penalty to reflect the quality of that co-operation.
- (2) In relation to co-operation, “quality” includes timing, nature and extent.
- (3) P has co-operated with HMRC only if P has done one or more of the following—
- (a) provided reasonable assistance to HMRC in quantifying the tax advantage;
  - (b) counteracted the denied advantage;
  - (c) provided HMRC with information enabling corrective action to be taken by HMRC;
  - (d) provided HMRC with information enabling HMRC to enter an agreement with P for the purpose of counteracting the denied advantage;
  - (e) allowed HMRC to access tax records for the purpose of ensuring that the denied advantage is fully counteracted.
- (4) But nothing in this section permits HMRC to reduce a penalty to less than 10% of the value of the denied advantage.

## 211 Assessment of a section 208 penalty

- (1) Where a person is liable for a penalty under section 208, HMRC may assess the penalty.
- (2) Where HMRC assess the penalty, HMRC must—
- (a) notify the person who is liable for the penalty, and

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- (b) state in the notice a tax period in respect of which the penalty is assessed.
- (3) A penalty under section 208 must be paid before the end of the period of 30 days beginning with the day on which the person is notified of the penalty under subsection (2).
- (4) An assessment—
  - (a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for by this Chapter),
  - (b) may be enforced as if it were an assessment to tax, and
  - (c) may be combined with an assessment to tax.
- (5) No penalty under section 208 may be notified under subsection (2) later than—
  - (a) in the case of a follower notice given by virtue of section 204(2)(a) (tax enquiry in progress), the end of the period of 90 days beginning with the day the tax enquiry is completed, and
  - (b) in the case of a follower notice given by virtue of section 204(2)(b) (tax appeal pending), the end of the period of 90 days beginning with the earliest of—
    - (i) the day on which P takes the necessary corrective action (within the meaning of section 208(4)),
    - (ii) the day on which a ruling is made on the tax appeal by P, or any further appeal in that case, which is a final ruling (see section 205(4)), and
    - (iii) the day on which that appeal, or any further appeal, is abandoned or otherwise disposed of before it is determined by the court or tribunal to which it is addressed.
- (6) In this section a reference to an assessment to tax, in relation to inheritance tax, is to a determination.

#### [<sup>F46</sup>211A Assessment of a section 208A penalty

- (1) Where a person is liable for a penalty under section 208A, HMRC must—
  - (a) assess the penalty,
  - (b) notify the person who is liable for the penalty, and
  - (c) state in the notice a tax period in respect of which the penalty is assessed.
- (2) A penalty under section 208A must be paid before the end of the period of 30 days beginning with the day on which the person is notified of the penalty under subsection (1).
- (3) Subsection (4) of section 211 applies to an assessment under this section as it applies to an assessment under that section.
- (4) An assessment of a penalty under section 208A must be made before the end of the period of 90 days beginning with the day after the end of the appeal period.
- (5) “The appeal period” has the same meaning for the purposes of this section as it has for the purposes of section 208A (see section 208A(10) and (11)).]

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### Textual Amendments

**F46** S. 211A inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 4](#)

## 212 Aggregate penalties

- (1) Subsection (2) 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 208, and
  - (c) one or more of the other penalties are incurred under a relevant penalty provision.
- (2) The aggregate of the amounts of the penalties mentioned in subsection (1)(b) and (c) [<sup>F47</sup>and any penalty under section 208A that is additional to the penalty mentioned in subsection (1)(b)], 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) or 6(3)(b), (4)(b) or (5)(b) of Schedule 55 to FA 2009, £300 (if greater).
- (3) In the application of section 97A of TMA 1970 (multiple penalties), no account is to be taken of a penalty under section 208 [<sup>F48</sup>or 208A].
- (4) “Relevant penalty provision” means—
  - (a) Schedule 24 to FA 2007 (penalties for errors),
  - (b) Schedule 41 to FA 2008 (penalties: failure to notify etc), <sup>F49</sup>...
  - (c) Schedule 55 to FA 2009 (penalties for failure to make returns etc)[<sup>F50</sup>, <sup>F51</sup>...
  - (d) Part 5 of Schedule 18 to FA 2016 (serial tax avoidance).][<sup>F52</sup>, or
  - (e) section 212A of FA 2013 (general anti-abuse rule).]
- (5) “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, or
    - (iii) paragraph 6(3A)(c) of Schedule 55 to FA 2009,
  - (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, or
    - (iii) paragraph 6(3A)(b) of Schedule 55 to FA 2009,
  - [<sup>F53</sup>(ba) 125% 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(2)(c) of Schedule 24 to FA 2007,
    - (ii) paragraph 6(2)(a) of Schedule 41 to FA 2008, or
    - (iii) paragraph 6(3A)(a) of Schedule 55 to FA 2009,]



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- (c) 140% in a case where [<sup>F54</sup>none of paragraphs (a) to (ba) applies] and at least one 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,
  - (iii) paragraph 6(4A)(c) of Schedule 55 to FA 2009,
- (d) 105% in a case where [<sup>F55</sup>none of paragraphs (a) to (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,
  - (iii) paragraph 6(4A)(b) of Schedule 55 to FA 2009, and
- (e) in any other case, 100%.

#### Textual Amendments

- F47** Words in s. 212(2) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 28 para. 5(2)**
- F48** Words in s. 212(3) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 28 para. 5(3)**
- F49** Word in s. 212(4)(b) omitted (with effect in accordance with Sch. 18 para. 63 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 18 para. 60(a)**
- F50** S. 212(4)(d) and preceding word inserted (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 18 para. 60(b)**
- F51** Word in s. 212(4)(c) omitted (with effect in accordance with s. 158(15) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **s. 158(11)(a)**
- F52** S. 212(4)(e) and preceding word inserted (with effect in accordance with s. 158(15) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **s. 158(11)(b)**
- F53** [S. 212\(5\)\(ba\)](#) inserted by 2015 c. 11, Sch. 20 para. 21(2) (as inserted by [Finance Act 2021 \(c. 26\)](#), **Sch. 28 para. 14**)
- F54** Words in [s. 212\(5\)\(c\)](#) substituted (10.6.2021) by 2015 c. 11, Sch. 20 para. 21(3) (as inserted by [Finance Act 2021 \(c. 26\)](#), **Sch. 28 para. 14**)
- F55** Words in [s. 212\(5\)\(d\)](#) substituted (10.6.2021) by 2015 c. 11, Sch. 20 para. 21(4) (as inserted by [Finance Act 2021 \(c. 26\)](#), **Sch. 28 para. 14**)

### 213 Alteration of assessment of a section 208 [<sup>F56</sup>or 208A] penalty

- (1) After notification of an assessment has been given to a person under section 211(2) [<sup>F57</sup>or 211A(1)], the assessment may not be altered except in accordance with this section 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 denied advantage.
- (3) An assessment or supplementary assessment may be revised as necessary if it operated by reference to an overestimate of the denied advantage; and, where more than the resulting assessed penalty has already been paid by the person to HMRC, the excess must be repaid.

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### Textual Amendments

- F56** Words in s. 213 heading inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), Sch. 28 para. 6(2)
- F57** Words in s. 213(1) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), Sch. 28 para. 6(3)

## 214 Appeal against a section 208 penalty

- (1) P may appeal against a decision of HMRC that a penalty is payable by P under section 208.
- (2) P may appeal against a decision of HMRC as to the amount of a penalty payable by P under section 208.
- (3) The grounds on which an appeal under subsection (1) may be made include in particular—
  - (a) that Condition A, B or D in section 204 was not met in relation to the follower notice,
  - (b) that the judicial ruling specified in the notice is not one which is relevant to the chosen arrangements,
  - (c) that the notice was not given within the period specified in subsection (6) of that section, or
  - (d) that it was reasonable in all the circumstances for P not to have taken the necessary corrective action (see section 208(4)) in respect of the denied advantage.
- (4) An appeal under this section must be made within the period of 30 days beginning with the day on which notification of the penalty is given under section 211.
- (5) An appeal under this section 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 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) Subsection (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) In this section a reference to an assessment to tax, in relation to inheritance tax, is to a determination.
- (8) On an appeal under subsection (1), the tribunal may affirm or cancel HMRC's decision.
- [<sup>F58</sup>(8A) If the tribunal cancels a decision of HMRC that a penalty is payable by P under section 208, any penalty additional to that penalty to which P is liable under section 208A is also cancelled.]
- (9) On an appeal under subsection (2), the tribunal may—
  - (a) affirm HMRC's decision, or
  - (b) substitute for HMRC's decision another decision that HMRC had power to make.

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- (10) The cancellation under subsection (8) of HMRC's decision on the ground specified in subsection (3)(d) does not affect the validity of the follower notice, or of any accelerated payment notice or partner payment notice under Chapter 3 related to the follower notice.
- (11) In this section “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of subsection (5)).

#### Textual Amendments

**F58** [S. 214\(8A\)](#) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 7](#)

### [<sup>F59</sup>**214A** Appeal against a section 208A penalty

- (1) P may appeal against a decision of HMRC that a penalty is payable by P under section 208A.
- (2) P may appeal against a decision of HMRC as to the amount of a penalty payable by P under section 208A.
- (3) An appeal under subsection (1) may be made only on one or more of the following grounds—
- (a) that section 208A did not apply when the decision was made or no longer applies;
  - (b) that the condition in section 208A(3) was not met when the decision was made or is no longer met;
  - (c) that the penalty was not assessed before the end of the period mentioned in section 211A(4).
- (4) An appeal under this section must be made within the period of 30 days beginning with the day on which notification of the penalty is given under section 211A.
- (5) On an appeal under subsection (1), the tribunal may affirm or cancel HMRC's decision.
- (6) On an appeal under subsection (2), the tribunal may—
- (a) affirm HMRC's decision, or
  - (b) substitute for HMRC's decision another decision that HMRC had power to make.
- (7) Subsections (5) to (7) of section 214 apply to an appeal under this section as they apply to an appeal under that section.
- (8) In this section “tribunal” has the meaning it has for the purposes of section 214 (see section 214(5) and (11)).]

#### Textual Amendments

**F59** [S. 214A](#) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 8](#)

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### *Partners and partnerships*

## **215 Follower notices: treatment of partners and partnerships**

Schedule 31 makes provision about the application of this Chapter in relation to partners and partnerships.

### *Appeals out of time*

## **216 Late appeal against final judicial ruling**

- (1) This section applies where a final judicial ruling (“the original ruling”) is the subject of an appeal by reason of a court or tribunal granting leave to appeal out of time.
- (2) If a follower notice has been given identifying the original ruling under section 206(a), the notice is suspended until such time as HMRC notify P that—
  - (a) the appeal has resulted in a judicial ruling which is a final ruling, or
  - (b) the appeal has been abandoned or otherwise disposed of (before it was determined).
- (3) Accordingly the period during which the notice is suspended does not count towards the periods mentioned in section 208(8).
- (4) When a follower notice is suspended under subsection (2), HMRC must notify P as soon as reasonably practicable.
- (5) If the new final ruling resulting from the appeal is not a judicial ruling which is relevant to the chosen arrangements (see section 205), the follower notice ceases to have effect at the end of the period of suspension.
- (6) In any other case, the follower notice continues to have effect after the end of the period of suspension and, in a case within subsection (2)(a), is treated as if it were in respect of the new final ruling resulting from the appeal.
- (7) The notice given under subsection (2) must—
  - (a) state whether subsection (5) or (6) applies, and
  - (b) where subsection (6) applies in a case within subsection (2)(a), make any amendments to the follower notice required to reflect the new final ruling.
- (8) No new follower notice may be given in respect of the original ruling unless the appeal has been abandoned or otherwise disposed of before it is determined by the court or tribunal to which it is addressed.
- (9) Nothing in this section prevents a follower notice being given in respect of a new final ruling resulting from the appeal.
- (10) Where the appeal is abandoned or otherwise disposed of before it is determined by the court or tribunal to which it is addressed, for the purposes of the original ruling the period beginning when leave to appeal out of time was granted, and ending when the appeal is disposed of, does not count towards the period of 12 months mentioned in section 204(6).

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### *Transitional provision*

## **217 Transitional provision**

(1) In the case of judicial rulings made before the day on which this Act is passed, this Chapter has effect as if for section 204(6) there were substituted—

“(6) A follower notice may not be given after—

- (a) the end of the period of 24 months beginning with the day on which this Act is passed, or
- (b) the end of the period of 12 months beginning with the day the return or claim to which subsection (2)(a) refers was received by HMRC or (as the case may be) with the day the tax appeal to which subsection (2)(b) refers was made,

whichever is later.”

(2) Accordingly, the reference in section 216(10) to the period of 12 months includes a reference to the period of 24 months mentioned in the version of section 204(6) set out in subsection (1) above.

### *Defined terms*

## **218 Defined terms used in Chapter 2**

For the purposes of this Chapter—

- “arrangements” has the meaning given by section 201(4);
- “the asserted advantage” has the meaning given by section 204(3);
- “the chosen arrangements” has the meaning given by section 204(3);
- “the denied advantage” has the meaning given by section 208(3);
- “follower notice” has the meaning given by section 204(1);
- “HMRC” means Her Majesty's Revenue and Customs;
- “judicial ruling”, and “relevant” in relation to a judicial ruling and the chosen arrangements, have the meaning given by section 205;
- “relevant tax” has the meaning given by section 200;
- “the specified time” has the meaning given by section 208(8);
- “tax advantage” has the meaning given by section 201(2);
- “tax appeal” has the meaning given by section 203;
- “tax arrangements” has the meaning given by section 201(3);
- “tax enquiry” has the meaning given by section 202(2);
- “tax period” means a tax year, accounting period or other period in respect of which tax is charged;
- “P” has the meaning given by section 204(1);
- “the 30 day post-representations period” has the meaning given by section 208(8);
- “the 90 day post-notice period” has the meaning given by section 208(8).

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## CHAPTER 3

### ACCELERATED PAYMENT

#### *Accelerated payment notices*

#### **219 Circumstances in which an accelerated payment notice may be given**

- (1) HMRC may give a notice (an “accelerated payment notice”) to a person (“P”) if Conditions A to C are met.
- (2) Condition A is that—
  - (a) a tax enquiry is in progress into a return or claim made by P in relation to a relevant tax, or
  - (b) P has made a tax appeal (by notifying HMRC or otherwise) in relation to a relevant tax but that appeal has not yet been—
    - (i) determined by the tribunal or court to which it is addressed, or
    - (ii) abandoned or otherwise disposed of.
- (3) Condition B is that the return or claim or, as the case may be, appeal is made on the basis that a particular tax advantage (“the asserted advantage”) results from particular arrangements (“the chosen arrangements”).
- (4) Condition C is that one or more of the following requirements are met—
  - (a) HMRC has given (or, at the same time as giving the accelerated payment notice, gives) P a follower notice under Chapter 2—
    - (i) in relation to the same return or claim or, as the case may be, appeal, and
    - (ii) by reason of the same tax advantage and the chosen arrangements;
  - (b) the chosen arrangements are DOTAS arrangements;
  - (c) a GAAR counteraction notice has been given in relation to the asserted advantage or part of it and the chosen arrangements (or is so given at the same time as the accelerated payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel which considered the matter under paragraph 10 of Schedule 43 to FA 2013 was as set out in paragraph 11(3)(b) of that Schedule (entering into tax arrangements not reasonable course of action etc).
  - <sup>F60</sup>(d) a notice has been given under paragraph 8(2) or 9(2) of Schedule 43A to FA 2013 (notice of final decision after considering Panel's opinion about referred or counteracted arrangements) in relation to the asserted advantage or part of it and the chosen arrangements (or is so given at the same time as the accelerated payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel about the other arrangements (see subsection (8)) was as set out in paragraph 11(3)(b) of Schedule 43 to FA 2013;
  - (e) a notice under paragraph 8(2) of Schedule 43B to FA 2013 (GAAR: generic referral of tax arrangements) has been given in relation to the asserted advantage or part of it and the chosen arrangements (or is so given at the same time as the accelerated payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel which considered the generic referral in respect of those arrangements under

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paragraph 6 of Schedule 43B to FA 2013 was as set out in paragraph 6(4)(b) of that Schedule.]

(5) “DOTAS arrangements” means—

- (a) <sup>F61</sup>... arrangements to which HMRC has allocated a reference number under section 311 of FA 2004,
- (b) <sup>F62</sup>... arrangements implementing a <sup>F62</sup>... proposal where HMRC has allocated a reference number under that section to the proposed <sup>F62</sup>... arrangements, or
- (c) arrangements in respect of which [<sup>F63</sup>a person] must provide prescribed information under section 312(2) [<sup>F64</sup>or 312ZA(2)] of that Act by reason of the arrangements being substantially the same as <sup>F65</sup>... arrangements within paragraph (a) or (b).

(6) But the <sup>F66</sup>... arrangements within subsection (5) do not include arrangements in relation to which HMRC has given notice under section 312(6) [<sup>F67</sup>or 312ZA(4)] of FA 2004 (notice that [<sup>F68</sup>persons] not under duty imposed to notify client of reference number).

(7) “GAAR counteraction notice” means a notice under paragraph 12 of Schedule 43 to FA 2013 (notice of final decision to counteract under the general anti-abuse rule).

[<sup>F69</sup>(8) In subsection (4)(d) “other arrangements” means—

- (a) in relation to a notice under paragraph 8(2) of Schedule 43A to FA 2013, the referred arrangements (as defined in that paragraph);
- (b) in relation to a notice under paragraph 9(2) of that Schedule, the counteracted arrangements (as defined in paragraph 2 of that Schedule).]

#### Textual Amendments

- F60** S. 219(4)(d)(e) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(19\)](#)
- F61** Word in s. 219(5)(a) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(a\), 44](#)
- F62** Word in s. 219(5)(b) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(b\), 44](#)
- F63** Words in s. 219(5)(c) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(c\)\(i\), 44](#)
- F64** Words in s. 219(5)(c) inserted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(c\)\(ii\), 44](#)
- F65** Word in s. 219(5)(c) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(c\)\(iii\), 44](#)
- F66** Word in s. 219(6) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(d\)\(i\), 44](#)
- F67** Words in s. 219(6) inserted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(d\)\(ii\), 44](#)
- F68** Word in s. 219(6) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(d\)\(iii\), 44](#)
- F69** S. 219(8) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(20\)](#)

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## 220 Content of notice given while a tax enquiry is in progress

- (1) This section applies where an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while a tax enquiry is in progress).
- (2) The notice must—
  - (a) specify the paragraph or paragraphs of section 219(4) by virtue of which the notice is given,
  - (b) specify the payment [<sup>F70</sup>(if any)] required to be made under section 223 and the requirements of that section, <sup>F71</sup>...
  - (c) explain the effect of sections 222 and 226, and of the amendments made by sections 224 and 225 (so far as relating to the relevant tax in relation to which the accelerated payment notice is given)<sup>F72</sup>, and
  - (d) if the denied advantage consists of or includes an asserted surrenderable amount, specify that amount and any action which is required to be taken in respect of it under section 225A.]
- (3) The payment required to be made under section 223 is an amount equal to the amount which a designated HMRC officer determines, to the best of that officer's information and belief, as the understated tax [<sup>F73</sup>(and disregarding any dispute which has been referred to a tribunal under section 12ABZB(3) of TMA 1970 but not yet determined)].
- (4) “The understated tax” means the additional amount that would be due and payable in respect of tax if—
  - (a) in the case of a notice given by virtue of section 219(4)(a) (cases where a follower notice is given)—
    - (i) it were assumed that the explanation given in the follower notice in question under section 206(b) is correct, and
    - (ii) the necessary corrective action were taken under section 208 in respect of what the designated HMRC officer determines, to the best of that officer's information and belief, as the denied advantage;
  - (b) in the case of a notice given by virtue of section 219(4)(b) (cases where the DOTAS requirements are met), such adjustments were made as are required to counteract what the designated HMRC officer determines, to the best of that officer's information and belief, as the denied advantage;
  - (c) in the case of a notice given by virtue of section 219(4)(c)<sup>F74</sup>, (d) or (e)] (cases involving counteraction under the general anti-abuse rule), such of the adjustments set out in the GAAR counteraction notice as have effect to counteract the denied advantage were made.
- [<sup>F75</sup>(4A) “Asserted surrenderable amount” means so much of a surrenderable loss as a designated HMRC officer determines, to the best of that officer's information and belief, to be an amount—
  - (a) which would not be a surrenderable loss of P if the position were as stated in paragraphs (a), (b) or (c) of subsection (4), and
  - (b) which is not the subject of a claim by P for relief from corporation tax reflected in the understated tax amount (and hence in the payment required to be made under section 223).
- (4B) “Surrenderable loss” means a loss or other amount within section 99(1) of CTA 2010 (or part of such a loss or other amount).]
- (5) “The denied advantage”—



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- (a) in the case of a notice given by virtue of section 219(4)(a), has the meaning given by section 208(3),
  - (b) in the case of a notice given by virtue of section 219(4)(b), means so much of the asserted advantage as is not a tax advantage which results from the chosen arrangements or otherwise, and
  - (c) in the case of a notice given by virtue of section 219(4)(c)<sup>F76</sup>, (d) or (e) , means so much of the asserted advantage as would be counteracted by making the adjustments set out in the GAAR counteraction notice.
- (6) If a notice is given by reason of two or all of the requirements in section 219(4) being met, <sup>F77</sup>any payment specified under subsection (2)(b) or amount specified under subsection (2)(d)] is to be determined as if the notice were given by virtue of such one of them as is stated in the notice as being used for this purpose.
- (7) “The GAAR counteraction notice” means the notice <sup>F78</sup>under—
- (a) paragraph 12 of Schedule 43 to FA 2013,
  - (b) paragraph 8 or 9 of Schedule 43A to that Act, or
  - (c) paragraph 8 of Schedule 43B to that Act,
- as the case may be.]

#### Textual Amendments

- F70** Words in s. 220(2)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(2\)\(a\)](#)
- F71** Word in s. 220(2)(b) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(2\)\(b\)](#)
- F72** S. 220(2)(d) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(2\)\(b\)](#)
- F73** Words in s. 220(3) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 13\(2\)](#)
- F74** Words in s. 220(4)(c) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 157\(21\)\(a\)](#)
- F75** S. 220(4A)(4B) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(3\)](#)
- F76** Words in s. 220(5)(c) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 157\(21\)\(b\)](#)
- F77** Words in s. 220(6) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(4\)](#)
- F78** Words in s. 220(7) substituted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 157\(21\)\(c\)](#)

## 221 Content of notice given pending an appeal

- (1) This section applies where an accelerated payment notice is given by virtue of section 219(2)(b) (notice given pending an appeal).
- (2) The notice must—
- (a) specify the paragraph or paragraphs of section 219(4) by virtue of which the notice is given,
  - (b) specify the disputed tax <sup>F79</sup>(if any)], <sup>F80</sup>...
  - (c) explain the effect of section 222 and of the amendments made by sections 224 and 225 so far as relating to the relevant tax in relation to which the accelerated payment notice is given<sup>F81</sup>, and

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- (d) if the denied advantage consists of or includes an asserted surrenderable amount (within the meaning of section 220(4A)), specify that amount and any action which is required to be taken in respect of it under section 225A.]
- (3) “The disputed tax” means so much of the amount of the charge to tax arising in consequence of—
  - (a) the amendment or assessment to tax appealed against, or
  - (b) where the appeal is against a conclusion stated by a closure notice, that conclusion,
 as a designated HMRC officer determines, to the best of the officer's information and belief, as the amount required to ensure the counteraction of what that officer so determines as the denied advantage [<sup>F82</sup>(and disregarding any dispute which has been referred to a tribunal under section 12ABZB(3) of TMA 1970 but not yet determined)].
- (4) “The denied advantage” has the same meaning as in section 220(5).
- (5) If a notice is given by reason of two or all of the requirements in section 219(4) being met, the denied advantage is to be determined as if the notice were given by virtue of such one of them as is stated in the notice as being used for this purpose.
- (6) In this section a reference to an assessment to tax, in relation to inheritance tax, is to a determination.

#### Textual Amendments

- F79** Words in s. 221(2)(b) inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 4(2)(a)
- F80** Word in s. 221(2)(b) omitted (26.3.2015) by virtue of Finance Act 2015 (c. 11), Sch. 18 para. 4(2)(b)
- F81** S. 221(2)(d) and preceding word inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 4(2)(b)
- F82** Words in s. 221(3) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by Finance Act 2018 (c. 3), Sch. 6 para. 13(2)

## 222 Representations about a notice

- (1) This section applies where an accelerated payment notice has been given under section 219 (and not withdrawn).
- (2) P has 90 days beginning with the day that notice is given to send written representations to HMRC—
  - (a) objecting to the notice on the grounds that Condition A, B or C in section 219 was not met, <sup>F83</sup>...
  - (b) objecting to the amount specified in the notice under section 220(2)(b) or section 221(2)(b) [<sup>F84</sup>, or
  - (c) objecting to the amount specified in the notice under section 220(2)(d) or section 221(2)(d).]
- (3) HMRC must consider any representations made in accordance with subsection (2).
- (4) Having considered the representations, HMRC must—
  - (a) if representations were made under subsection (2)(a), determine whether—
    - (i) to confirm the accelerated payment notice (with or without amendment), or

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- (ii) to withdraw the accelerated payment notice,<sup>F85</sup>...
  - (b) if representations were made under subsection (2)(b) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount [<sup>F86</sup>(or no amount)] ought to have been specified under section 220(2)(b) or section 221(2)(b), and then—
    - (i) confirm the amount specified in the notice,<sup>F87</sup>...
    - (ii) amend the notice to specify a different amount<sup>F88</sup>, or
    - (iii) remove from the notice the provision made under section 220(2)(b) or section 221(2)(b), and]
  - [<sup>F89</sup>(c) if representations were made under subsection (2)(c) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount (or no amount) ought to have been specified under section 220(2)(d) or 221(2)(d), and then—
    - (i) confirm the amount specified in the notice,
    - (ii) amend the notice to specify a different amount, or
    - (iii) remove from the notice the provision made under section 220(2)(d) or section 221(2)(d),]
- and notify P accordingly.

#### Textual Amendments

- F83** Word in s. 222(2)(a) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(2\)](#)
- F84** S. 222(2)(c) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(2\)](#)
- F85** Word in s. 222(4)(a) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(a\)](#)
- F86** Words in s. 222(4)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(b\)](#)
- F87** Word in s. 222(4)(b) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(c\)](#)
- F88** S. 222(4)(b)(iii) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(c\)](#)
- F89** S. 222(4)(c) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(c\)](#)

#### Forms of accelerated payment

### 223 Effect of notice given while tax enquiry is in progress<sup>F90</sup>: accelerated payment]

- [<sup>F91</sup>(1) This section applies where—
- (a) an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while a tax enquiry is in progress) (and not withdrawn), and
  - (b) an amount is stated in the notice in accordance with section 220(2)(b).]
- (2) P must make a payment (“the accelerated payment”) to HMRC of [<sup>F92</sup>that amount].
- (3) The accelerated payment is to be treated as a payment on account of the understated tax (see section 220).
- (4) The accelerated payment must be made before the end of the payment period.
- (5) “The payment period” means—
- (a) if P made no representations under section 222, the period of 90 days beginning with the day on which the accelerated payment notice is given, and

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- (b) if P made such representations, whichever of the following periods ends later—
  - (i) the 90 day period mentioned in paragraph (a);
  - (ii) the period of 30 days beginning with the day on which P is notified under section 222 of HMRC's determination.
- (6) But where the understated tax would be payable by instalments by virtue of an election made under section 227 of IHTA 1984, to the extent that the accelerated payment relates to tax payable by an instalment which falls to be paid at a time after the payment period, the accelerated payment must be made no later than that time.
- (7) If P pays any part of the understated tax before the accelerated payment in respect of it, the accelerated payment is treated to that extent as having been paid at the same time.
- (8) Any tax enactment which relates to the recovery of a relevant tax applies to an amount to be paid on account of the relevant tax under this section in the same manner as it applies to an amount of the relevant tax.
- (9) “Tax enactment” means provisions of or made under—
  - (a) the Tax Acts,
  - (b) any enactment relating to capital gains tax,
  - (c) IHTA 1984 or any other enactment relating to inheritance tax,
  - (d) Part 4 of FA 2003 or any other enactment relating to stamp duty land tax, or
  - (e) Part 3 of FA 2013 or any other enactment relating to annual tax on enveloped dwellings.

#### Textual Amendments

- F90** Words in s. 223 heading inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 6\(4\)](#)
- F91** S. 223(1) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 6\(2\)](#)
- F92** Words in s. 223(2) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 6\(3\)](#)

## 224 Restriction on powers to postpone tax payments pending initial appeal

- (1) In section 55 of TMA 1970 (recovery of tax not postponed), after subsection (8A) insert—
  - “(8B) Subsections (8C) and (8D) apply where a person has been given an accelerated payment notice or partner payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn.
  - (8C) Nothing in this section 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,
    - (b) the disputed tax specified in the notice under section 221(2)(b) of that Act, or
    - (c) the understated partner tax to which the payment specified in the notice under paragraph 4(1)(b) of Schedule 32 to that Act relates.
  - (8D) Accordingly, if the payment of an amount of tax within subsection (8C)(b) is postponed by virtue of this section immediately before the accelerated

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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 or partner payment 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.”

(2) In section 242 of IHTA 1984 (recovery of tax), after subsection (3) insert—

“(4) Where a person has been given an accelerated payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn, nothing in this section prevents legal proceedings being taken for the recovery 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.”

(3) In Schedule 10 to FA 2003 (SDLT: returns, enquiries, assessments and appeals), in paragraph 39 (direction by the tribunal to postpone payment), after sub-paragraph (8) insert—

“(9) Sub-paragraphs (10) and (11) apply where a person has been given an accelerated payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn.

(10) 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.

(11) Accordingly, if the payment of an amount of tax within sub-paragraph (10) (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.”

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- (4) In paragraph 40 of that Schedule (agreement to postpone payment of tax), after sub-paragraph (3) insert—

“(4) Sub-paragraphs (9) to (11) of paragraph 39 apply for the purposes of this paragraph as they apply for the purposes of paragraph 39.”

- (5) In Schedule 33 to FA 2013 (annual tax on enveloped dwellings: returns, enquiries, assessments and appeals), in paragraph 48 (application for payment of tax to be postponed), after sub-paragraph (8) insert—

“(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.”

- (6) In paragraph 49 of that Schedule (agreement to postpone payment of tax), after sub-paragraph (3) insert—

“(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.”

## **225 Protection of the revenue pending further appeals**

- (1) In section 56 of TMA 1970 (payment of tax where there is a further appeal), after subsection (3) insert—

“(4) Subsection (5) applies where—

- (a) an accelerated payment notice or partner payment notice has been given to a party to the appeal under Chapter 3 of Part 4 of the Finance Act 2014 (and not withdrawn), and

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- (b) the assessment 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.
- (5) If, on the application of HMRC, the relevant court or tribunal considers it necessary for the protection of the revenue, it may direct that subsection (2) 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.
- (6) “Relevant court or tribunal” means the tribunal or court from which permission or leave to appeal is sought.”
- (2) In Schedule 10 to FA 2003 (SDLT: returns, enquiries, assessments and appeals), in paragraph 43 (payment of stamp duty land tax where there is a further appeal), after sub-paragraph (2) insert—
  - “(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 the Finance Act 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 stamp duty land 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.
  - (5) “Relevant court or tribunal” means the tribunal or court from which permission or leave to appeal is sought.”
- (3) In Schedule 33 to FA 2013 (annual tax on enveloped dwellings: returns, enquiries, assessments and appeals), in paragraph 53 (payment of tax where there is a further appeal), after sub-paragraph (2) insert—
  - “(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-

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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.

- (5) “Relevant court or tribunal” means the tribunal or court from which permission or leave to appeal is sought.”

### *<sup>F93</sup>Prevention of surrender of losses*

#### **Textual Amendments**

- F93** S. 225A and cross-heading inserted (with effect in accordance with Sch. 18 para. 12(1) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 7](#)

## **225A Effect of notice: surrender of losses ineffective, etc**

- (1) This section applies where—
  - (a) an accelerated payment notice is given (and not withdrawn), and
  - (b) an amount is specified in the notice in accordance with section 220(2)(d) or 221(2)(d).
- (2) P may not consent to any claim for group relief in respect of the amount so specified.
- (3) Subject to subsection (2), paragraph 75 (other than sub-paragraphs (7) and (8)) of Schedule 18 to FA 1998 (reduction in amount available for surrender) has effect as if the amount so specified ceased to be an amount available for surrender at the time the notice was given to P.
- (4) For the purposes of subsection (3), paragraph 75 of that Schedule has effect as if, in sub-paragraph (2) of that paragraph for “within 30 days” there were substituted “before the end of the payment period (within the meaning of section 223(5) of the Finance Act 2014) ”.
- (5) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made in accordance with paragraph 75(6) of Schedule 18 to FA 1998 where, pursuant to subsection (3), a claimant company receives—
  - (a) notice of the withdrawal of consent under paragraph 75(3) of that Schedule, or
  - (b) a copy of a notice containing directions under paragraph 75(4) of that Schedule.
- (6) Subsection (7) applies where—
  - (a) a company makes such an amendment to its company tax return at a time when an enquiry is in progress into the return, and
  - (b) paragraph 31(3) of that Schedule prevents the amendment from taking effect until the enquiry is completed.
- (7) Section 219 (circumstances in which an accelerated payment notice may be given) has effect, in its application to that company in a case where section 219(2)(a) applies (tax enquiry in progress), as if—



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- (a) for the purposes of section 219(3), that amendment to the return had not been made,
  - (b) in section 219(4), after paragraph (c) there were inserted—
    - “(d) P has amended its company tax return, in accordance with paragraph 75(6) of Schedule 18 to FA 1998, in circumstances where pursuant to section 225A(3), P has received—
      - (i) notice of the withdrawal of consent under paragraph 75(3) of that Schedule, or
      - (ii) a copy of a notice containing directions under paragraph 75(4) of that Schedule,but paragraph 31(3) of that Schedule prevents that amendment having effect.”,
  - (c) in section 220(4), after paragraph (c) there were inserted—
    - “(d) in the case of a notice given by virtue of section 219(4)(d) (cases involving withdrawal of consent for losses claimed), it were assumed that P had never made the claim to group relief to which the amendment to its company tax return relates.”,
    - and
  - (d) in section 227(10), for “or (c)” there were substituted “ , (c) or (d) ”.
- (8) Subsections (2) and (3) are subject to—
- (a) section 227(14) to (16) (provision about claims for group relief, and consents to claims, following amendment or withdrawal of an accelerated payment notice), and
  - (b) section 227A (provision about claims for group relief, and consents to claims, once tax position finally determined).]

### *Penalties*

#### **226 Penalty for failure to pay accelerated payment**

- (1) This section applies where an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while tax enquiry is in progress) (and not withdrawn).
- (2) If any amount of the accelerated payment is unpaid at the end of the payment period, P is liable to a penalty of 5% of that amount.
- (3) If any amount of the accelerated payment is unpaid after the end of the period of 5 months beginning with the penalty day, P is liable to a penalty of 5% of that amount.
- (4) If any amount of the accelerated payment is unpaid after the end of the period of 11 months beginning with the penalty day, P is liable to a penalty of 5% of that amount.
- (5) “The penalty day” means the day immediately following the end of the payment period.
- (6) Where section 223(6) (accelerated payment payable by instalments when it relates to inheritance tax payable by instalments) applies to require an amount of the accelerated payment to be paid before a later time than the end of the payment period, references in subsections (2) and (5) to the end of that period are to be read, in relation to that amount, as references to that later time.

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- (7) Paragraphs 9 to 18 (other than paragraph 11(5)) of Schedule 56 to FA 2009 (provisions which apply to penalties for failures to make payments of tax on time) apply, with any necessary modifications, to a penalty under this section in relation to a failure by P to pay an amount of the accelerated payment as they apply to a penalty under that Schedule in relation to a failure by a person to pay an amount of tax.
- [<sup>F94</sup>(8) Where an amendment to an accelerated payment notice made under section 227(7A) (amendment following tribunal determination about partnership return) increases the amount of the accelerated payment, the amount of the increase is to be ignored for the purposes of—
- (a) this section, and
  - (b) any other enactment imposing a penalty or surcharge for non-payment or late payment of tax.]

#### Textual Amendments

**F94** S. 226(8) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 13\(3\)](#)

#### *Withdrawal etc of accelerated payment notice*

### 227 Withdrawal, modification or suspension of accelerated payment notice

- (1) In this section a “Condition C requirement” means one of the requirements set out in Condition C in section 219.
- (2) Where an accelerated payment notice has been given, HMRC may, at any time, by notice given to P—
- (a) withdraw the notice,
  - (b) where the notice is given by virtue of more than one Condition C requirement being met, withdraw it to the extent it is given by virtue of one of those requirements (leaving the notice effective to the extent that it was also given by virtue of any other Condition C requirement and has not been withdrawn),  
<sup>F95</sup>...
  - (c) reduce the amount specified in the accelerated payment notice under section 220(2)(b) or 221(2)(b)[<sup>F96</sup>, or
  - (d) reduce the amount specified in the accelerated payment notice under section 220(2)(d) or 221(2)(d).]
- (3) Where—
- (a) an accelerated payment notice is given by virtue of the Condition C requirement in section 219(4)(a), and
  - (b) the follower notice to which it relates is withdrawn,
- HMRC must withdraw the accelerated payment notice to the extent it was given by virtue of that requirement.
- (4) Where—
- (a) an accelerated payment notice is given by virtue of the Condition C requirement in section 219(4)(a), and

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- (b) the follower notice to which it relates is amended under section 216(7)(b) (cases where there is a new relevant final judicial ruling following a late appeal),

HMRC may by notice given to P make consequential amendments (whether under subsection (2)(c) [F97 or (d)] or otherwise) to the accelerated payment notice.

[F98(5) Where an accelerated payment notice is given by virtue of the Condition C requirement in section 219(4)(b), and—

- (a) under section 311(8) or 311B(8) of FA 2004, HMRC withdraw the reference number allocated to the chosen arrangements, or to proposed arrangements implemented by the chosen arrangements, or
- (b) HMRC give notice under section 312(6) or 312ZA(4) of FA 2004, with the result that persons are no longer under the duty in section 312(2) or (as the case may be) section 312ZA(2) of that Act in relation to the chosen arrangements,

HMRC must withdraw the accelerated payment notice, to the extent that it was given by virtue of the Condition C requirement.]

(6) Subsection (7) applies where—

- (a) an accelerated payment notice is withdrawn to the extent that it was given by virtue of a Condition C requirement,
- (b) that requirement is the one stated in the notice for the purposes of section 220(6) or 221(5) (calculation of amount of the accelerated payment or of the denied advantage [F99 etc]), and
- (c) the notice remains effective to the extent that it was also given by virtue of any other Condition C requirement.

(7) HMRC must, by notice given to P—

- (a) modify the accelerated payment notice so as to state the remaining, or one of the remaining, Condition C requirements for the purposes of section 220(6) or 221(5), [F100 ...
- (b) if the amount of the accelerated payment or (as the case may be) the amount of the disputed tax determined on the basis of the substituted Condition C requirement is less than the amount specified in the notice, amend that notice under subsection (2)(c) to substitute the lower amount [F101], and
- (c) if the amount of the asserted surrenderable amount is less than the amount specified in the notice, amend the notice under subsection (2)(d) to substitute the lower amount.]

[F102(7A) Where—

- (a) an accelerated payment notice is given, and
- (b) a [F103 section 12AA] partnership return (as defined in Schedule 32) to which the notice relates is amended under section 12ABZB(7)(b) of TMA 1970 (amendment following tribunal determination),

HMRC may by notice given to P make consequential amendments to the accelerated payment notice.]

(8) If a follower notice is suspended under section 216 (appeals against final rulings made out of time) for any period, an accelerated payment notice in respect of the follower notice is also suspended for that period.

(9) Accordingly, the period during which the accelerated payment notice is suspended does not count towards the periods mentioned in the following provisions—

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- (a) section 223;
  - (b) section 55(8D) of TMA 1970;
  - (c) paragraph 39(11) of Schedule 10 to FA 2003;
  - (d) paragraph 48(8C) of Schedule 33 to FA 2013.
- (10) But the accelerated payment notice is not suspended under subsection (8) if it was also given by virtue of section 219(4)(b) or (c) and has not, to that extent, been withdrawn.
- (11) In a case within subsection (10), subsections (6) and (7) apply as they would apply were the notice withdrawn to the extent that it was given by virtue of section 219(4)(a), except that any change made to the notice under subsection (7) has effect during the period of suspension only.
- (12) Where an accelerated payment notice is withdrawn, it is to be treated as never having had effect (and any accelerated payment made in accordance with, or penalties paid by virtue of, the notice are to be repaid).
- [<sup>F104</sup>(12A) Where, as a result of an accelerated payment notice specifying an amount under section 220(2)(d) or 221(2)(d), a notice of consent by P to a claim for group relief in respect of the amount specified (or part of it) became ineffective by virtue of section 225A(3), nothing in subsection (12) operates to revive that notice.]
- (13) If, as a result of a modification made under subsection (2)(c) [<sup>F105</sup>or an amendment made under subsection (7A)], more than the resulting amount of the accelerated payment has already been paid by P, the excess must be repaid.
- [<sup>F106</sup>(13A) If, as a result of an amendment made under subsection (7A), an amount payable to HMRC under section 223(2) is increased, the amount of that increase must be paid before—
- (a) the end of the period of 30 days beginning with the day on which notice of the amendment is given, or
  - (b) if later, the end the payment period (within the meaning given by section 223(5)).]

[<sup>F107</sup>(14) If the accelerated payment notice is amended under subsection (2)(d) or withdrawn—

    - (a) section 225A(2) and (3) (which prevents consent being given to group relief claims) cease to apply in relation to the released amount, and
    - (b) a claim for group relief may be made in respect of any part of the released amount within the period of 30 days after the day on which the notice is amended or withdrawn.

(15) The time limits otherwise applicable to amendment of a company tax return do not apply to the extent that it makes a claim for group relief within the time allowed by subsection (14).

(16) “The released amount” means—

    - (a) in a case where the accelerated payment notice is amended under subsection (2)(d), the amount represented by the reduction, and
    - (b) in a case where the accelerated payment notice is withdrawn, the amount specified under section 220(2)(d) or 221(2)(d).]

#### Textual Amendments

**F95** Word in s. 227(2) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(2\)](#)

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- F96** S. 227(2)(d) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(2\)](#)
- F97** Words in s. 227(4) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(3\)](#)
- F98** [S. 227\(5\)](#) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 43\(3\)](#), 44
- F99** Word in s. 227(6)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(4\)](#)
- F100** Word in s. 227(7) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(5\)](#)
- F101** S. 227(7)(c) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(5\)](#)
- F102** S. 227(7A) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 13\(4\)\(a\)](#)
- F103** Words in s. 227(7A)(b) inserted by 2017 c. 32, Sch. 14 para. 43A (as inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 15\(3\)](#))
- F104** S. 227(12A) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(6\)](#)
- F105** Words in s. 227(13) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 13\(4\)\(b\)](#)
- F106** S. 227(13A) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 13\(4\)\(c\)](#)
- F107** S. 227(14)-(16) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(7\)](#)

### *<sup>F108</sup>Group relief claims after accelerated payment notices*

#### **Textual Amendments**

- F108** S. 227A and cross-heading inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 9](#)

## **227A Group relief claims after accelerated payment notices**

- (1) This section applies where as a result of an accelerated payment notice given to P—
  - (a) P was prevented from consenting to a claim for group relief in respect of an amount under section 225A(2), or
  - (b) pursuant to section 225A(3), a consent given by P to a claim for group relief in respect of an amount was ineffective.
- (2) If a final determination establishes that the amount P has available to surrender consists of or includes the amount referred to in subsection (1)(a) or (b) or a part of it (“the allowed amount”)—
  - (a) section 225A(2) and (3) (which prevents consent being given to group relief claims) ceases to apply in relation to the allowed amount, and
  - (b) a claim for group relief in respect of any part of the allowed amount may be made within the period of 30 days after the relevant time.
- (3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes a claim for group relief in respect of any part of the allowed amount within the time limit allowed by subsection (2)(b).
- (4) In this section—
 

“final determination” means—

  - (a) a conclusion stated in a closure notice under paragraph 34 of Schedule 18 to FA 1998 against which no appeal is made;
  - (b) the final determination of a tax appeal within paragraph (d) or (e) of section 203;

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“relevant time” means—

- (a) in a case within paragraph (a) above, the end of the period during which the appeal could have been made;
- (b) in the case within paragraph (b) above, the end of the day on which the final determination occurs.]

### *Partners and partnerships*

## **228 Accelerated partner payments**

Schedule 32 makes provision for accelerated partner payments and modifies this Chapter in relation to partnerships.

### *Defined terms*

## **229 Defined terms used in Chapter 3**

In this Chapter—

- “the accelerated payment” has the meaning given by section 223(2);
- “accelerated payment notice” has the meaning given by section 219(1);
- “arrangements” has the meaning given by section 201(4);
- “the asserted advantage” has the meaning given by section 219(3);
- “the chosen arrangements” has the meaning given by section 219(3), except in Schedule 32 where it has the meaning given by paragraph 3(3) of that Schedule;
- “the denied advantage” has the meaning given by section 220(5), except in paragraph 4 of Schedule 32 where it has the meaning given by paragraph 4(4) of that Schedule;
- “designated HMRC officer” means an officer of Revenue and Customs who has been designated by the Commissioners for the purposes of this Part;
- “follower notice” has the meaning given by section 204(1);
- “HMRC” means Her Majesty's Revenue and Customs;
- “P” has the meaning given by section 219(1);
- “partner payment notice” has the meaning given by paragraph 3 of Schedule 32;
- “relevant tax” has the meaning given by section 200;
- “tax advantage” has the meaning given by section 201(2);
- “tax appeal” has the meaning given by section 203;
- “tax enquiry” has the meaning given by section 202(2).

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## CHAPTER 4

### MISCELLANEOUS AND GENERAL PROVISION

#### *Stamp duty land tax and annual tax on enveloped dwellings*

#### **230 Special case: stamp duty land tax**

- (1) This section applies to modify the application of this Part in the case of—
  - (a) a return or claim in respect of stamp duty land tax, or
  - (b) a tax appeal within section 203(g), or any appeal within section 203(i) which derives from such an appeal.
- (2) If two or more persons acting jointly are the purchasers in respect of the land transaction—
  - (a) anything required or authorised by this Part to be done in relation to P must be done in relation to all of those persons, and
  - (b) any liability of P in respect of an accelerated payment, or a penalty under this Part, is a joint and several liability of all of those persons.
- (3) Subsection (2) is subject to subsections (4) to (8).
- (4) If the land transaction was entered into by or on behalf of the members of a partnership—
  - (a) anything required or authorised to be done under this Part in relation to P is required or authorised to be done in relation to all the responsible partners, and
  - (b) any liability of P in respect of an accelerated payment, or a penalty under this Part, is a joint and several liability of the responsible partners.
- (5) But nothing in subsection (4) enables—
  - (a) an accelerated payment to be recovered from a person who did not become a responsible partner until after the effective date of the transaction in respect of which the tax to which the accelerated payment relates is payable, or
  - (b) a penalty under this Part to be recovered from a person who did not become a responsible partner until after the time when the omission occurred that caused the penalty to become payable.
- (6) Where the trustees of a settlement are liable to pay an accelerated payment or a penalty under this Part, the payment or penalty may be recovered (but only once) from any one or more of the responsible trustees.
- (7) But nothing in subsection (6) enables a penalty to be recovered from a person who did not become a responsible trustee until after the time when the omission occurred that caused the penalty to become payable.
- (8) Where a follower notice or accelerated payment notice is given to more than one person, the power conferred on P by section 207 or 222 is exercisable by each of those persons separately or by two or more of them jointly.
- (9) In this section—
  - “the accelerated payment” has the meaning given by section 223(2);
  - “accelerated payment notice” has the meaning given by section 219(1);

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“effective date”, in relation to a land transaction, has the meaning given by section 119 of FA 2003;

“follower notice” has the meaning given by section 204(1);

“the responsible partners”, in relation to a land transaction, has the meaning given by paragraph 6(2) of Schedule 15 to that Act;

“the responsible trustees” has the meaning given by paragraph 5(3) of Schedule 16 to that Act;

“P”—

(a) in relation to Chapter 2, has the meaning given by section 204(1);

(b) in relation to Chapter 3, has the meaning given by section 219.

### **231 Special case: annual tax on enveloped dwellings**

- (1) This section applies to modify the application of this Part in the case of—
  - (a) a return or claim in respect of annual tax on enveloped dwellings, or
  - (b) a tax appeal within section 203(h), or any appeal within section 203(i) which derives from such an appeal.
- (2) If the responsible partners of a partnership are the chargeable person in relation to the tax to which the return or claim or appeal relates—
  - (a) anything required or authorised by this Part to be done in relation to P must be done in relation to all of those partners, and
  - (b) any liability of P in respect of an accelerated payment, or a penalty under this Part, is a joint and several liability of all of those persons.
- (3) Where—
  - (a) a follower notice is given by virtue of a tax enquiry into the return or claim or the appeal, and
  - (b) by virtue of section 97 or 98 of FA 2013, two or more persons would have been jointly and severally liable for an additional amount of tax had the necessary corrective action been taken before the specified time for the purposes of section 208,

any liability of P in respect of a penalty under that section is a joint and several liability of all of them.
- (4) Where—
  - (a) an accelerated payment notice is given by virtue of a tax enquiry into the return or claim or the appeal, and
  - (b) two or more persons would, by virtue of section 97 or 98 of FA 2013, be jointly and severally liable for the understated tax relating to the accelerated payment specified in the notice or (as the case may be) the disputed tax specified in the notice,

any liability of P in respect of the accelerated payment or a penalty under section 226 is a joint and several liability of all of them.
- (5) Accordingly—
  - (a) where a follower notice is given in a case where subsection (3) applies, or
  - (b) an accelerated payment notice is given in a case to which subsection (4) applies,



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HMRC must also give a copy of the notice to any other person who would be jointly and severally liable for a penalty or payment, in relation to the notice, by virtue of this section.

- (6) Where a follower notice or accelerated payment notice is given to more than one person, the power conferred on P by section 207 or 222 is exercisable by each of those persons separately or by two or more of them jointly.
- (7) In this section—
- “the accelerated payment” has the meaning given by section 223(2);
  - “accelerated payment notice” has the meaning given by section 219(1);
  - “the chargeable person” has the same meaning as in Part 3 of FA 2013 (annual tax on enveloped dwellings);
  - “follower notice” has the same meaning as in Chapter 2;
  - “P”—
    - (a) in relation to Chapter 2, has the meaning given by section 204(1);
    - (b) in relation to Chapter 3, has the meaning given by section 219;
  - “the responsible partners” has the same meaning as in Part 3 of FA 2013 (annual tax on enveloped dwellings).

#### *Extension of Part by order*

### **232 Extension of this Part by order**

- (1) The Treasury may by order amend section 200 (definition of “relevant tax”) so as to extend this Part to any other tax.
- (2) An order under this section may include—
- (a) provision in respect of that other tax corresponding to the provision made by sections 224 and 225,
  - (b) consequential and supplemental provision, and
  - (c) transitional and transitory provision and savings.
- (3) For the purposes of subsection (1) or (2) an order under this section may amend this Part (other than this section) or any other enactment whenever passed or made.
- (4) The power to make orders under this section is exercisable by statutory instrument.
- (5) An order under this section may only be made if a draft of the instrument containing the order has been laid before and approved by a resolution of the House of Commons.
- (6) In this section “tax” includes duty.

#### *Consequential amendments*

### **233 Consequential amendments**

Schedule 33 contains consequential amendments.

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## PART 5

### PROMOTERS OF TAX AVOIDANCE SCHEMES

#### Modifications etc. (not altering text)

- C6** Pt. 5 applied (with modifications) by 1992 c. 7 (N.I.), s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 1 para. 12](#))
- C7** Pt. 5 applied (with modifications) by 1992 c. 4, s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 1 para. 3](#))
- C8** Pt. 5 modified (12.2.2015 for specified purposes, 12.4.2015 in so far as not already in force) by [National Insurance Contributions Act 2015 \(c. 5\)](#), Sch. 2 Pt. 2, [Sch. 2 para. 33\(2\)](#)
- C9** Pt. 5 applied (with modifications) by [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#), [s. 16\(1\)\(d\)](#) (as inserted (12.4.2015) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 2 para. 32](#))

#### *Introduction*

### 234 Meaning of “relevant proposal” and “relevant arrangements”

- (1) “Relevant proposal” means a proposal for arrangements which (if entered into) would be relevant arrangements (whether the proposal relates to a particular person or to any person who may seek to take advantage of it).
- (2) Arrangements are “relevant arrangements” if—
  - (a) they enable, or might be expected to enable, any person to obtain a tax advantage, and
  - (b) the main benefit, or one of the main benefits, that might be expected to arise from the arrangements is the obtaining of that advantage.
- (3) “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.
- (4) “Arrangements” includes any agreement, scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.

### 235 Carrying on a business “as a promoter”

- (1) A person carrying on a business in the course of which the person is, or has been, a promoter in relation to a relevant proposal or relevant arrangements carries on that business “as a promoter”.

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[<sup>F109</sup>(1A) For the purposes of this Part, a person is treated as carrying on a business as a promoter if the person is a member of a promotion structure (whether or not the person carries on a business).

Schedule 33A describes the cases in which a person is a member of a promotion structure.]

- (2) A person is a “promoter” in relation to a relevant proposal if the person—
  - (a) is to any extent responsible for the design of the proposed arrangements,
  - (b) makes a firm approach to another person in relation to the relevant proposal with a view to making the proposal available for implementation by that person or any other person, or
  - (c) makes the relevant proposal available for implementation by other persons.
- (3) A person is a “promoter” in relation to relevant arrangements if the person—
  - (a) is by virtue of subsection (2)(b) or (c), a promoter in relation to a relevant proposal which is implemented by the arrangements, or
  - (b) is responsible to any extent for the design, organisation or management of the arrangements.
- (4) For the purposes of this Part a person makes a firm approach to another person in relation to a relevant proposal if—
  - (a) the person communicates information about the relevant proposal to the other person at a time when the proposed arrangements have been substantially designed,
  - (b) the communication is made with a view to that other person or any other person entering into transactions forming part of the proposed arrangements, and
  - (c) the information communicated includes an explanation of the tax advantage that might be expected to be obtained from the proposed arrangements.
- (5) For the purposes of subsection (4) proposed arrangements have been substantially designed at any time if by that time the nature of the transactions to form them (or part of them) has been sufficiently developed for it to be reasonable to believe that a person who wished to obtain the tax advantage mentioned in subsection (4)(c) might enter into—
  - (a) transactions of the nature developed, or
  - (b) transactions not substantially different from transactions of that nature.
- (6) A person is not a promoter in relation to a relevant proposal or relevant arrangements by reason of anything done in prescribed circumstances.
- (7) Regulations under subsection (6) may contain provision having retrospective effect.

#### Textual Amendments

**F109** S. 235(1A) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 9](#)

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## 236 Meaning of “intermediary”

For the purposes of this Part a person (“A”) is an intermediary in relation to a relevant proposal if—

- (a) A communicates information about the relevant proposal to another person in the course of a business,
- (b) the communication is made with a view to that other person, or any other person, entering into transactions forming part of the proposed arrangements, and
- (c) A is not a promoter in relation to the relevant proposal.

*<sup>F110</sup>Stop notices*

### Textual Amendments

**F110** Ss. 236A-236K and cross-heading inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 1

## 236A Power to give stop notices

- (1) An authorised officer may give a person a notice (a “stop notice”) if the authorised officer suspects that the recipient promotes, or has promoted, arrangements of a description specified in the notice or proposals for such arrangements.
- (2) A description of arrangements may be specified in a stop notice only if the authorised officer considers that—
  - (a) condition A and any of conditions B and C are met, or
  - (b) conditions B and D are met.
- (3) Condition A is that arrangements of that description—
  - (a) would, if the arrangements had been implemented before 5 April 2019, have been likely to—
    - (i) cause a person to be treated as taking a relevant step for the purposes of Part 7A of ITEPA 2003 by virtue of paragraph 1(1) of Schedule 11 to F(No.2)A 2017 (loan charge: employment income), or
    - (ii) cause a relevant benefit to be treated as arising for the purposes of section 23A to 23H of ITTOIA 2005 by virtue of paragraph 1 of Schedule 12 to F(No.2)A 2017 (loan charge: trading income),
  - (b) would be the same, or similar, in form or effect to arrangements or proposed arrangements to which a reference number has been allocated under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017,
  - (c) would be the same, or similar, in form or effect to arrangements in relation to which a person has been given a follower notice under section 204 (circumstances in which a follower notice may be given), or
  - (d) would be the same, or similar, in form or effect to arrangements of a description specified in regulations made by the Commissioners under this section.
- (4) Condition B is that—
  - (a) arrangements of that description, or proposals for such arrangements, have been, or are likely to be, marketed (in any manner, whether by the recipient

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- of the stop notice or otherwise) as capable of enabling a person to obtain a particular tax advantage, and
  - (b) it is more likely than not that arrangements of that description are not capable of enabling that advantage to be obtained.
- (5) Condition C is that condition A is met as a result of the allocation of a reference number under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017 in relation to arrangements or proposed arrangements (the “reference arrangements”) and—
- (a) HMRC has required any person to provide information or documents under section 310A or 311C of FA 2004 or paragraph 19 or 22C of Schedule 17 to F(No.2)A 2017 in relation to the reference arrangements and that person has not complied with that requirement, or
  - (b) HMRC has made an application to the tribunal under section 308A(2) of FA 2004 or paragraph 16 of Schedule 17 to F(No.2)A 2017 in relation to the reference arrangements.
- (6) Condition D is that—
- (a) arrangements of that description or proposals for such arrangements would be relevant arrangements or relevant proposals (see section 234), and
  - (b) the recipient of the notice is subject to a conduct notice or a monitoring notice.
- (7) For the purposes of this section, and sections 236B to 236K and 272A, a person promotes arrangements or a proposal for arrangements if the person does anything in connection with those arrangements or that proposal that would, if those arrangements or that proposal were relevant arrangements or a relevant proposal, cause the person to be carrying on a business as a promoter, or to be treated as such, for the purposes of this Part.

## **236B Effect of stop notices**

- (1) A person subject to a stop notice must not promote—
- (a) any arrangements that meet the description specified in the notice or that have a similar form or effect to arrangements of that description, or
  - (b) any proposal for such arrangements.
- (2) A person is subject to a stop notice for the purposes of this Part if—
- (a) the person is the recipient of the notice;
  - (b) the person is a body corporate or partnership that the recipient of the notice controls or has significant influence over;
  - (c) the person controls or has significant influence over a body corporate or partnership that is the recipient of the notice;
  - (d) the recipient of the notice makes a relevant transfer to the person.
- (3) If the recipient of a stop notice controls or has significant influence over a person that is a body corporate or partnership, the recipient must—
- (a) within 5 days of the giving of the notice, give a copy of the notice to that person, and
  - (b) within 15 days of the giving of the notice, provide HMRC with the information mentioned in subsection (6) in relation to that person.
- (4) If the recipient of a stop notice is a body corporate or partnership, it must—

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- (a) within 5 days of the giving of the notice, give a copy of the notice to each person who controls or has significant influence over it, and
  - (b) within 15 days of the giving of the notice, provide HMRC with the information mentioned in subsection (6) in relation to each such person.
- (5) If the recipient of a stop notice makes a relevant transfer to a person, the recipient must—
  - (a) before making the transfer, give a copy of the notice to that person, and
  - (b) within 15 days of making the transfer, provide HMRC with the information mentioned in subsection (6) in relation to that person.
- (6) The information referred to in subsections (3)(b), (4)(b) and (5)(b) in relation to a person is—
  - (a) the person's name;
  - (b) any name under which the person carries on a business and any previous name or pseudonym known by the recipient of the stop notice;
  - (c) the person's business address or registered office.
- (7) An authorised officer may give a copy of a stop notice to any person the officer considers the recipient of the notice is obliged to give a copy to as a result of subsection (3)(a), (4)(a) or (5)(b) (but this does not affect the obligation of the recipient to do so).
- (8) Sub-paragraphs (5) to (11) of paragraph 13A of Schedule 34 (meaning of “control” and “significant influence”) apply to this section as they apply to Part 2 of that Schedule.
- (9) In this section “relevant transfer” has the meaning it has in paragraph 5 of Schedule 33A (promotion structures).

### **236C Quarterly returns**

- (1) A person subject to a stop notice must provide a return to HMRC containing the information described in subsection (4) for each relevant period.
- (2) The first relevant period is the 3 month period commencing on the day the stop notice was given to its recipient.
- (3) Each successive 3 month period that commences within the period of 3 years commencing on that day is a relevant period.
- (4) The information that must be contained in a return under subsection (1) is—
  - (a) the number (which may be nil) of relevant clients of the person subject to the stop notice in the relevant period to which the return relates,
  - (b) if the return is the return for the first relevant period, the number (which may be nil) of relevant clients of the person in the period ending with the commencement of the first relevant period,
  - (c) in respect of each relevant client—
    - (i) the client's name and address,
    - (ii) the unique taxpayer reference number (if any) allocated to the client by HMRC, and
    - (iii) the client's national insurance number (if any),
  - (d) any name by which any such arrangements or proposal is known or is marketed.

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- (5) For the purposes of this section, a person (“C”) is a “relevant client” of a person subject to a stop notice (“P”) in a period if at any time during that period—
- (a) P has made a firm approach to C in relation to a proposal for arrangements that fall within the description specified in the stop notice;
  - (b) P has made the proposal available for implementation by C;
  - (c) P has provided services to C in relation to arrangements falling within the description specified in the stop notice, or in relation to a proposal for such arrangements.
- (6) If the person does not have the information referred to in subsection (4)(c)(ii) or (iii) in respect of a relevant client, the return must instead include a statement of that fact.
- (7) A return for a relevant period must be provided to HMRC before the end of the period of 15 days commencing on the last day of the relevant period.
- (8) An authorised officer may by notice to a person subject to the obligation to make a return under sub-paragraph (1) provide for that obligation to cease to have effect in relation to that person from such time as may be specified in the notice.

## **236D Withdrawal of stop notices**

- (1) A person subject to a stop notice may make a request for the notice to cease to have effect in relation to that person if the person—
- (a) does not intend to promote, and has not promoted, arrangements that fall within the description of arrangements specified in the notice or proposals for such arrangements,
  - (b) considers that the conditions for specifying the description of arrangements (see section 236A(2)) were not met, or
  - (c) considers that there are other reasons for it to cease to have effect.
- (2) A request under subsection (1) must—
- (a) be made in writing to an authorised officer,
  - (b) be made before the end of the period of 30 days beginning with the day on which the stop notice was given,
  - (c) contain an explanation of the basis for the request, and
  - (d) be accompanied by such evidence to support that explanation as is reasonable to provide in the circumstances.
- (3) The authorised officer to whom the request is made must decide whether or not the notice is to cease to have effect in relation to the person who made the request.
- (4) The authorised officer must give the person who made the request a notice setting out the officer's decision (“a decision notice”) before the end of the period of 45 days beginning with the day on which the request was received.
- (5) If at the end of that period the authorised officer has not given a decision notice, the stop notice ceases to have effect in relation to the person who made the request.
- (6) An authorised officer may also determine that a stop notice is to cease to have effect in relation to a person who has not made a request under subsection (1) by giving the person a notice (“a withdrawal notice”).

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- (7) A decision notice or a withdrawal notice that provides for a stop notice to cease to have effect in relation to a person must specify the date on which it ceases to have effect in relation to that person, which may be earlier or later than the date on which the decision notice or withdrawal notice is given.

### **236E Appeal against decision not to withdraw stop notice**

- (1) A person may appeal against a refusal by an authorised officer to grant a request that a stop notice cease to have effect in relation to that person.
- (2) Notice of appeal must be given—
  - (a) in writing to the officer who gave the decision notice under section 236D(4), and
  - (b) within the period of 30 days beginning with the day on which the decision notice was given.
- (3) The notice of appeal must state the grounds of appeal.
- (4) The grounds of appeal that may be stated are the same as the grounds on which a person may request that a stop notice cease to have effect as mentioned in section 236D(1).
- (5) On an appeal that is notified to the tribunal, the tribunal may—
  - (a) confirm the refusal, or
  - (b) direct that the stop notice is to cease to have effect in relation to a person from such date as the tribunal consider appropriate (which may be earlier or later than the date on which the tribunal makes that direction).
- (6) Subject to this section, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this section.

### **236F Suspension of stop notice pending appeal**

- (1) A person who makes an appeal under section 236E may make a suspension request.
- (2) A “suspension request” is a request that a stop notice which is the subject of an appeal under that section is to cease to have effect in relation to the person making the request until the appeal has been determined, withdrawn or otherwise disposed of.
- (3) A suspension request must—
  - (a) be made in writing to the authorised officer to whom the notice of appeal was given,
  - (b) contain an explanation of the basis for the request, and
  - (c) be accompanied by such evidence to support that explanation as is reasonable to provide in the circumstances.
- (4) The authorised officer to whom the suspension request is made must decide whether or not the notice is to cease to have effect in relation to the person who made the request until the appeal has been determined, withdrawn or otherwise disposed of.
- (5) When deciding whether or not to grant a suspension request, the officer must have regard to the need to protect—
  - (a) the public revenue, and



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- (b) persons to whom arrangements or proposals for arrangements of the description specified in the stop notice might be marketed.
- (6) The authorised officer must give the person who made the suspension request a notice setting out the officer's decision (“a suspension decision notice”) before the end of the period of 30 days beginning with the day on which the request was received.
- (7) If at the end of that period the authorised officer has not given a suspension decision notice, the stop notice ceases to have effect in relation to the person who made the request until either—
  - (a) the officer gives a decision notice that provides that the suspension request is not to be granted, or
  - (b) the appeal has been determined, withdrawn or otherwise disposed of.

### **236G Automatic withdrawal of certain stop notices**

- (1) This section applies to a stop notice if—
  - (a) condition A in section 236A was met in relation to the giving of that notice as a result of the allocation of a reference number under section 311 of FA 2004 or paragraph 22 of Schedule 17 to F(No.2)A 2017, and
  - (b) that reference number has been withdrawn.
- (2) Where this section applies to a stop notice, it ceases to have effect in relation to every person who is subject to it from the time when the reference number in question was withdrawn.
- (3) HMRC must give a notice to—
  - (a) each person who has been given a stop notice to which this section applies, and
  - (b) every other person that HMRC is aware was subject to that notice.
- (4) A notice given under subsection (3) must state the reason for the withdrawal of the reference number in question and may contain such further explanation as HMRC consider appropriate (for example, it may contain HMRC's view of the arrangements or proposed arrangements to which the reference number relates).

### **236H Publication**

- (1) An authorised officer may publish—
  - (a) the fact that a person is subject to a stop notice;
  - (b) details of any arrangements or proposal for arrangements promoted by that person that the officer considers meet the description specified in the notice.
- (2) Publication under subsection (1) may also include the following information about the person—
  - (a) the person's name;
  - (b) the person's business address or registered office;
  - (c) any other information that the authorised officer considers it appropriate to publish in order to make clear the person's identity.
- (3) The reference in subsection (2)(a) to the person's name includes any name under which the person carries on a business and any previous name or pseudonym.

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- (4) Publication of information about a person subject to a stop notice may not take place before the end of the appeal period, but an authorised officer may, at any time after the notice is given, publish the description of arrangements or proposal for arrangements specified in the notice and the fact that arrangements of that description are subject to a stop notice.
- (5) The “appeal period” means—
  - (a) the period during which a request under section 236D(1) (withdrawal of stop notices) could be made,
  - (b) where such a request was made, the period during which an appeal to the tribunal against a decision notice under section 236D(4) could be brought under section 236E, or
  - (c) where an appeal mentioned in paragraph (b) has been brought, the period during which the proceedings on that appeal to the tribunal have not been determined, withdrawn or otherwise disposed of.
- (6) For the purposes of subsection (5)(c), reference to proceedings on an appeal to the tribunal do not include any proceedings on appeal from the tribunal.

#### **236I Publication where stop notice automatically withdrawn**

- (1) Where an authorised officer has published anything under section 236H in relation to a stop notice that has ceased to have effect as a result of section 236G, an authorised officer must publish—
  - (a) the fact it has ceased to have effect;
  - (b) the reason for the withdrawal of the reference number in question (see section 236G(1));
  - (c) such further explanation as HMRC consider appropriate.
- (2) Where an authorised officer is required to publish information as a result of subsection (1), the officer may also publish information about the persons who were subject to such a stop notice (including the information mentioned in section 236H(1) and (2)).

#### **236J Disclosure to clients and intermediaries**

- (1) A person (“P”) subject to a stop notice who (at any time) has promoted arrangements falling within the description specified in that notice, or has promoted a proposal for such arrangements, must give a notice to—
  - (a) each of P’s clients in relation to those arrangements or that proposal, and
  - (b) each person who P could reasonably be expected to know is an intermediary in relation to any such proposal.
- (2) The notice must—
  - (a) set out the fact that a person is subject to a stop notice,
  - (b) set out the fact that the arrangements or proposed arrangements the recipient of the notice is a client or intermediary in relation to meets the description of arrangements specified in the notice, and
  - (c) be accompanied with a copy of the stop notice.
- (3) A person (“C”) is a client of P if—

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- (a) P has made a firm approach to C in relation to a proposal for arrangements that fall within the description specified in the stop notice,
  - (b) P has made the proposal available for implementation by C, or
  - (c) P has provided services to C in relation to arrangements falling within the description specified in the stop notice, or in relation to a proposal for such arrangements.
- (4) A notice under this section must be given—
- (a) to each person who was a client of P on or before the day on which P became aware that P was subject to the notice, within 5 days of that day;
  - (b) to each person that P could reasonably be expected to know was an intermediary in relation to the proposal in question on or before the day on which P became aware that P was subject to the notice, within 5 days of that day;
  - (c) to each person that P subsequently becomes aware is an intermediary in relation to the proposal in question, within 5 days of P becoming so aware.

### **236K Notification of interested persons by HMRC**

- (1) This section applies if an authorised officer suspects that a person subject to a stop notice has failed to comply with section 236B(1).
- (2) Where this section applies, the officer may provide a copy of the stop notice to any person the officer considers might be affected by that failure or the giving of the stop notice (for example, any person who is a client of the person who failed to comply with section 236B(1) or who otherwise makes use of arrangements that must not be promoted as a result of the stop notice).
- (3) Where the officer provides a copy of a stop notice to a person under subsection (2) the officer may also provide any of the following information to that person—
  - (a) the name of the person who failed to comply with section 236B(1);
  - (b) the business address or registered office of that person;
  - (c) any other information that the authorised officer considers it appropriate to provide in order to make clear the identity of that person;
  - (d) details of any arrangements or proposal for arrangements promoted by that person that meet the description specified in it;
  - (e) an explanation of the effect of the stop notice;
  - (f) an explanation of why the stop notice was given.]

### *Conduct notices*

### **237 Duty to give conduct notice**

- (1) Subsections (5) to (9) apply if an authorised officer becomes aware at any time that a person ( “ P ”) who is carrying on a business as a promoter—
  - (a) has, in the period of 3 years ending with that time, met one or more threshold conditions, and
  - (b) was carrying on a business as a promoter when P met that condition.

[<sup>F111</sup>(1A) Subsections (5) to (9) also apply if an authorised officer becomes aware at any time (“the relevant time”) that—

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- (a) a person has, in the period of 3 years ending with the relevant time, met one or more threshold conditions,
  - (b) at the relevant time another person (“P”) meets one or more of those conditions by virtue of Part 2 of Schedule 34 (meeting the threshold conditions: bodies corporate and partnerships), and
  - (c) P is, at the relevant time, carrying on a business as a promoter.]
- (2) Part 1 of Schedule 34 sets out the threshold conditions and describes how they are met.
- (3) Part 2 of that Schedule contains provision about [<sup>F112</sup>when a person is treated as meeting a threshold condition].
- (4) See also Schedule 36 (which contains provision about the meeting of threshold conditions and other conditions by partnerships).
- [<sup>F113</sup>(5) The authorised officer must determine—
  - (a) in a case within subsection (1), whether or not P’s meeting of the condition mentioned in subsection (1)(a) (or, if more than one condition is met, the meeting of all of those conditions, taken together) should be regarded as significant in view of the purposes of this Part, or
  - (b) in a case within subsection (1A), whether or not—
    - <sup>F114</sup>(i) . . . . .
    - (ii) P’s meeting of the condition [<sup>F115</sup>(or, if more than one condition is met, the meeting of all of those conditions, taken together)] as mentioned in subsection (1A)(b),
 should be regarded as significant in view of those purposes.]
- [<sup>F116</sup>(5A) In determining under subsection (5)(b) whether or not P’s meeting of the condition (or conditions) should be regarded as significant, the authorised officer must determine whether the meeting of that condition (or those conditions taken together) by the person mentioned in subsection (1A)(a) should be regarded as significant in view of the purposes of this Part.
- (5B) If the officer determines that the meeting of the condition (or those conditions) by that person should be regarded as significant, the officer must determine that P’s meeting of that condition (or those conditions) should be regarded as significant.]
- (6) Subsection (5) does not apply if a conduct notice or a monitoring notice already has effect in relation to P.
- (7) If the authorised officer determines under [<sup>F117</sup>subsection (5)(a)] that P’s meeting of the condition or conditions in question should be regarded as significant, the officer must give P a conduct notice, unless subsection (8) applies.
- [<sup>F118</sup>(7A) If the authorised officer determines under subsection (5)(b) that <sup>F119</sup>...—
  - <sup>F120</sup>(a) . . . . .
  - (b) P’s meeting of the condition or conditions as mentioned in subsection (1A)(b), should be regarded as significant, the officer must give P a conduct notice, unless subsection (8) applies.]
  - (8) This subsection applies if the authorised officer determines that, having regard to the extent of the impact that P’s activities as a promoter are likely to have on the collection of tax, it is inappropriate to give P a conduct notice.

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[<sup>F121</sup>(8A) Where the authorised officer is required to make a determination under subsection (5), the officer must determine that the meeting of the condition (or if more than one is met, all of them) should be regarded as significant if P falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter).]

(9) The authorised officer must determine under subsection (5) that the meeting of the condition (or all the conditions) <sup>F122</sup>... should be regarded as significant if the condition (or any of the conditions) is in any of the following paragraphs of Schedule 34—

- (a) paragraph 2 (deliberate tax defaulters);
- (b) paragraph 3 (breach of Banking Code of Practice);
- (c) paragraph 4 (dishonest tax agents);
- (d) paragraph 6 (persons charged with certain offences);
- (e) paragraph 7 (opinion notice of GAAR Advisory Panel).

[<sup>F123</sup>(10) If, as a result of subsection (1A), subsections (5) to (9) apply to a person, this does not prevent the giving of a conduct notice to the person mentioned in subsection (1A)(a).]

#### Textual Amendments

- F111** S. 237(1A) inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(2\)](#)
- F112** Words in s. 237(3) substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(3\)](#)
- F113** S. 237(5) substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(4\)](#)
- F114** [S. 237\(5\)\(b\)\(i\)](#) and word omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(a\)\(i\)](#)
- F115** Words in [s. 237\(5\)\(b\)\(ii\)](#) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(a\)\(ii\)](#)
- F116** [S. 237\(5A\)\(5B\)](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(b\)](#)
- F117** Words in s. 237(7) substituted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(5\)](#)
- F118** S. 237(7A) inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(6\)](#)
- F119** Word in [s. 237\(7A\)](#) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(c\)\(i\)](#)
- F120** [S. 237\(7A\)\(a\)](#) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 22\(1\)\(c\)\(ii\)](#)
- F121** [S. 237\(8A\)](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 11](#)
- F122** Words in s. 237(9) omitted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(7\)](#)
- F123** S. 237(10) inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 19 para. 2\(8\)](#)

#### [<sup>F124</sup>237A]Duty to give conduct notice: defeat of promoted arrangements

- (1) If an authorised officer becomes aware at any time (“the relevant time”) that a person (“P”) who is carrying on a business as a promoter meets any of the conditions in

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subsections (11) to (13), the officer must determine whether or not P's meeting of that condition should be regarded as significant in view of the purposes of this Part.

But see also subsection (14).

- (2) An authorised officer must make the determination set out in subsection (3) if the officer becomes aware at any time ( “ the section 237A(2) relevant time ”) that—
  - (a) a person meets a condition in subsection (11), (12) or (13), and
  - (b) at the section 237A(2) relevant time another person (“P”), who is carrying on a business as a promoter, meets that condition by virtue of Part 4 of Schedule 34A (meeting the section 237A conditions: bodies corporate and partnerships).
- (3) The authorised officer must determine whether or not—
  - <sup>F125</sup>(a) . . . . .
  - (b) P's meeting of the condition as mentioned in subsection (2)(b), should be regarded as significant in view of the purposes of this Part.

[ In determining under subsection (3) whether or not P's meeting of the condition should

  - <sup>F126</sup>(3A) be regarded as significant, the authorised officer must determine whether the meeting of that condition by the person mentioned in subsection (2)(a) should be regarded as significant in view of the purposes of this Part.
  - (3B) If the officer determines that the meeting of the condition by that person should be regarded as significant, the officer must determine that P's meeting of that condition should be regarded as significant.]
  - <sup>F127</sup>(3C) [ If a person meets a condition in subsection (11), (12) or (13) and the person falls within the case described in paragraph 2 of Schedule 33A (multiple entity promoter), the authorised officer must determine (whether under subsection (1) or (3)(a) or (b)) that the meeting of the condition should be regarded as significant.]
  - (4) Subsections (1) and (2) do not apply if a conduct notice or monitoring notice already has effect in relation to P.
  - (5) Subsection (1) does not apply if, at the relevant time, an authorised officer is under a duty to make a determination under section 237(5) in relation to P.
  - (6) Subsection (2) does not apply if, at the section 237A(2) relevant time, an authorised officer is under a duty to make a determination under section 237(5) in relation to P.
  - (7) But in a case where subsection (1) does not apply because of subsection (5), or subsection (2) does not apply because of subsection (6), subsection (5) of section 237 has effect as if—
    - (a) the references in paragraph (a) of that subsection to “subsection (1)”, and “subsection (1)(a)” included subsection (1) of this section, and
    - (b) in paragraph (b) of that subsection the reference to “subsection (1A)(a)” included a reference to subsection (2)(a) of this section and the reference to subsection (1A)(b) included a reference to subsection (2)(b) of this section.
  - (8) If the authorised officer determines under subsection (1) that P's meeting of the condition in question should be regarded as significant, the officer must give P a conduct notice, unless subsection (10) applies.
  - (9) If the authorised officer determines under subsection (3) that—

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- F128**(a) .....
- (b) P's meeting of the condition as mentioned in subsection (2)(b), should be regarded as significant in view of the purposes of this Part, the officer must give P a conduct notice, unless subsection (10) applies.
- (10) This subsection applies if the authorised officer determines that, having regard to the extent of the impact that P's activities as a promoter are likely to have on the collection of tax, it is inappropriate to give P a conduct notice.
- (11) The condition in this subsection is that in the period of 3 years ending with the relevant time at least 3 relevant defeats have occurred in relation to P.
- (12) The condition in this subsection is that at least two relevant defeats have occurred in relation to P at times when a single defeat notice under section 241A(2) or (6) had effect in relation to P.
- (13) The condition in this subsection is that at least one relevant defeat has occurred in relation to P at a time when a double defeat notice under section 241A(3) had effect in relation to P.
- (14) A determination that the condition in subsection (12) or (13) is met cannot be made unless—
- (a) the defeat notice in question still has effect when the determination is made, or
- (b) the determination is made on or before the 90th day after the day on which the defeat notice in question ceased to have effect.
- (15) Schedule 34A sets out the circumstances in which a “relevant defeat” occurs in relation to a person and includes provision limiting what can amount to a further relevant defeat in relation to a person (see paragraph 6).

#### Textual Amendments

- F124** Ss. 237A-237D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(2\)](#)
- F125** [S. 237A\(3\)\(a\)](#) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 30 para. 22\(2\)\(a\)](#)
- F126** [S. 237A\(3A\)\(3B\)](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 30 para. 22\(2\)\(b\)](#)
- F127** [S. 237A\(3C\)](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 30 para. 12](#)
- F128** [S. 237A\(9\)\(a\)](#) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 30 para. 22\(2\)\(c\)](#)

#### Modifications etc. (not altering text)

- C10** S. 237A modified (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(20\)\(21\)](#)
- C11** S. 237A modified (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(22\)](#)

### **237B Duty to give further conduct notice where provisional notice not complied with**

- (1) An authorised officer must give a conduct notice to a person (“P”) who is carrying on a business as a promoter if—
- (a) a conduct notice given to P under section 237A(8)—

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- (i) has ceased to have effect otherwise than as a result of section 237D(2) or 241(3) or (4), and
    - (ii) was provisional immediately before it ceased to have effect,
  - (b) the officer determines that P had failed to comply with one or more conditions in the conduct notice,
  - (c) the conduct notice relied on a Case 3 relevant defeat,
  - (d) since the time when the conduct notice ceased to have effect, one or more relevant defeats falling within subsection (2) have occurred in relation to—
    - (i) P, and
    - (ii) any arrangements to which the Case 3 relevant defeat also relates, and
  - (e) had that relevant defeat or (as the case may be) those relevant defeats, occurred before the conduct notice ceased to have effect, an authorised officer would have been required to notify the person under section 237C(3) that the notice was no longer provisional.
- (2) A relevant defeat falls within this subsection if it occurs by virtue of Case 1 or Case 2 in Schedule 34A.
- (3) Subsection (1) does not apply if the authorised officer determines that, having regard to the extent of the impact that the person's activities as a promoter are likely to have on the collection of tax, it is inappropriate to give the person a conduct notice.
- (4) Subsection (1) does not apply if a conduct notice or monitoring notice already has effect in relation to the person.
- (5) For the purposes of this Part a conduct notice “relies on a Case 3 relevant defeat” if it could not have been given under the following condition.

The condition is that paragraph 9 of Schedule 34A had effect with the substitution of “100% of the tested arrangements” for “75% of the tested arrangements”.

#### Textual Amendments

**F124** Ss. 237A-237D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), s. 160(2)

### **237C When a conduct notice given under section 237A(8) is “provisional”**

- (1) This section applies to a conduct notice which—
  - (a) is given to a person under section 237A(8), and
  - (b) relies on a Case 3 relevant defeat.
- (2) The notice is “provisional” at all times when it has effect, unless an authorised officer notifies the person that the notice is no longer provisional.
- (3) An authorised officer must notify the person that the notice is no longer provisional if subsection (4) or (5) applies.
- (4) This subsection applies if—
  - (a) the condition in subsection (5)(a) is not met, and
  - (b) a full relevant defeat occurs in relation to P.
- (5) This subsection applies if—



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- (a) two, or all three, of the relevant defeats by reference to which the conduct notice is given would not have been relevant defeats if paragraph 9 of Schedule 34A had effect with the substitution of “ 100% of the tested arrangements ” for “75% of the tested arrangements”, and
  - (b) the same number of full relevant defeats occur in relation to P.
- (6) A “full relevant defeat” occurs in relation to P if—
- (a) a relevant defeat occurs in relation to P otherwise than by virtue of Case 3 in paragraph 9 of Schedule 34A, or
  - (b) circumstances arise which would be a relevant defeat in relation to P by virtue of paragraph 9 of Schedule 34A if that paragraph had effect with the substitution of “ 100% of the tested arrangements ” for “75% of the tested arrangements”.
- (7) In determining under subsection (6) whether a full relevant defeat has occurred in relation to P, assume that in paragraph 6 of Schedule 34A (provision limiting what can amount to a further relevant defeat in relation to a person) the first reference to a “relevant defeat” does not include a relevant defeat by virtue of Case 3 in paragraph 9 of Schedule 34A.

#### Textual Amendments

**F124** Ss. 237A-237D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [s. 160\(2\)](#)

### **237D Judicial ruling upholding asserted tax advantage: effect on conduct notice which is provisional**

- (1) Subsection (2) applies if at any time—
- (a) a conduct notice which relies on a Case 3 relevant defeat (see section 237B(5)) is provisional, and
  - (b) a court or tribunal upholds a corresponding tax advantage which has been asserted in connection with any of the related arrangements to which that relevant defeat relates (see paragraph 5(2) of Schedule 34A).

(2) The conduct notice ceases to have effect when that judicial ruling becomes final.

(3) An authorised officer must give the person to whom the conduct notice was given a written notice stating that the conduct notice has ceased to have effect.

(4) For the purposes of this section, a tax advantage is “asserted” in connection with any arrangements if a person makes a return, claim or election on the basis that the tax advantage arises from those arrangements.

In relation to the arrangements mentioned in paragraph (b) of subsection (1) “corresponding tax advantage” means a tax advantage corresponding to any tax advantage the counteraction of which contributed to the relevant defeat mentioned in that paragraph.

- (5) For the purposes of this section a court or tribunal “upholds” a tax advantage if—
- (a) the court or tribunal makes a ruling to the effect that no part of the tax advantage is to be counteracted, and
  - (b) that judicial ruling is final.

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- (6) For the purposes of this Part a judicial ruling is “final” if it is—
- (a) a ruling of the Supreme Court, or
  - (b) a ruling of any other court or tribunal in circumstances where—
    - (i) no appeal may be made against the ruling,
    - (ii) if an appeal may be made against the ruling with permission, the time limit for applications has expired and either no application has been made or permission has been refused,
    - (iii) if such permission to appeal against the ruling has been granted or is not required, no appeal has been made within the time limit for appeals, or
    - (iv) if an appeal was made, it was abandoned or otherwise disposed of before it was determined by the court or tribunal to which it was addressed.
- (7) In this section references to “counteraction” include anything referred to as a counteraction in any of Conditions A to F in paragraphs 11 to 16 of Schedule 34A.]

#### Textual Amendments

**F124** Ss. 237A-237D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), s. 160(2)

## 238 Contents of a conduct notice

- (1) A conduct notice is a notice requiring the person to whom it has been given (“the recipient”) to comply with conditions specified in the notice.
- (2) Before deciding on the terms of a conduct notice, the authorised officer must give the person to whom the notice is to be given an opportunity to comment on the proposed terms of the notice.
- (3) A notice may include only conditions that it is reasonable to impose for any of the following purposes—
  - (a) to ensure that the recipient provides adequate information to its clients about relevant proposals, and relevant arrangements, in relation to which the recipient is a promoter;
  - (b) to ensure that the recipient provides adequate information about relevant proposals in relation to which it is a promoter to persons who are intermediaries in relation to those proposals;
  - (c) to ensure that the recipient does not fail to comply with any duty under a specified disclosure provision;
  - (d) to ensure that the recipient does not discourage others from complying with any obligation to disclose to HMRC information of a description specified in the notice;
  - (e) to ensure that the recipient does not enter into an agreement with another person (“C”) which relates to a relevant proposal or relevant arrangements in relation to which the recipient is a promoter, on terms which—
    - (i) impose a contractual obligation on C which falls within paragraph 11(2) or (3) of Schedule 34 (contractual terms restricting disclosure), or

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- (ii) impose on C obligations within both paragraph 11(4) and (5) of that Schedule (contractual terms requiring contribution to fighting funds and restricting settlement of proceedings);
  - (f) to ensure that the recipient does not promote relevant proposals or relevant arrangements which rely on, or involve a proposal to rely on, one or more contrived or abnormal steps to produce a tax advantage;
  - (g) to ensure that the recipient does not fail to comply with any stop notice which has effect under paragraph 12 of Schedule 34.
  - [<sup>F129</sup>(h) to ensure that the recipient provides such information or documents to HMRC as are required for the purpose of monitoring whether and to what extent the recipient is complying with any of the conditions in the notice.]
- (4) References in subsection (3) to ensuring that adequate information is provided about proposals or arrangements include—
- (a) ensuring the adequacy of the description of the arrangements or proposed arrangements;
  - (b) ensuring that the information includes an adequate assessment of the risk that the arrangements or proposed arrangements will fail;
  - (c) ensuring that the information does not falsely state, and is not likely to create a false impression, that HMRC have (formally or informally) considered, approved or expressed a particular opinion in relation to the proposal or arrangements.
- (5) In subsection (3)(c) “specified disclosure provision” means a disclosure provision that is specified in the notice; and for this purpose “disclosure provision” means any of the following—
- (a) section 308 of FA 2004 (disclosure of tax avoidance schemes: duties of promoter);
  - (b) section 312 of FA 2004 (duty of promoter to notify client of number);
  - (c) sections 313ZA and 313ZB of FA 2004 (duties to provide details of clients and certain others);
  - (d) Part 1 of Schedule 36 to FA 2008 (duties to provide information and produce documents).
- (6) In subsection (4)(b) “fail”, in relation to arrangements or proposed arrangements, means not result in a tax advantage which the arrangements or (as the case may be) proposed arrangements might be expected to result in.
- (7) The Treasury may by regulations amend the definition of “disclosure provision” in subsection (5).

#### Textual Amendments

**F129** S. 238(3)(h) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 23](#)

## 239 Section 238: supplementary

- (1) In section 238 the following expressions are to be interpreted as follows.

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- (2) “Adequate” means adequate having regard to what it might be reasonable for a client or (as the case may be) an intermediary to expect; and “adequacy” is to be interpreted accordingly.
- (3) A person (“C”) is a “client” of a promoter, if at any time when a conduct notice has effect, the promoter—
  - (a) makes a firm approach to C in relation to a relevant proposal with a view to the promoter making the proposal available for implementation by C or another person;
  - (b) makes a relevant proposal available for implementation by C;
  - (c) takes part in the organisation or management of relevant arrangements entered into by C.
- (4) The recipient of a conduct notice “promotes” a relevant proposal if it—
  - (a) takes part in designing the proposal,
  - (b) makes a firm approach to a person in relation to the proposal with a view to making the proposal available for implementation by that person or another person, or
  - (c) makes the proposal available for implementation by persons (other than the recipient).
- (5) The recipient of a conduct notice “promotes” relevant arrangements if it takes part in designing, organising or managing the arrangements.

**[<sup>F130</sup>239A] Conduct notices: transferees**

- (1) This section applies if an authorised officer becomes aware at any time that a person to whom a conduct notice has been given (“P”) has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person (“D”).
- (2) The authorised officer may give D a conduct notice.
- (3) If the proposed terms of the conduct notice to be given to D are the same as the terms of the conduct notice given to P, section 238(2) (content of conduct notice: opportunity to comment) does not apply in relation to the proposed terms.
- (4) If the proposed terms of the conduct notice to be given to D differ from the terms of the conduct notice given to P, section 238(2) applies in relation to the proposed terms as if the reference in that provision to “the proposed terms of the notice” were a reference to the differences between the proposed terms of the conduct notice to be given to D and the terms of the conduct notice given to P.
- (5) Where a person is given a conduct notice under this section, but considers that they were not a person to whom a relevant transfer was made (such that this section applies), they may make representations to that effect to the authorised officer.
- (6) If (in light of those representations) the authorised officer considers that this section did not apply at the time the conduct notice was given, the officer must withdraw the notice.]

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### Textual Amendments

**F130** S. 239A inserted (with effect in accordance with Sch. 30 para. 20(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 20\(1\)](#)

## 240 Amendment [<sup>F131</sup>, withdrawal or reissue] of conduct notice

- (1) This section applies where a conduct notice has been given to a person.
- (2) An authorised officer may at any time amend the notice.
- (3) An authorised officer—
  - (a) may withdraw the notice if the officer thinks it is not necessary for it to continue to have effect, <sup>F132</sup>...
  - <sup>F132</sup>(b) .....

[<sup>F133</sup>(4) An authorised officer may (instead of amending the notice) withdraw the notice and give a new conduct notice.]

### Textual Amendments

**F131** Words in s. 240 heading substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 24\(2\)](#)

**F132** S. 240(3)(b) and word omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 24\(3\)](#)

**F133** S. 240(4) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 24\(4\)](#)

## 241 Duration of conduct notice

- (1) A conduct notice has effect from the date specified in it as its commencement date.
- (2) A conduct notice ceases to have effect—
  - (a) at the end of [<sup>F134</sup>the relevant period] beginning with its commencement date, <sup>F135</sup>...
  - <sup>F136</sup>(b) .....

[<sup>F137</sup>(2A) But where a new conduct notice was given under section 240(4) that has a commencement date that is later than 12 months before the end of the relevant period in relation to the original notice, that new notice ceases to have effect at the end of the relevant period in relation to the original notice.]

- (3) A conduct notice ceases to have effect if withdrawn by an authorised officer under section 240.
- (4) A conduct notice ceases to have effect in relation to a person when a monitoring notice takes effect in relation to that person.

[<sup>F138</sup>(4A) For the purposes of subsection (2)(a), the relevant period in relation to a conduct notice is calculated in accordance with this table—

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<b><i>If the authorised officer is aware that the person to whom the notice is given meets</i></b>	<b><i>the relevant period is such period as may be notified in accordance with subsection (4B) or (4C) up to</i></b>
1 ordinary condition	2 years
2 ordinary conditions	4 years
3 or more ordinary conditions	5 years
1 significant condition	3 years
1 significant condition and 1 or more other significant or ordinary conditions	5 years

Subsection (4E) makes provision for the relevant period to be extended in certain circumstances.

- (4B) When an authorised officer gives a person a conduct notice the officer must notify the person of the relevant period calculated by reference to the conditions which the officer is aware the person has met at that time.
- (4C) If an authorised officer becomes aware that a person in relation to whom a conduct notice has effect has met one or more conditions which were not taken into account when the relevant period was calculated at the time the notice was given, the officer may give the person a notice—
- (a) stating that the relevant period has been recalculated to take account of the additional conditions, and
  - (b) notifying the person of —
    - (i) the new relevant period as recalculated in accordance with the table in subsection (4A), and
    - (ii) the new date at the end of which the conduct notice will cease to have effect.
- (4D) For the purposes of the table in subsection (4A)—
- (a) a condition is significant if it is—
    - (i) a threshold condition listed in section 237(9), or
    - (ii) a condition in section 237A(11), (12) or (13) in respect of which an authorised officer makes a determination (whether in accordance with section 237A(1) or (2) or for the purposes of this paragraph) that meeting the condition should be regarded as significant in view of the purposes of this Part, and
  - (b) a condition is ordinary if it is a threshold condition not listed in section 237(9).
- (4E) In calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on all or part of which the effect of the conduct notice in question has been suspended by an authorised officer.
- (4F) Where an authorised officer suspends the effect of a conduct notice, the officer must, as soon as practicable, notify the person to whom the notice was given of the suspension.
- (4G) Where an authorised officer determines that the effect of a conduct notice should be resumed, the officer must, as soon as practicable, notify the person to whom the notice was given—

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- (a) that its effect has been resumed,
  - (b) of the number of days that are not to be taken into account in calculating the relevant period in accordance with subsection (4E), and
  - (c) of the new date at the end of which the relevant period is expected to end.
- (4H) Where a conduct notice has been given to a person and the person is subsequently given a notice under paragraph 1 of Schedule 36 of FA 2008 as it has effect as a result of section 272A (power to obtain information and documents), in calculating the relevant period for the purposes of subsection (2)(a) no account is to be taken of any day on which the person has not complied with that notice.
- (4I) For the purposes of subsection (4H), a person has not complied with a notice given under that paragraph on each day—
- (a) beginning with the day after the last day on which the person could have complied with the notice, and
  - (b) ending with the day before the day (or, if more than one, the last day) on which the person provides the information or produces the documents required by the notice.
- (4J) As soon as reasonably practicable after the day mentioned in subsection (4I)(b), an authorised officer must give the person to whom the conduct notice was given notice of—
- (a) the number of days that are not to be taken into account in calculating the relevant period, and
  - (b) of the new date at the end of which the relevant period is expected to end.]
- [<sup>F139</sup>(5) See also section 237D(2) (provisional conduct notice affected by judicial ruling).]

#### Textual Amendments

- F134** Words in s. 241(2)(a) substituted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 30 para. 25(a)(i)**
- F135** Word in s. 241(2)(a) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 30 para. 25(a)(ii)**
- F136** S. 241(2)(b) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 30 para. 25(a)(iii)**
- F137** S. 241(2A) inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 30 para. 25(b)**
- F138** S. 241(4A)-(4J) inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 30 para. 25(c)**
- F139** S. 241(5) inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(6)**

#### *[<sup>F140</sup>Defeat notices*

#### Textual Amendments

- F140** Ss. 241A, 241B and cross-heading inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 160(3)**

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## 241A Defeat notices

- (1) This section applies in relation to a person (“P”) only if P is carrying on a business as a promoter.
- (2) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may give P a notice if the officer concerned has become aware of one (and only one) relevant defeat which has occurred in relation to P in the period of 3 years ending with the day on which the notice is given.
- (3) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may give P a notice if the officer concerned has become aware of two (but not more than two) relevant defeats which have occurred in relation to P in the period of 3 years ending with the day on which the notice is given.
- (4) A notice under this section must be given by the end of the 90 days beginning with the day on which the matters mentioned in subsection (2) or (as the case may be) (3) <sup>[F141]</sup>first come to the attention of an authorised officer].
- (5) Subsection (6) applies if—
  - (a) a single defeat notice which had been given to P (under subsection (2) or (6)) ceases to have effect as a result of section 241B(1), and
  - (b) in the period when the defeat notice had effect a relevant defeat (“the further relevant defeat”) occurred in relation to P.
- (6) An authorised officer or an officer of Revenue and Customs with the approval of an authorised officer may give P a notice in respect of the further relevant defeat (regardless of whether or not it occurred in the period of 3 years ending with the day on which the notice is given).
- (7) In this Part—
  - (a) “single defeat notice” means a notice under subsection (2) or (6);
  - (b) “double defeat notice” means a notice under subsection (3);
  - (c) “defeat notice” means a single defeat notice or a double defeat notice.
- (8) A defeat notice must—
  - (a) set out the dates on which the look-forward period for the notice begins and ends;
  - (b) in the case of a single defeat notice, explain the effect of section 237A(12);
  - (c) in the case of a double defeat notice, explain the effect of section 237A(13).
- (9) HMRC may specify what further information must be included in a defeat notice.
- (10) “Look-forward period”—
  - (a) in relation to a defeat notice under subsection (2) or (3), means the period of 5 years beginning with the day after the day on which the notice is given;
  - (b) in relation to a defeat notice under subsection (6), means the period beginning with the day after the day on which the notice is given and ending at the end of the period of 5 years beginning with the day on which the further relevant defeat mentioned in subsection (6) occurred in relation to P.
- (11) A defeat notice has effect throughout its look-forward period unless it ceases to have effect earlier in accordance with section 241B(1) or (4).



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### Textual Amendments

**F141** Words in [s. 241A\(4\)](#) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 26](#)

### Modifications etc. (not altering text)

**C12** [S. 241A](#) modified (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [s. 160\(20\)\(21\)](#)

## 241B Judicial ruling upholding asserted tax advantage: effect on defeat notice

- (1) If the relevant defeat to which a single defeat notice relates is overturned (see subsection (5)), the notice has no further effect on and after the day on which it is overturned.
- (2) Subsection (3) applies if one (and only one) of the relevant defeats in respect of which a double defeat notice was given is overturned.
- (3) The notice is to be treated for the purposes of this Part (including this section) as if it had always been a single defeat notice given (in respect of the other of the two relevant defeats) on the date on which the notice was in fact given.

The look-forward period for the notice is accordingly unchanged.

- (4) If both the relevant defeats to which a double defeat notice relates are overturned (on the same date), that notice has no further effect on and after that date.
- (5) A relevant defeat specified in a defeat notice is “overturned” if—
  - (a) the notice could not have specified that relevant defeat if paragraph 9 of Schedule 34A had effect with the substitution of “100% of the tested arrangements” for “75% of the tested arrangements”, and
  - (b) at a time when the notice has effect a court or tribunal upholds a corresponding tax advantage which has been asserted in connection with any of the related arrangements to which the relevant defeat relates (see paragraph 5(2) of Schedule 34A).

Accordingly the relevant defeat is overturned on the day on which the judicial ruling mentioned in paragraph (b) becomes final.

- (6) If a defeat notice ceases to have effect as a result of subsection (1) or (4) an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, must notify the person to whom the notice was given that it has ceased to have effect.
- (7) If subsection (3) has effect in relation to a defeat notice, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, must notify the person of the effect of that subsection.
- (8) For the purposes of this section, a tax advantage is “asserted” in connection with any arrangements if a person makes a return, claim or election on the basis that the tax advantage arises from those arrangements.
- (9) In relation to the arrangements mentioned in paragraph (b) of subsection (5) “corresponding tax advantage” means a tax advantage corresponding to any tax

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advantage the counteraction of which contributed to the relevant defeat mentioned in that paragraph.

- (10) For the purposes of this section a court or tribunal “upholds” a tax advantage if—
- (a) the court or tribunal makes a ruling to the effect that no part of the tax advantage is to be counteracted, and
  - (b) that judicial ruling is final.
- (11) In this section references to “counteraction” include anything referred to as a counteraction in any of Conditions A to F in paragraphs 11 to 16 of Schedule 34A.]

*Monitoring notices: procedure and publication*

## 242 Monitoring notices: duty to apply to tribunal

- (1) If—
- (a) a conduct notice has effect in relation to a person who is carrying on a business as a promoter, and
  - (b) an authorised officer determines that the person
    - [<sup>F142</sup>(i) has failed to comply with one or more conditions in the notice][<sup>F143</sup>, or
    - (ii) has provided false or misleading information or documents in relation to the notice,]
 the authorised officer must [<sup>F144</sup>, within the period of 12 months beginning with the day on which the authorised officer makes the determination,] apply to the tribunal for approval to give the person a monitoring notice.
- [<sup>F145</sup>(1A) Where subsection (1B) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person (“P”) a monitoring notice.
- (1B) This subsection applies where—
- (a) within the period of 6 years after a conduct notice ceases to have effect in relation to P, the officer mentioned in subsection (1A) determines that P—
    - (i) failed to comply with one or more conditions in the notice, or
    - (ii) provided false or misleading information or documents in relation to the notice, and
  - (b) the officer could not reasonably have been expected to make the determination when the conduct notice had effect.
- (1C) An application under subsection (1A) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1B)(a).
- (1D) Where subsection (1E) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person (“D”) a monitoring notice.
- (1E) This subsection applies where—
- (a) at any time before the end of the period of 6 years after a conduct notice ceases to have effect in relation to a person (“P”), an authorised officer determines (whether before or after the notice ceases to have effect) that P—
    - (i) failed to comply with one or more conditions in the notice, or

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- (ii) provided false or misleading information or documents in relation to the notice,
  - (b) before the end of that period, the authorised officer becomes aware that P has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to D (whether before or after the notice ceases to have effect), and
  - (c) the officer could not reasonably have been expected—
    - (i) to apply to the tribunal for approval to give P a monitoring notice, or
    - (ii) to give P a monitoring notice following such an application,before the relevant transfer took place.
- (1F) For the purposes of an application under subsection (1D), any act or omission of P by reference to which the determination mentioned in subsection (1E)(a) was made is to be treated as an act or omission of D.
- (1G) An application under subsection (1D) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1E)(a).]
- (2) An application under subsection (1) must include a draft of the monitoring notice.
- (3) Subsection (1) does not apply if—
- (a) the condition (or all the conditions) mentioned in subsection (1)(b) were imposed under subsection (3)(a), (b) or (c) of section 238, and
  - (b) the authorised officer considers that the failure to comply with the condition (or all the conditions, taken together) is such a minor matter that it should be disregarded for the purposes of this section.
- (4) Where an authorised officer makes an application to the tribunal under subsection (1), the officer must at the same time give notice to the person to whom the application relates.
- (5) The notice under subsection (4) must state which condition (or conditions) the authorised officer has determined under subsection (1)(b) that the person has failed to comply with and the reasons for that determination.
- [<sup>F146</sup>(6) At a time when a notice given under section 237A is provisional, no determination is to be made under subsection (1) in respect of the notice.
- (7) If a promoter fails to comply with conditions in a conduct notice at a time when the conduct notice is provisional, nothing in subsection (6) prevents those failures from being taken into account under subsection (1) at any subsequent time when the conduct notice is not provisional.]

#### Textual Amendments

- F142** Words in s. 242(1)(b) renumbered as s. 242(1)(b)(i) (with effect in accordance with Sch. 30 para. 27(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 27\(1\)\(a\)\(i\)](#)
- F143** [S. 242\(1\)\(b\)\(ii\)](#) and word inserted (with effect in accordance with Sch. 30 para. 27(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 27\(1\)\(a\)\(ii\)](#)
- F144** Words in s. 242(1) inserted (with effect in accordance with Sch. 30 para. 27(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 27\(1\)\(b\)](#)
- F145** [S. 242\(1A\)-\(1G\)](#) inserted (with effect in accordance with Sch. 30 para. 27(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 27\(2\)](#)

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**F146** S. 242(6)(7) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 160(4)

### **243 Monitoring notices: tribunal approval**

- (1) On an application under section 242, the tribunal may approve the giving of a monitoring notice only if—
  - (a) the tribunal is satisfied that, in the circumstances, the authorised officer would be justified in giving the monitoring notice, and
  - (b) the person to whom the monitoring notice is to be given (“the affected person”) has been given a reasonable opportunity to make representations to the tribunal.
- (2) The tribunal may amend the draft notice included with the application under section 242.
- (3) If the representations that the affected person makes to the tribunal include a statement that in the affected person's view it was not reasonable to include the condition mentioned in section 242(1)(b) in the conduct notice, the tribunal must refuse to approve the giving of the monitoring notice if it is satisfied that it was not reasonable to include that condition (but see subsection (4)).
- (4) If the representations made to the tribunal include the statement described in subsection (3) and the determination under section 242(1)(b) is a determination that there has been a failure to comply with more than one condition in the conduct notice—
  - (a) subsection (3) does not apply, but
  - (b) in deciding whether or not to approve the giving of the monitoring notice, the tribunal is to assume, in the case of any condition that the tribunal considers it was not reasonable to include in the conduct notice, that there has been no failure to comply with that condition.

### **244 Monitoring notices: content and issuing**

- (1) Where the tribunal has approved the giving of a monitoring notice, the authorised officer must give the notice to the person to whom it relates.
- (2) A monitoring notice given under subsection (1) or paragraph 9 or 10 of Schedule 36 must—
  - (a) explain the effect of the monitoring notice and specify the date from which it takes effect;
  - (b) inform the recipient of the right to request the withdrawal of the monitoring notice under section 245.
- (3) In addition, a monitoring notice must—
  - (a) if given under subsection (1), state which condition (or conditions) it has been determined the person has failed to comply with and the reasons for that determination;
  - (b) if given under paragraph 9 or 10 of Schedule 36, state the date of the original monitoring notice and name the partnership to which that notice was given.
- (4) The date specified under subsection (2)(a) must not be earlier than the date on which the monitoring notice is given.

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- (5) In this Part, a person in relation to whom a monitoring notice has effect is called a “monitored promoter”.

**[<sup>F147</sup>244A] Monitoring notices: transferees**

- (1) This section applies if an authorised officer becomes aware at any time that a person to whom a monitoring notice has been given ( “ P ”) has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to another person ( “D”).
- (2) The authorised officer may give D a monitoring notice.
- (3) Where a person is given a monitoring notice under this section, but considers that they were not a person to whom a relevant transfer was made (such that this section applies), they may make representations to that effect to the authorised officer.
- (4) If (in light of those representations) the authorised officer considers that this section did not apply at the time the monitoring notice was given, the officer must withdraw the notice.
- (5) Subsections (2) to (4) of section 244 (monitoring notice: content and issuing) apply in relation to a monitoring notice given under subsection (2) of this section as they apply to a monitoring notice given under subsection (1) of that section, but as if the reference in subsection (3)(a) of that section to “the person” were a reference to P.]

**Textual Amendments**

**F147** S. 244A inserted (with effect in accordance with Sch. 30 para. 21(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 21\(1\)](#)

**245 Withdrawal of monitoring notice**

- (1) A person in relation to whom a monitoring notice has effect may, at any time after the end of the period of 12 months beginning with the end of the appeal period, request that the notice should cease to have effect.
- (2) The “appeal period” means—
  - (a) the period during which an appeal could be brought against the approval by the tribunal of the giving of the monitoring notice, or
  - (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.
- (3) A request under this section is to be made in writing to an authorised officer.
- (4) Where a request is made under this section, an authorised officer must within 30 days beginning with the day on which the request is received determine either—
  - (a) that the monitoring notice is to cease to have effect, or
  - (b) that the request is to be refused.
- (5) The matters to be taken into account by an authorised officer in making a determination under subsection (4) include—

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- (a) whether or not the person subject to the monitoring notice has, since the time when the notice took effect, engaged in behaviour of a sort that conditions included in a conduct notice in accordance with section 238(3) could be used to regulate;
  - (b) whether or not it appears likely that the person will in the future engage in such behaviour;
  - (c) the person's record of compliance, or failure to comply, with obligations imposed on it under this Part [<sup>F148</sup>(including any obligations connected with any stop notice the person is subject to)], since the time when the monitoring notice took effect.
- (6) An authorised officer—
  - (a) may withdraw a monitoring notice if the officer thinks it is not necessary for it to continue to have effect, and
  - (b) in considering whether or not that is necessary, the officer must take into account the matters in paragraphs (a) to (c) of subsection (5).
- (7) If the authorised officer makes a determination under subsection (4)(a), or decides to withdraw a monitoring notice under subsection (6), the officer must also determine that the person is, or is not, to be given a follow-on conduct notice.
- (8) “Follow-on conduct notice” means a conduct notice taking effect immediately after the monitoring notice ceases to have effect.
- [<sup>F149</sup>(8A) For the purposes of determining whether a person should be given a follow-on conduct notice, the meeting of the condition in paragraph 12 of Schedule 34 (stop notices) by the person at a time when they are subject to a monitoring notice is to be regarded as significant by the authorised officer making the determination (see section 237(5)).]
- (9) Where the monitoring notice mentioned in subsection (1) is a replacement monitoring notice—
  - (a) in subsection (1) the reference to the end of the appeal period is to be read as a reference to whichever is the later of the end of the appeal period for the original monitoring notice and the date the replacement monitoring notice takes effect, and
  - (b) in subsection (5)(a) and (c) the time referred to is to be read as the time when the original monitoring notice (see paragraph 11(2) of Schedule 36) took effect.

#### Textual Amendments

**F148** Words in s. 245(5)(c) inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 30 para. 2(2)**

**F149** S. 245(8A) inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 30 para. 2(3)**

## 246 Notification of determination under section 245

- (1) Where an authorised officer makes a determination under section 245(4), that officer, or an officer of Revenue and Customs with that officer's approval, must notify the person who made the request of the determination.

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- (2) If the determination is that the monitoring notice is to cease to have effect, the notice must—
  - (a) specify the date from which the monitoring notice is to cease to have effect, and
  - (b) inform the person of the determination made under section 245(7).
- (3) If the determination is that the request is to be refused, the notice must inform the person who made the request—
  - (a) of the reasons for the refusal, and
  - (b) of the right to appeal under section 247.

#### **247 Appeal against refusal to withdraw monitoring notice**

- (1) A person may appeal against a refusal by an authorised officer of a request that a monitoring notice should cease to have effect.
- (2) Notice of appeal must be given—
  - (a) in writing to the officer who gave the notice of the refusal under section 245, and
  - (b) within the period of 30 days beginning with the day on which notice of the refusal was given.
- (3) The notice of appeal must state the grounds of appeal.
- (4) On an appeal that is notified to the tribunal, the tribunal may—
  - (a) confirm the refusal, or
  - (b) direct that the monitoring notice is to cease to have effect.
- (5) Subject to this section, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this section.

#### **248 Publication by HMRC**

- (1) An authorised officer may publish the fact that a person is a monitored promoter.
- (2) Publication under subsection (1) may also include the following information about the monitored promoter—
  - (a) its name;
  - (b) its business address or registered office;
  - (c) the nature of the business [<sup>F150</sup>as a promoter which the monitored promoter is carrying on];
  - (d) any other information that the authorised officer considers it appropriate to publish in order to make clear the monitored promoter's identity.
- (3) The reference in subsection (2)(a) to the monitored promoter's name includes any name under which it carries on a business as a promoter and any previous name or pseudonym.
- (4) Publication under subsection (1) may also include a statement of which of the conditions in a conduct notice it has been determined that the person (or, in the case of a replacement monitoring notice, the person to whom the original monitoring notice was given) has failed to comply with.

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- (5) Publication may not take place before the end of the appeal period (or, in the case of a replacement monitoring notice, the appeal period for the original monitoring notice).
- (6) The “appeal period”, in relation to a monitoring notice, means—
  - (a) the period during which an appeal could be brought against the approval by the tribunal of the giving of the notice, or
  - (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.
- (7) Publication under this section is to be in such manner as the authorised officer thinks fit; but see subsection (8).
- (8) If an authorised officer publishes the fact that a person is a monitored promoter and the monitoring notice is withdrawn, the officer must publish the fact of the withdrawal in the same way as the officer published the fact that the person was a monitored promoter.

#### Textual Amendments

**F150** Words in [s. 248\(2\)\(c\)](#) substituted (with effect in accordance with Sch. 30 para. 21(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 21\(2\)](#)

## 249 Publication by monitored promoter

- (1) A person who is given a monitoring notice (“the monitored promoter”) must give the persons mentioned in subsection (6) a notice stating—
  - (a) that it is a monitored promoter, and
  - (b) which of the conditions in a conduct notice it has been determined that it (or, if the monitoring notice is a replacement monitoring notice, the person to whom that notice was given) has failed to comply with.
- (2) If the monitoring notice is a replacement monitoring notice, the notice under subsection (1) must also identify the original monitoring notice.
- (3) If regulations made by the Commissioners so require, the monitored promoter must publish on the internet—
  - (a) the information mentioned in paragraph (a) and (b) of subsection (1), and
  - (b) its promoter reference number (see section 250).
- (4) Subsection (1) and any duty imposed under subsection (3) or (10) do not apply until the end of the period of 10 days beginning with the end of the appeal period (and also see subsection (9)).
- (5) The “appeal period” means—
  - (a) the period during which an appeal could be brought against the approval by the tribunal of the giving of the monitoring notice, or
  - (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.
- (6) The notice under subsection (1) must be given—



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- (a) to any person who becomes a client of the monitored promoter while the monitoring notice has effect, and
  - (b) (except in a case where the monitoring notice is a replacement monitoring notice) any person who is a client of the monitored promoter at the time the monitoring notice takes effect.
- (7) A person (“C”) is a client of a monitored promoter at the time a monitoring notice takes effect if during the period beginning with the date the conduct notice mentioned in subsection (1)(b) takes effect and ending with that time the promoter—
  - (a) made a firm approach to C in relation to a relevant proposal with a view to the promoter making the proposal available for implementation by C or another person;
  - (b) made a relevant proposal available for implementation by C;
  - (c) took part in the organisation or management of relevant arrangements entered into by C.
- (8) A person becomes a client of a monitored promoter if the promoter does any of the things mentioned in paragraph (a) to (c) of subsection (7) in relation to that person.
- (9) In the case of a person falling within subsection (6)(a), notice under subsection (1) may be given within the period of 10 days beginning with the day on which the person first became a client of the monitored promoter if that period would expire at a later date than the date on which notification would otherwise be required by virtue of subsection (4).
- (10) A monitored promoter must also include in any prescribed publication or prescribed correspondence—
  - (a) the information mentioned in paragraph (a) and (b) of subsection (1), and
  - (b) its promoter reference number (see section 250).
- (11) Notification under subsection (1), publication under subsection (3) or inclusion of the information required by subsection (10) is to be in such form and manner as is prescribed.
- (12) Where the monitoring notice mentioned in subsection (1) is a replacement monitoring notice, the reference in subsection (4) to the end of the appeal period is to be read as a reference to whichever is the later of the end of the appeal period for the original monitoring notice and the date the replacement monitoring notice takes effect.

#### *Allocation and distribution of promoter reference number*

### **250 Allocation of promoter reference number**

- (1) Where a monitoring notice is given to a person (“the monitored promoter”) HMRC must as soon as practicable after the end of the appeal period—
  - (a) allocate the monitored promoter a reference number, and
  - (b) notify the relevant persons of that number.
- (2) “Relevant persons” means—
  - (a) the monitored promoter,<sup>F151</sup>...
  - [<sup>F152</sup>(aa) any person who HMRC know falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and]

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- (b) if the monitored promoter is resident outside the United Kingdom, any person who HMRC know is an intermediary in relation to a relevant proposal of the monitored promoter.
- (3) The “appeal period” means—
  - (a) the period during which an appeal could be brought against the approval by the tribunal of the giving of the monitoring notice, or
  - (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.
- (4) The duty in subsection (1) does not apply if the monitoring notice is set aside following an appeal.
- (5) A number allocated to a person under this section is referred to in this Part as a “promoter reference number”.
- (6) Where the monitoring notice mentioned in subsection (1) is a replacement monitoring notice—
  - (a) in subsection (1) the reference to the end of the appeal period is to be read as a reference to whichever is the later of the end of the appeal period for the original monitoring notice and the date the replacement monitoring notice takes effect, and
  - (b) in subsection (4) the reference to the monitoring notice is to be read as a reference to the original monitoring notice.

#### Textual Amendments

**F151** Word in s. 250(2)(a) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 30 para. 13(a)**

**F152** S. 250(2)(aa) inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 30 para. 13(b)**

## 251 Duty of monitored promoter to notify clients [<sup>F153</sup>etc] of number

- (1) This section applies where a person who is a monitored promoter (“the monitored promoter”) is notified under section 250 of a promoter reference number.
- (2) The monitored promoter must, within the relevant period, notify the promoter reference number to—
  - (a) any person who has become its client at any time in the period beginning with the day on which the monitoring notice in relation to the monitored promoter took effect and ending with the day on which the monitored promoter was notified of that number,
  - (b) any person who becomes its client after the end of the period mentioned in paragraph (a) but while the monitoring notice has effect,
  - (c) any person who the monitored promoter could reasonably be expected to know falls within subsection (4), <sup>F154</sup>...
  - [<sup>F155</sup>(ca) any person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and]

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- (d) any person who the monitored promoter could reasonably be expected to know is a relevant intermediary in relation to a relevant proposal of the monitored promoter.
- (3) A person (“C”) becomes a client of a monitored promoter if the promoter does any of the following in relation to C—
  - (a) makes a firm approach to C in relation to a relevant proposal with a view to the promoter making the proposal available for implementation by C or another person;
  - (b) makes a relevant proposal available for implementation by C;
  - (c) takes part in the organisation or management of relevant arrangements entered into by C.
- (4) A person falls within this subsection if during the period beginning with the date the conduct notice took effect and ending with the date on which the monitoring notice took effect the person has entered into transactions forming part of relevant arrangements and those arrangements—
  - (a) enable, or are likely to enable, the person to obtain a tax advantage during the time a monitoring notice has effect, and
  - (b) are either relevant arrangements in relation to which the monitored promoter is or was a promoter or implement a relevant proposal in relation to which the monitored promoter was a promoter.
- (5) A person is a relevant intermediary in relation to a relevant proposal of a monitored promoter if the person meets the conditions in section 236(a) to (c) (meaning of “intermediary”) at any time while the monitoring notice in relation to the monitored promoter has effect.
- (6) The “relevant period” means—
  - (a) in the case of a person falling within subsection (2)(a), the period of 30 days beginning with the day of the notification mentioned in subsection (1),
  - (b) in the case of a person falling within subsection (2)(b), the period of 30 days beginning with the day on which the person first became a client in relation to the monitored promoter,
  - (c) in the case of a person falling within subsection (2)(c), the period of 30 days beginning with the later of the day of the notification mentioned in subsection (1) and the first day on which the monitored promoter could reasonably be expected to know that the person fell within subsection (4), and
  - (d) in the case of a person falling within subsection (2)(d), the period of 30 days beginning with the later of the day of the notification mentioned in subsection (1) and the first day on which the monitored promoter could reasonably be expected to know that the person was a relevant intermediary in relation to a relevant proposal of the monitored promoter.
- (7) In this section “the conduct notice” means the conduct notice that the monitored promoter failed to comply with which resulted in the monitoring notice being given to the monitored promoter.
- (8) Subsection (2)(c) is to be ignored in a case where the monitoring notice is a replacement monitoring notice.

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### Textual Amendments

- F153** Word in [s. 251 heading](#) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 30 para. 14\(2\)](#)
- F154** Word in [s. 251\(2\)\(c\)](#) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 30 para. 14\(3\)\(a\)](#)
- F155** [S. 251\(2\)\(ca\)](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 30 para. 14\(3\)\(b\)](#)

## 252 Duty of those notified to notify others of promoter's number

- (1) In this section “notified client” means—
    - (a) a person who is notified of a promoter reference number under section 250 by reason of being a person falling within subsection (2)(b) of that section, and
    - (b) a person who is notified of a promoter reference number under section 251.
  - (2) A notified client must, within 30 days of being notified as described in subsection (1), provide the promoter reference number to any other person who the notified client might reasonably be expected to know has become, or is likely to have become, a client in relation to the monitored promoter concerned at a time when the monitoring notice in relation to that monitored promoter had effect.
  - (3) A person (“C”) becomes a client of a monitored promoter if the promoter does any of the following in relation to C—
    - (a) makes a firm approach to C in relation to a relevant proposal with a view to the promoter making the proposal available for implementation by C or another person;
    - (b) makes a relevant proposal available for implementation by C;
    - (c) takes part in the organisation or management of relevant arrangements entered into by C.
  - (4) Where the notified client is an intermediary in relation to a relevant proposal of the monitored promoter concerned, the notified client must also, within 30 days, provide the promoter reference number to—
    - (a) any person to whom the notified client has, since the monitoring notice in relation to the monitored promoter concerned took effect, communicated in the course of a business information about a relevant proposal of the monitored promoter, and
    - (b) any person who the notified client might reasonably be expected to know has, since that monitoring notice took effect, entered into, or is likely to enter into, transactions forming part of relevant arrangements in relation to which that monitored promoter is a promoter.
- [<sup>F156</sup>(4A)]** Where the notified client is a person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter concerned, the notified client must also, within 30 days, provide the promoter reference number to—
- (a) any person to whom the notified client has, since the monitoring notice in relation to the monitored promoter concerned took effect, communicated, for the purposes of any business (whether carried on by the notified client or not), information about a relevant proposal of the monitored promoter, and

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- (b) any person who the notified client might reasonably be expected to know has, since that monitoring notice took effect, entered into, or is likely to enter into, transactions forming part of relevant arrangements in relation to which that monitored promoter is a promoter.]
- (5) [<sup>F157</sup>None of subsections (2), (4) or (4A)] impose a duty on a notified client to notify a person of a promoter reference number if the notified client reasonably believes that the person has already been notified of the promoter reference number (whether as a result of a duty under this section or as a result of any of the other provision of this Part).

#### Textual Amendments

**F156** S. 252(4A) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 15\(2\)](#)

**F157** Words in s. 252(5) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 15\(3\)](#)

## 253 Duty of persons to notify the Commissioners

- (1) If a person (“N”) is notified of a promoter reference number under section 250, 251 or 252, N must report the number to the Commissioners if N expects to obtain a tax advantage from relevant arrangements in relation to which the monitored promoter to whom the reference number relates (whether that is N or another person) is the promoter.
- (2) A report under this section—
  - (a) must be made in (or, if prescribed circumstances exist, submitted with) each tax return made by N for a period that is or includes a period for which the arrangements enable N to obtain a tax advantage (whether in relation to the tax to which the return relates or another tax);
  - (b) if no tax return falls within paragraph (a), or in the case mentioned in subsection (3), must contain such information, and be made in such form and manner and within such time, as is prescribed.
- (3) The case is that the tax return in which the report would (apart from this subsection) have been made is not submitted—
  - (a) by the filing date, or
  - (b) if there is no filing date in relation to the tax return concerned, by such other time that the tax return is required to be submitted by or under any enactment.
- (4) Where N expects to obtain the tax advantage referred to in subsection (1) in respect of inheritance tax, stamp duty land tax, stamp duty reserve tax or petroleum revenue tax—
  - (a) subsection (2) does not apply in relation to that tax advantage, and
  - (b) a report under this section in respect of that tax must be in such form and manner and contain such information and be made within such time as is prescribed.
- (5) Where the relevant arrangements referred to in subsection (1) give rise to N making a claim under section 261B of TCGA 1992 (treating trade loss as CGT loss) or for loss

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relief under Part 4 of ITA 2007 and that claim is not contained in a tax return, a report under this section must also be made in that claim.

(6) In this section “tax return” means any of the following—

- (a) a return under section 8 of TMA 1970 (income tax and capital gains tax: personal return);
- (b) a return under section 8A of TMA 1970 (income tax and capital gains tax: trustee's return);
- (c) a return under section 12AA of TMA 1970 (income tax and corporation tax: partnership return);
- (d) a company tax return under paragraph 3 of Schedule 18 to the FA 1998 (company tax return);
- [<sup>F158</sup>(da) a return under regulations made under section 105 of FA 2016 (apprenticeship levy);]
- (e) a return under section 159 or 160 of FA 2013 (returns and further returns for annual tax on enveloped dwellings).

#### Textual Amendments

**F158** S. 253(6)(da) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 104(7) (with s. 117)

### *Obtaining information and documents*

## 254 Meaning of “monitored proposal” and “monitored arrangements”

- (1) For the purposes of this Part a relevant proposal in relation to which a person (“P”) is a promoter is a “monitored proposal” in relation to P if any of the following dates fell on or after the date on which a monitoring notice took effect—
  - (a) the date on which P first made a firm approach to another person in relation to the relevant proposal;
  - (b) the date on which P first made the relevant proposal available for implementation by any other person;
  - (c) the date on which P first became aware of any transaction forming part of the proposed arrangements being entered into by any person.
- (2) For the purposes of this Part relevant arrangements in relation to which a person (“P”) is a promoter are “monitored arrangements” in relation to P if—
  - (a) P was by virtue of section 235(2)(b) or (c) a promoter in relation to a relevant proposal which was implemented by the arrangements and any of the following fell on or after the date on which the monitoring notice took effect—
    - (i) the date on which P first made a firm approach to another person in relation to the relevant proposal;
    - (ii) the date on which P first made the relevant proposal available for implementation by any other person;
    - (iii) the date on which P first became aware of any transaction forming part of the proposed arrangements being entered into by any person,
  - (b) the date on which P first took part in designing, organising or managing the arrangements fell on or after the date on which a monitoring notice took effect, or

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- (c) the arrangements enable, or are likely to enable, the person who has entered into transactions forming them to obtain the tax advantage by reason of which they are relevant arrangements, at any time on or after the date on which a monitoring notice took effect.

## **255 Power to obtain information and documents**

- (1) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may by notice in writing require any person (“P”) to whom this section applies—
  - (a) to provide information, or
  - (b) to produce a document,if the information or document is reasonably required by the officer for any of the purposes in subsection (3).
- (2) This section applies to—
  - (a) any person who is a monitored promoter, and
  - (b) any person who is a relevant intermediary in relation to a monitored proposal of a monitored promoter,and in either case that monitored promoter is referred to below as “the relevant monitored promoter”.
- (3) The purposes mentioned in subsection (1) are—
  - (a) considering the possible consequences of implementing a monitored proposal of the relevant monitored promoter for the tax position of persons implementing the proposal,
  - (b) checking the tax position of any person who the officer reasonably believes has implemented a monitored proposal of the relevant monitored promoter, or
  - (c) checking the tax position of any person who the officer reasonably believes has entered into transactions forming monitored arrangements of the relevant monitored promoter.
- (4) A person is a “relevant intermediary” in relation to a monitored proposal if the person meets the conditions in section 236(a) to (c) (meaning of “intermediary”) in relation to the proposal at any time after the person has been notified of a promoter reference number of a person who is a promoter in relation to the proposal.
- (5) In this section “checking” includes carrying out an investigation or enquiry of any kind.
- (6) In this section “tax position”, in relation to a person, means the person's position as regards any tax, including the person's position as regards—
  - (a) past, present and future liability to pay any tax,
  - (b) penalties and other amounts that have been paid, or are or may be payable, by or to the person in connection with any tax,
  - (c) claims, elections, applications and notices that have been or may be made or given in connection with the person's liability to pay any tax,
  - (d) deductions or repayments of tax, or of sums representing tax, that the person is required to make—
    - (i) under PAYE regulations, or
    - (ii) by or under any other provision of the Taxes Acts, and

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- (e) the withholding by the person of another person's PAYE income (as defined in section 683 of ITEPA 2003).
- (7) In this section the reference to the tax position of a person—
  - (a) includes the tax position of a company that has ceased to exist and an individual who has died, and
  - (b) is to the person's tax position at any time or in relation to any period.
- (8) A notice under subsection (1) which is given for the purpose of checking the tax position of a person mentioned in subsection (3)(b) or (c) may not be given more than 4 years after the person's death.
- (9) A notice under subsection (1) may specify or describe the information or documents to be provided or produced.
- (10) Information or a document required as a result of a notice under subsection (1) must be provided or produced within—
  - (a) the period of 10 days beginning with the day on which the notice was given, or
  - (b) such longer period as the officer who gives the notice may direct.

## **256 Tribunal approval for certain uses of power under section 255**

- (1) An officer of Revenue and Customs may not, without the approval of the tribunal, give a notice under section 255 requiring a person (“A”) to provide information or produce a document which relates (in whole or in part) to a person who is neither A nor an undertaking in relation to which A is a parent undertaking.
- (2) An officer of Revenue and Customs may apply to the tribunal for the approval required by subsection (1); and an application for approval may be made without notice.
- (3) The tribunal may approve the giving of the notice only if—
  - (a) the application for approval is made by, or with the agreement of, an authorised officer,
  - (b) the tribunal is satisfied that, in the circumstances, the officer giving the notice is justified in doing so,
  - (c) the person to whom the notice is to be given has been informed that the information or documents referred to in the notice are required and given a reasonable opportunity to make representations to an officer of Revenue and Customs, and
  - (d) the tribunal has been given a summary of any representations made by that person.
- (4) Where a notice is given under section 255 with the approval of the tribunal, it must state that it is given with that approval.
- (5) Paragraphs (c) and (d) of subsection (3) do not apply to the extent that the tribunal is satisfied that taking the action specified in those paragraphs might prejudice the assessment or collection of tax.
- (6) In subsection (1) “parent undertaking” and “undertaking” have the same meaning as in the Companies Acts (see section 1161 and 1162 of, and Schedule 7 to, the Companies Act 2006).



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- (7) A decision of the tribunal under this section is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).

## **257 Ongoing duty to provide information following HMRC notice**

- (1) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may give a notice to a person (“P”) in relation to whom a monitoring notice has effect.
- (2) A person to whom a notice is given under subsection (1) must provide prescribed information and produce prescribed documents relating to—
- (a) all the monitored proposals and all the monitored arrangements in relation to which the person is a promoter at the time of the notice, and
  - (b) all the monitored proposals and all the monitored arrangements in relation to which the person becomes a promoter after that time.
- (3) The duty under subsection (2)(b) does not apply in relation to any proposals or arrangements in relation to which the person first becomes a promoter after the monitoring notice ceases to have effect.
- (4) A notice under subsection (1) must specify the time within which information must be provided or a document produced and different times may be specified for different cases.

## **258 Duty of person dealing with non-resident monitored promoter**

- (1) This section applies where a monitored promoter who is resident outside the United Kingdom has failed to comply with a duty under section 255 or 257 to provide information about a monitored proposal or monitored arrangements.
- (2) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may give a notice to a relevant person which—
- (a) specifies or describes the information which the monitored promoter has failed to provide, and
  - (b) requires the person to provide the information.
- (3) A “relevant person” means—
- (a) any person who is an intermediary in relation to the monitored proposal concerned, <sup>F159</sup>...
  - <sup>F160</sup>(aa) any person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter, and]
  - (b) any person (“A”) to whom the monitored promoter has made a firm approach in relation to the monitored proposal concerned with a view to making the proposal available for implementation by a person other than A.
- (4) If an authorised officer is not aware of any person to whom a notice could be given under subsection (2) the authorised officer, or an officer of Revenue and Customs with the approval of the authorised officer, may give a notice to any person who has implemented the proposal which—
- (a) specifies or describes the information which the monitored promoter has failed to provide, and

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- (b) requires the person to provide the information.
- (5) If the duty mentioned in subsection (1) relates to monitored arrangements an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may give a notice to any person who has entered into any transaction forming part of the monitored arrangements concerned which—
  - (a) specifies or describes the information which the monitored promoter has failed to provide, and
  - (b) requires the person to provide the information.
- (6) A notice under this section may be given only if the officer giving the notice reasonably believes that the person to whom the notice is given is able to provide the information requested.
- (7) Information required as a result of a notice under this section must be provided within—
  - (a) the period of 10 days beginning with the day on which the notice was given, or
  - (b) such longer period as the officer who gives the notice may direct.

#### Textual Amendments

- F159** Word in s. 258(3)(a) omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of Finance Act 2021 (c. 26), **Sch. 30 para. 16(a)**
- F160** S. 258(3)(aa) inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 30 para. 16(b)**

## 259 Monitored promoters: duty to provide information about clients

- (1) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may give notice to a person in relation to whom a monitoring notice has effect (“the monitored promoter”).
- (2) A person to whom a notice is given under subsection (1) must, for each relevant period, give the officer who gave the notice the information set out in subsection (9) in respect of each person who was its client with reference to that relevant period (see subsections (5) to (8)).
- (3) Each of the following is a “relevant period”—
  - (a) the calendar quarter in which the notice under subsection (1) was given but not including any time before the monitoring notice takes effect,
  - (b) the period (if any) beginning with the date the monitoring notice takes effect and ending immediately before the beginning of the period described in paragraph (a), and
  - (c) each calendar quarter after the period described in paragraph (a) but not including any time after the monitoring notice ceases to have effect.
- (4) Information required as a result of a notice under subsection (1) must be given—
  - (a) within the period of 30 days beginning with the end of the relevant period concerned, or
  - (b) in the case of a relevant period within subsection (3)(b), within the period of 30 days beginning with the day on which the notice under subsection (1)

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was given if that period would expire at a later time than the period given by paragraph (a).

- (5) A person (“C”) is a client of the monitored promoter with reference to a relevant period if—
- (a) the promoter did any of the things mentioned in subsection (6) in relation to C at any time during that period, or
  - (b) the person falls within subsection (7).
- (6) Those things are that the monitored promoter—
- (a) made a firm approach to C in relation to a relevant proposal with a view to the promoter making the proposal available for implementation by C or another person;
  - (b) made a relevant proposal available for implementation by C;
  - (c) took part in the organisation or management of relevant arrangements entered into by C.
- (7) A person falls within this subsection if the person has entered into transactions forming part of relevant arrangements and those arrangements—
- (a) enable the person to obtain a tax advantage either in that relevant period or a later relevant period, and
  - (b) are either relevant arrangements in relation to which the monitored promoter is or was a promoter, or implement a relevant proposal in relation to which the monitored promoter was a promoter.
- (8) But a person is not a client of the monitored promoter with reference to a relevant period if—
- (a) the person has previously been a client of the monitored promoter with reference to a different relevant period,
  - (b) the promoter complied with the duty in subsection (2) in respect of the person for that relevant period, and
  - (c) the information provided as a result of complying with that duty remains accurate.
- (9) The information mentioned in subsection (2) is—
- (a) the person's name and address, and
  - (b) such other information about the person as may be prescribed.
- (10) Where the monitoring notice mentioned in subsection (1) is a replacement monitoring notice, subsection (5)(b) does not impose a duty on the monitored promoter concerned to provide information about a person who has entered into transactions forming part of relevant arrangements (as described in subsection (7)) if the monitored promoter reasonably believes that information about that person has, in relation to those arrangements, already been provided under the original monitoring notice.

## 260 Intermediaries [<sup>F161</sup>etc]: duty to provide information about clients

- (1) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may give notice to
- [<sup>F162</sup>(a)] a person (“the intermediary”) who is an intermediary in relation to a relevant proposal which is a monitored proposal of a person in relation to whom a monitoring notice has effect (“the monitored promoter”)[<sup>F163</sup>;

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- (b) a person who falls within the case described in paragraph 3 of Schedule 33A by virtue of acting under the instruction or guidance of the monitored promoter.]
- (2) A person to whom a notice is given under subsection (1) must, for each relevant period, give the officer who gave the notice the information set out in subsection (7) in respect of each person who was its client with reference to that relevant period (see subsections (5) to (6)).
- (3) Each of the following is a “relevant period”—
  - (a) the calendar quarter in which the notice under subsection (1) was given but not including any time before [F164the person to whom the notice is given] was first notified under section 250, 251 or 252 of the promoter reference number of the monitored promoter,
  - (b) the period (if any) beginning with the date of the notification under section 250, 251 or 252 and ending immediately before the beginning of the period described in paragraph (a), and
  - (c) each calendar quarter after the period described in paragraph (a) but not including any time after the monitoring notice mentioned in subsection (1) ceases to have effect.
- (4) Information required as a result of a notice under subsection (1) must be given—
  - (a) within the period of 30 days beginning with the end of the relevant period concerned, or
  - (b) in the case of a relevant period within subsection (3)(b), within the period of 30 days beginning with the day on which the notice under subsection (1) was given if that period would expire at a later time than the period given by paragraph (a).
- (5) A person (“C”) is a client of [F165the person to whom the notice under subsection (1) is given (“R”)] with reference to a relevant period if during that period—
  - (a) [F166R] communicated information to C about a monitored proposal in the course of a business, and
  - (b) the communication was made with a view to C, or any other person, entering into transactions forming part of the proposed arrangements.
- (6) But a person is not a client of [F167R] with reference to a relevant period if—
  - (a) the person has previously been a client of [F167R] with reference to a different relevant period,
  - (b) [F167R] complied with the duty in subsection (2) in respect of the person for that relevant period, and
  - (c) the information provided as a result of complying with that duty remains accurate.
- (7) The information mentioned in subsection (2) is—
  - (a) the person's name and address, and
  - (b) such other information about the person as may be prescribed.

#### Textual Amendments

**F161** Word in [s. 260 heading](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 30 para. 17\(2\)](#)

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- F162** Words in s. 260(1) renumbered as s. 260(1)(a) (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 17(3)(a)
- F163** S. 260(1)(b) inserted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 17(3)(b)
- F164** Words in s. 260(3)(a) substituted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 17(4)
- F165** Words in s. 260(5) substituted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 17(5)(a)
- F166** Word in s. 260(5)(a) substituted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 17(5)(b)
- F167** Word in s. 260(6) substituted (with effect in accordance with s. 121(6) of the amending Act) by Finance Act 2021 (c. 26), Sch. 30 para. 17(6)

## 261 Enquiry following provision of client information

- (1) This section applies where—
- (a) a person (“the notifying person”) has provided information under section 259 or 260 about a person who was a client of the notifying person with reference to a relevant period (within the meaning of the section concerned) in connection with a particular relevant proposal or particular relevant arrangements, and
  - (b) an authorised officer suspects that a person in respect of whom information has not been provided under section 259 or 260—
    - (i) has at any time been, or is likely to be, a party to transactions implementing the proposal, or
    - (ii) is a party to a transaction forming (in whole or in part) particular relevant arrangements.
- (2) The authorised officer may by notice in writing require the notifying person to provide prescribed information in relation to any person whom the notifying person might reasonably be expected to know—
- (a) has been, or is likely to be, a party to transactions implementing the proposal, or
  - (b) is a party to a transaction forming (in whole or in part) the relevant arrangements.
- (3) But a notice under subsection (2) does not impose a requirement on the notifying person to provide information which the notifying person has already provided to an authorised officer under section 259 or 260.
- (4) The notifying person must comply with a requirement under subsection (2) within—
- (a) 10 days of the notice, or
  - (b) such longer period as the authorised officer may direct.

## <sup>F168</sup>262 Information required for monitoring compliance with conduct notice

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### Textual Amendments

**F168** S. 262 omitted (with effect in accordance with s. 121(6) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 3](#)

## 263 Duty to notify HMRC of address

If, on the last day of a calendar quarter, a monitoring notice has effect in relation to a person (“the monitored promoter”) the monitored promoter must within 30 days of the end of the calendar quarter inform an authorised officer of its current address.

## 264 Failure to provide information: application to tribunal

- (1) This section applies where—
  - (a) a person (“P”) has provided information or produced a document in purported compliance with section 255, 257, 258, 259, 260, 261 or 262, but
  - (b) an authorised officer suspects that P has not provided all the information or produced all the documents required under the section concerned.
- (2) The authorised officer, or an officer of Revenue and Customs with the approval of the authorised officer, may apply to the tribunal for an order requiring P to—
  - (a) provide specified information about persons who are its clients for the purposes of the section to which the application relates,
  - (b) provide specified information, or information of a specified description, about a monitored proposal or monitored arrangements,
  - (c) produce specified documents relating to a monitored proposal or monitored arrangements.
- (3) The tribunal may make an order under subsection (2) in respect of information or documents only if satisfied that the officer has reasonable grounds for suspecting that the information or documents—
  - (a) are required under section 255, 257, 258, 259, 260, 261 or 262 (as the case may be), or
  - (b) will support or explain information required under the section concerned.
- (4) A requirement by virtue of an order under subsection (2) is to be treated as part of P’s duty under section 255, 257, 258, 259, 260, 261 or 262 (as the case may be).
- (5) Information or a document required as a result of subsection (2) must be provided, or the document produced, within the period of 10 days beginning with the day on which the order under subsection (2) was made.
- (6) An authorised officer may, by direction, extend the 10 day period mentioned in subsection (5).

## 265 Duty to provide information to monitored promoter

- (1) This section applies where a person has been notified of a promoter reference number—
  - (a) under section 250 by reason of being a person falling within subsection (2)
  - (b) of that section, or

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- (b) under section 251 or 252.
- (2) The person notified (“C”) must within 10 days notify the person whose promoter reference number it is of—
  - (a) C's national insurance number (if C has one), and
  - (b) C's unique tax reference number (if C has one).
- (3) If C has neither a national insurance number nor a unique tax reference number, C must within 10 days inform the person whose promoter reference number it is of that fact.
- (4) A unique tax reference number is an identification number allocated to a person by HMRC.
- (5) Subsection (2) or (3) does not impose a duty on C to provide information which C has already provided to the person whose promoter reference number it is.

*Obtaining information and documents: appeals*

**266 Appeals against notices imposing information etc requirements**

- (1) This section applies where a person is given a notice under section 255, 257, 258, 259, 260, 261 or 262.
- (2) The person to whom the notice is given may appeal against the notice or any requirement under the notice.
- (3) Subsection (2) does not apply—
  - (a) to a requirement to provide any information or produce any document that forms part of the person's statutory records, or
  - (b) if the tribunal has approved the giving of the notice under section 256.
- (4) For the purposes of this section, information or a document forms part of a person's statutory records if it is information or a document which the person is required to keep and preserve under or by virtue of—
  - (a) the Taxes Acts, or
  - (b) any other enactment relating to a tax.
- (5) Information and documents cease to form part of a person's statutory records when the period for which they are required to be preserved by the enactments mentioned in subsection (4) has expired.
- (6) Notice of appeal must be given—
  - (a) in writing to the officer who gave the notice, and
  - (b) within the period of 30 days beginning with the day on which the notice was given.
- (7) The notice of appeal must state the grounds of the appeal.
- (8) On an appeal that is notified to the tribunal, the tribunal may—
  - (a) confirm the notice or a requirement under the notice,
  - (b) vary the notice or such a requirement, or
  - (c) set aside the notice or such a requirement.

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- (9) Where the tribunal confirms or varies the notice or a requirement, the person to whom the notice was given must comply with the notice or requirement—
  - (a) within such period as is specified by the tribunal, or
  - (b) if the tribunal does not specify a period, within such period as is reasonably specified in writing by an officer of Revenue and Customs following the tribunal's decision.
- (10) A decision of the tribunal on an appeal under this section is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).
- (11) Subject to this section, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this section.

*Obtaining information and documents: supplementary*

## **267 Form and manner of providing information**

- (1) The Commissioners may specify the form and manner in which information required to be provided or documents required to be produced by sections 255 to 264 must be provided or produced if the provision is to be complied with.
- (2) The Commissioners may specify that a document must be produced for inspection—
  - (a) at a place agreed between the person and an officer of Revenue and Customs, or
  - (b) at such place (which must not be a place used solely as a dwelling) as an officer of Revenue and Customs may reasonably specify.
- (3) The production of a document in compliance with a notice under this Part is not to be regarded as breaking any lien claimed on the document.

## **268 Production of documents: compliance**

- (1) Where the effect of a notice under section 255, 257 or 262 is to require a person to produce a document, the person may comply with the requirement by producing a copy of the document, subject to any conditions or exceptions that may be prescribed.
- (2) Subsection (1) does not apply where—
  - (a) the effect of the notice is to require the person to produce the original document, or
  - (b) an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, subsequently makes a request in writing to the person for the original document.
- (3) Where an officer requests a document under subsection (2)(b), the person to whom the request is made must produce the document—
  - (a) within such period, and
  - (b) at such time and by such means,
 as is reasonably requested by the officer.

## **269 Exception for certain documents or information**

- (1) Nothing in this Part requires a person to provide or produce—



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- (a) information that relates to the conduct of a pending appeal relating to tax or any part of a document containing such information,
  - (b) journalistic material (as defined in section 13 of the Police and Criminal Evidence Act 1984) or information contained in such material, or
  - (c) personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984) or information contained in such records (but see subsection (2)).
- (2) A notice under this Part may require a person—
- (a) to produce documents, or copies of documents, that are personal records, omitting any information whose inclusion (whether alone or with other information) makes the original documents personal records (“personal information”), and
  - (b) to provide any information contained in such records that is not personal information.

## **270 Limitation on duty to produce documents**

Nothing in this Part requires a person to produce a document—

- (a) which is not in the possession or power of that person, or
- (b) if the whole of the document originates more than 6 years before the requirement to produce it would, if it were not for this section, arise.

## **271 Legal professional privilege**

- (1) Nothing in this Part requires any person to disclose to HMRC any privileged information.
- (2) “Privileged information” means information with respect to which a claim to legal professional privilege by the person who would (ignoring the effect of this section) be required to disclose it, could be maintained in legal proceedings.
- (3) In the case of legal proceedings in Scotland, the reference in subsection (2) to legal professional privilege is to be read as a reference to confidentiality of communications.

## **272 Tax advisers**

- (1) This section applies where a notice is given under section 258(4) or (5) and the person to whom the notice is given is a tax adviser.
- (2) The notice does not require a tax adviser—
  - (a) to provide information about relevant communications, or
  - (b) to produce documents which are the tax adviser's property and consist of relevant communications.
- (3) Subsection (2) does not have effect in relation to—
  - (a) information explaining any information or document which the person to whom the notice is given has, as tax accountant, assisted any person in preparing for, or delivering to, HMRC, or
  - (b) a document which contains such information.

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(4) But subsection (2) is not disapplied by subsection (3) if the information in question has already been provided, or a document containing the information has already been produced, to an officer of Revenue and Customs.

(5) In this section—

“relevant communications” means communications between the tax adviser and—

- (a) a person in relation to whose tax affairs the tax adviser has been appointed, or
- (b) any other tax adviser of such a person,

the purpose of which is the giving or obtaining of advice about any of those tax affairs, and

“tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that person or by another tax adviser of that person).

## **[<sup>F169</sup>272A] Application of Schedule 36 FA 2008 powers**

(1) Schedule 36 to FA 2008 (information and inspection powers) applies for a relevant purpose in relation to a relevant person as it applies for the purpose of checking the tax position of a person as if—

- (a) any provisions which can have no application for that purpose were omitted (for example, paragraphs 10A, 11, 12A and 12B);
- (b) references to “the taxpayer” were to “the relevant person”;
- (c) references to prejudice to the assessment or collection of tax included prejudice to the fulfilment of a relevant purpose;
- (d) references to “business documents” included any documents (or copies of documents) in connection with any relevant arrangements or relevant proposal;
- (e) references to a pending appeal relating to tax were to a pending appeal by the relevant person under this Part;
- (f) in paragraph 13, after “paragraph 39” there were inserted “ of this Schedule and paragraph 2(3A) of Schedule 35 to FA 2014 ”;
- (g) paragraphs 21 to 21B were omitted;
- (h) paragraph 25 were omitted;
- (i) in paragraph 29(1) for “a taxpayer”, in the first place it occurs, there were substituted “ a relevant person ”;
- (j) Part 7 (penalties) were omitted (but see Schedule 35 of this Act).

(2) A person is “relevant” if—

- (a) the officer suspects that the person carries on, or has in the past carried on, a business as a promoter in relation to a relevant proposal or relevant arrangements and—
  - (i) the officer suspects that the person has met a threshold condition,
  - (ii) the officer suspects the person could be given a defeat notice, or
  - (iii) the officer suspects the person promotes, or has promoted, arrangements, or proposals for such arrangements, of a description that the officer suspects could be specified in a stop notice,
- (b) the officer suspects that—

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- (i) the person made a relevant transfer, or
    - (ii) the person is a person to whom a relevant transfer was made, or
  - (c) the person is, or was, subject to a stop notice, conduct notice or monitoring notice.
- (3) The following are “relevant purposes” in relation to a relevant person—
- (a) determining whether the relevant person carries on or has in the past carried on a business as a promoter in relation to a relevant proposal or relevant arrangements;
  - (b) determining whether the relevant person has met a threshold condition;
  - (c) determining whether the relevant person could be given a defeat notice;
  - (d) determining whether the person has provided false or misleading information or documents in relation to a stop notice, conduct notice or monitoring notice;
  - (e) determining whether arrangements, or proposals for such arrangements, that an officer suspects are promoted by the relevant person are of a description that could be specified in a stop notice;
  - (f) enabling HMRC to understand the operation of arrangements, or proposals for such arrangements, that an officer suspects are promoted by the relevant person;
  - (g) identifying any other person who has a connection with the relevant person that results (whether solely because of that connection or otherwise) in the relevant person being a member of a promotion structure;
  - (h) determining whether the relevant person made a relevant transfer, and if so to whom;
  - (i) determining whether a relevant transfer was made to the relevant person, and if so by whom;
  - (j) monitoring compliance with any stop notice, conduct notice or monitoring notice the relevant person is subject to.
- (4) In this section—
- (a) reference to compliance with a stop notice, conduct notice or monitoring notice includes compliance with any provisions of this Part that a person subject to such a notice must comply with;
  - (b) reference to a person “promoting” is to be construed in accordance with section 236A(7);
  - (c) “relevant transfer” has the meaning it has in paragraph 5 of Schedule 33A (promotion structures).]

#### Textual Amendments

**F169** S. 272A inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021](#) (c. 26), [Sch. 30 para. 4](#)

## 273 Confidentiality

- (1) No duty of confidentiality or other restriction on disclosure (however imposed) prevents the voluntary disclosure by a relevant client or a relevant intermediary to HMRC of information or documents about—
- [<sup>F170</sup>(za) a person subject to a stop notice,

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- (zb) arrangements or proposals for arrangements of a description specified in a stop notice in relation to which a person subject to a stop notice is a promoter,]
  - (a) a monitored promoter, or
  - (b) relevant proposals or relevant arrangements in relation to which a monitored promoter is a promoter.
- (2) “Relevant client” <sup>F171</sup>, in relation to a person mentioned in paragraph (za), (zb), (a) or (b) of subsection (1),] means a person in relation to whom the <sup>F172</sup>person so mentioned]—
  - (a) has made a firm approach in relation to <sup>F173</sup>an applicable] proposal with a view to making the proposal available for implementation by that person or another person;
  - (b) has made <sup>F174</sup>an applicable] proposal available for implementation by that person;
  - (c) took part in the organisation or management of <sup>F175</sup>applicable] arrangements entered into by that person.
- (3) “Relevant intermediary” means a person who is an intermediary in relation to <sup>F176</sup>an applicable] proposal in relation to which the <sup>F177</sup>person mentioned in paragraphs (za), (zb), (a) or (b) of subsection (1)] is a promoter.
- (4) The <sup>F178</sup>applicable] proposal or <sup>F178</sup>applicable] arrangements mentioned in subsection (2) or (3) need not be the <sup>F178</sup>applicable] proposals or <sup>F178</sup>applicable] arrangements to which the disclosure relates.
- <sup>F179</sup>(5) Nothing in this section authorises a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account this section).
- (6) For the purposes of this section, a person mentioned in subsection (1)(za) or (zb) is a promotor of arrangements or a proposal for arrangements if the person would be a promoter of those arrangements or proposal if those arrangements or that proposal were relevant arrangements or a relevant proposal (see section 235(2) to (6) and any regulations made under section 235(6)).
- (7) In this section—
  - “applicable arrangements” means—
    - (a) in relation to a disclosure falling within subsection (1)(za) or (zb), arrangements falling within the description specified in the stop notice to which the disclosure relates, or
    - (b) in relation to a disclosure falling within subsection (1)(a) or (b), relevant arrangements;
  - “applicable proposal” means—
    - (a) in relation to a disclosure falling within subsection (1)(za) or (zb), a proposal for arrangements falling within the description specified in the stop notice to which the disclosure relates, or
    - (b) in relation to a disclosure falling within subsection (1)(a) or (b), a relevant proposal;
  - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).]

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### Textual Amendments

- F170** S. 273(1)(za)(zb) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(2\)](#)
- F171** Words in s. 273(2) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(3\)\(a\)\(i\)](#)
- F172** Words in s. 273(2) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(3\)\(a\)\(ii\)](#)
- F173** Words in s. 273(2)(a) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(3\)\(b\)](#)
- F174** Words in s. 273(2)(b) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(3\)\(b\)](#)
- F175** Word in s. 273(2)(c) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(3\)\(c\)](#)
- F176** Words in s. 273(3) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(4\)\(a\)](#)
- F177** Words in s. 273(3) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(4\)\(b\)](#)
- F178** Word in s. 273(4) substituted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(5\)](#)
- F179** S. 273(5)-(7) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 30 para. 5\(6\)](#)

### Penalties

#### 274 Penalties

Schedule 35 contains provision about penalties for failure to comply with provisions of this Part.

#### 275 Failure to comply with Part 7 of the Finance Act 2004

In section 98C of TMA 1970 (notification under Part 7 of FA 2004), after subsection (2E) insert—

“(2EA) Where a person fails to comply with—

- (a) section 309 of that Act and the promoter for the purposes of that section is a monitored promoter for the purposes of Part 5 of the Finance Act 2014, or
- (b) section 310 of that Act and the arrangements for the purposes of that section are arrangements of such a monitored promoter,

then for the purposes of section 118(2) of this Act legal advice which the person took into account is to be disregarded in determining whether the person had a reasonable excuse, if the advice was given or procured by that monitored promoter.

(2EB) In determining for the purpose of section 118(2) of this Act whether or not a person who is a monitored promoter within the meaning of Part 5 of the Finance Act 2014 had a reasonable excuse for a failure to do anything required to be done under a provision mentioned in subsection (2), reliance on legal advice is to be taken automatically not to constitute a reasonable excuse if either—

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- (a) the advice was not based on a full and accurate description of the facts, or
- (b) the conclusions in the advice that the person relied on were unreasonable.”

## **F180 276 Limitation of defence of reasonable care**

.....

### **Textual Amendments**

**F180 S. 276** omitted (with effect in accordance with s. 64(5)(6) of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\), s. 64\(4\)](#)

## **277 Extended time limit for assessment**

- (1) In section 36 of TMA 1970 (loss of tax brought about carelessly or deliberately), in subsection (1A)—
  - (a) omit the “or” following paragraph (b), and
  - (b) at the end of paragraph (c) insert “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 the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.”.
- (2) In paragraph 12B of Schedule 2 to OTA 1975 (extended time limits for assessment of petroleum revenue tax)—
  - (a) in sub-paragraph (1), after “sub-paragraph (2)” insert “ and (2A) ”,
  - (b) after sub-paragraph (2) insert—
 

“(2A) In a case involving a relevant situation brought about by arrangements which were expected to give rise to a tax advantage in respect of which a participator (or a person acting on behalf of a participator) was under an obligation to notify the Board under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so, an assessment (or an amendment of an assessment) on the participator may be made at any time not more than 20 years after the end of the relevant chargeable period.”,
  - (c) in sub-paragraph (5), for “or (2)” substitute “ , (2) or (2A) ”, and
  - (d) in sub-paragraph (6), for “or (2)” substitute “ , (2) or (2A) ”.
- (3) In section 240 of IHTA 1984 (underpayments)—
  - (a) in subsection (3) for “and (5)” substitute “ to (5A) ”,
  - (b) in subsection (5), for “those dates” substitute “ the dates in subsection (2)(a) and (b) ”,
  - (c) after subsection (5) insert—

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- “(5A) Proceedings in a case involving a loss of tax attributable to arrangements which were expected to give rise to a tax advantage in respect of which a person liable for the tax was under an obligation to make a report under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so, may be brought at any time not more than 20 years after the later of the dates in subsection (2)(a) and (b).”, and
- (d) in subsection (8), for “, (5) and (6)” substitute “to (6) ”.
- (4) In paragraph 46 of Schedule 18 to FA 1998 (general time limits for assessments to corporation tax), in sub-paragraph (2A)—
- (a) omit the “or” following paragraph (b), and
- (b) at the end of paragraph (c) insert “or
- (d) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the company was under an obligation to notify the Commissioners for Her Majesty's Revenue and Customs under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.”.
- (5) In paragraph 31 of Schedule 10 to FA 2003 (time limit for assessment of stamp duty land tax), in sub-paragraph (2A)—
- (a) omit the “or” following paragraph (b), and
- (b) at the end of paragraph (c) insert “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 the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.”.
- (6) In paragraph 25 of Schedule 33 to FA 2013 (time limit for assessment: annual tax on enveloped dwellings), in sub-paragraph (4)—
- (a) omit the “or” following paragraph (b), and
- (b) at the end of paragraph (c) insert “, 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.”

### *Offences*

#### **278 Offence of concealing etc documents**

- (1) A person is guilty of an offence if—
- (a) the person is required to produce a document by a notice given under section 255,
- (b) the tribunal approved the giving of the notice under section 256, and

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- (c) the person conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, that document.
- (2) Subsection (1) does not apply if the person acts after the document has been produced to an officer of Revenue and Customs in accordance with section 255, unless the officer has notified the person in writing that the document must continue to be available for inspection (and has not withdrawn the notification).
- (3) Subsection (1) does not apply, in a case to which section 268(1) applies, if the person acts after the end of the expiry of 6 months beginning with the day on which a copy of the document was produced in accordance with that section unless, before the expiry of that period, an officer of Revenue and Customs makes a request for the original document under section 268(2)(b).

## **279 Offence of concealing etc documents following informal notification**

- (1) A person is guilty of an offence if the person conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document after an officer of Revenue and Customs has informed the person in writing that—
  - (a) the document is, or is likely, to be the subject of a notice under section 255, and
  - (b) the officer of Revenue and Customs intends to seek the approval of the tribunal to the giving of the notice.
- (2) A person is not guilty of an offence under this section if the person acts after—
  - (a) at least 6 months has expired since the person was, or was last, informed as described in subsection (1), or
  - (b) a notice has been given to the person under section 255, requiring the document to be produced.

## **280 Penalties for offences**

- (1) A person who is guilty of an offence under section 278 or 279 is liable—
  - (a) on summary conviction, to—
    - (i) in England and Wales, a fine, or
    - (ii) in Scotland or Northern Ireland, a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both.
- (2) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, subsection (1)(a)(i) has effect as if the reference to “a fine” were a reference to “a fine not exceeding the statutory maximum”.

### *Supplemental*

## **281 Partnerships**

Schedule 36 contains provision about the application of this Part to partnerships.



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[<sup>F181</sup>**281A**VAT]<sup>F182</sup>**and other indirect taxes]**

- (1) In the provisions mentioned in subsection (2)—
  - (a) “tax” includes value added tax [<sup>F183</sup>and other indirect taxes], and
  - (b) “tax advantage” has the meaning given by section 234(3) and also includes a tax advantage as defined [<sup>F184</sup>for VAT in paragraph 6, and for other indirect taxes in paragraph 7, of Schedule 17 to FA 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes).]
- (2) Those provisions are—
  - (a) section 237D;
  - (b) section 241B;
  - (c) Schedule 34A.
- (3) Other references in this Part to “tax” are to be read as including value added tax [<sup>F185</sup>or other indirect taxes] so far as that is necessary for the purposes of sections 237A to 237D, 241A and 241B and Schedule 34A; but “tax” does not include value added tax [<sup>F185</sup>or other indirect taxes] in section 237A(10) or 237B(3).

[<sup>F186</sup>In this section “indirect tax” has the same meaning as in Schedule 17 to FA 2017.]]  
(4)

**Textual Amendments**

- F181** S. 281A inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), s. 160(7)
- F182** Words in s. 281A heading inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 66(4), [Sch. 17 para. 53\(2\)](#)
- F183** Words in s. 281A(1)(a) inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 66(4), [Sch. 17 para. 53\(3\)\(a\)](#)
- F184** Words in s. 281A(1)(b) substituted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 66(4), [Sch. 17 para. 53\(3\)\(b\)](#)
- F185** Words in s. 281A(3) inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 66(4), [Sch. 17 para. 53\(4\)](#)
- F186** S. 281A(4) inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 66(4), [Sch. 17 para. 53\(5\)](#)

**282 Regulations under this Part**

- (1) Regulations under this Part are to be made by statutory instrument.
- (2) Apart from an instrument to which subsection (3) applies, a statutory instrument containing regulations made under this Part is subject to annulment in pursuance of a resolution of the House of Commons.
- (3) A statutory instrument containing (whether alone or with other provision) regulations made under—
  - (a) section 238(7),
  - (b) paragraph 14 of Schedule 34,
  - [<sup>F187</sup>(ba) paragraph 31 of Schedule 34A,]
  - (c) paragraph 5(1) of Schedule 35, or
  - (d) paragraph 21 of Schedule 36,

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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) Regulations under this Part—

- (a) may make different provision for different purposes;
- (b) may include transitional provision and savings.

#### Textual Amendments

**F187** S. 282(3)(ba) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 160(8)

## 283 Interpretation of this Part

(1) In this Part—

“arrangements” has the meaning given by section 234(4);

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

“calendar quarter” means a period of 3 months beginning with 1 January, 1 April, 1 July or 1 October;

“conduct notice” means a notice of the description in section 238 that is given under—

(a) section 237(7) [<sup>F188</sup>or (7A)],

(aa) [<sup>F189</sup>section 237A(8),

(ab) section 237B(1),]

(b) section 245(7), or

(c) paragraph 8(2) or (3) or 10(3)(a) or (4)(a) of Schedule 36;

[<sup>F190</sup>“contract settlement” means an agreement in connection with a person's liability to make a payment to the Commissioners under or by virtue of an enactment;]

[<sup>F190</sup>“defeat” , in relation to arrangements, has the meaning given by paragraph 10 of Schedule 34A;]

[<sup>F190</sup>“defeat notice” has the meaning given by section 241A(7);]

[<sup>F190</sup>“double defeat notice” has the meaning given by section 241A(7);]

[<sup>F190</sup>“final” , in relation to a judicial ruling, is to be interpreted in accordance with section 237D(6);]

“HMRC” means Her Majesty's Revenue and Customs;

“firm approach” has the meaning given by section 235(4);

[<sup>F190</sup>“judicial ruling” means a ruling of a court or tribunal on one or more issues;]

[<sup>F190</sup>“look-forward period” , in relation to a defeat notice, has the meaning given by section 241A(10);]

“monitored promoter” has the meaning given by section 244(5);

“monitored proposal” and “monitored arrangements” have the meaning given by section 254;

“monitoring notice” means a notice given under section 244(1) or paragraph 9(2) or (3) or 10(3)(b) or (4)(b) of Schedule 36;

“the original monitoring notice” has the meaning given by paragraph 11(2) of Schedule 36;

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“prescribed” means prescribed, or of a description prescribed, in regulations made by the Commissioners;

“promoter reference number” has the meaning given by section 250(5);

[<sup>F191</sup>“promotion structure” is to be construed in accordance with section 235(1A) and Schedule 33A;]

[<sup>F190</sup>“provisional” , in relation to a conduct notice given under section 237A(8), is to be interpreted in accordance with section 237C;]

[<sup>F190</sup>“related” , in relation to arrangements, is to be interpreted in accordance with paragraph 2 of Schedule 34A;]

“relevant arrangements” has the meaning given by section 234(2);

[<sup>F190</sup>“relevant defeat” , in relation to a person, is to be interpreted in accordance with Schedule 34A;]

“relevant proposal” has the meaning given by section 234(1);

[<sup>F190</sup>“relies on a Case 3 relevant defeat” is to be interpreted in accordance section 237B(5);]

“replacement conduct notice” has the meaning given by paragraph 11(1) of Schedule 36;

“replacement monitoring notice” has the meaning given by paragraph 11(1) of Schedule 36;

[<sup>F190</sup>“single defeat notice” has the meaning given by section 241A(7).]

[<sup>F192</sup>“stop notice” means a notice given under section 236A(1);]

“subject to a stop notice” , in relation to a person, is to be construed in accordance with section 236B(2);]

“tax” [<sup>F193</sup>(except in provisions to which section 281A applies)] means—

- (a) income tax,
- (b) capital gains tax,
- (c) corporation tax,
- (d) petroleum revenue tax,
- (da) [<sup>F194</sup>apprenticeship levy,]
- (e) inheritance tax,
- (f) stamp duty land tax,
- (g) stamp duty reserve tax, or
- (h) annual tax on enveloped dwellings;

“tax advantage” has the meaning given by section 234(3) [<sup>F195</sup>(but see also section 281A)];

“Taxes Acts” has the same meaning as in TMA 1970 (see section 118(1) of that Act);

“the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

(2) A reference in a provision of this Part to an authorised officer is to an officer of Revenue and Customs who is, or is a member of a class of officers who are, authorised by the Commissioners for the purposes of that provision.

(3) A reference in a provision of this Part to meeting a threshold condition is to meeting one of the conditions described in paragraphs 2 to 12 of Schedule 34.

[<sup>F196</sup>(4) Any reference in this Part to a person's activities as a promoter includes—

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- (a) if the person falls within the case described in paragraph 2 of Schedule 33A, the activities carried out by the person and other persons by virtue of which the person falls within the case,
- (b) if the person falls within the case described in paragraph 3 of that Schedule, activities carried out under the instruction or guidance of a person who carries on business as a promoter,
- (c) if the person falls within the case described in paragraph 4 of that Schedule, the activities of the body corporate or partnership that the person controls, and
- (d) if the person falls within the case described in paragraph 5 by virtue of subparagraph (1)(b) of that paragraph, the activities of the body corporate or partnership that the person controls.]

#### Textual Amendments

- F188** Words in s. 283 inserted (with effect in accordance with Sch. 19 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **Sch. 19 para. 3**
- F189** Words in s. 283(1) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 160(9)(a)**
- F190** Words in s. 283(1) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 160(9)(d)**
- F191** Words in [s. 283\(1\)](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 18(a)**
- F192** Words in [s. 283\(1\)](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 6**
- F193** Words in s. 283(1) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 160(9)(b)**
- F194** Words in s. 283(1) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 104(8)** (with s. 117)
- F195** Words in s. 283(1) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 160(9)(c)**
- F196** [S. 283\(4\)](#) inserted (with effect in accordance with s. 121(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 18(b)**

## PART 6

### OTHER PROVISIONS

#### *Anti-avoidance*

#### **284 Disclosure of tax avoidance schemes: information powers**

- (1) Part 7 of FA 2004 (disclosure of tax avoidance schemes) is amended as set out in subsections (2) to (4).
- (2) After section 310 insert—

#### **“310A Duty to provide further information requested by HMRC**

- (1) This section applies where—
  - (a) a person has provided the prescribed information about notifiable proposals or arrangements in compliance with section 308, 309 or 310, or

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- (b) a person has provided information in purported compliance with section 309 or 310 but HMRC believe that the person has not provided all the prescribed information.
- (2) HMRC may require the person to provide—
  - (a) further specified information about the notifiable proposals or arrangements (in addition to the prescribed information under section 308, 309 or 310);
  - (b) documents relating to the notifiable proposals or arrangements.
- (3) Where HMRC impose a requirement on a person under this section, the person must comply with the requirement within—
  - (a) the period of 10 working days beginning with the day on which HMRC imposed the requirement, or
  - (b) such longer period as HMRC may direct.

### **310B Failure to provide information under section 310A: application to the Tribunal**

- (1) This section applies where HMRC—
  - (a) have required a person to provide information or documents under section 310A, but
  - (b) believe that the person has failed to provide the information or documents required.
- (2) HMRC may apply to the tribunal for an order requiring the person to provide the information or documents required.
- (3) The tribunal may make an order under subsection (2) only if satisfied that HMRC have reasonable grounds for suspecting that the information or documents will assist HMRC in considering the notifiable proposals or arrangements.
- (4) Where the tribunal makes an order under subsection (2), the person must comply with it within—
  - (a) the period of 10 working days beginning with the day on which the tribunal made the order, or
  - (b) such longer period as HMRC may direct.”
- (3) In section 316(2) (meaning of the “information provisions”), after “310,” insert “310A, ”.
- (4) In section 318(1) (interpretation of Part 7), at the end insert—

““working day” means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”
- (5) Section 98C of TMA 1970 (notification under Part 7 of FA 2004) is amended as set out in subsections (6) to (10).
- (6) In subsection (1)(a)(i), for “or (c)” substitute “, (c) or (ca) ”.
- (7) In subsection (2), after paragraph (c) insert—

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“(ca) section 310A (duty to provide further information requested by HMRC),”.

(8) In subsection (2ZA), at the end of the table add—

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“A failure to comply with section 310A	The first day after the end of the period within which the person must comply with section 310A.”
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(9) In subsection (2ZB)—

- (a) in paragraph (a)—
  - (i) for “person's” substitute “promoter's”;
  - (ii) after “(3)” insert “ or section 310A ”;
  - (iii) for “person” substitute “ promoter ”;
- (b) in paragraph (b)—
  - (i) before “person's” insert “ relevant ”;
  - (ii) for “or 310” substitute “ , 310 or 310A ”;
  - (iii) before “person” insert “ relevant ”.

(10) After subsection (2ZB) insert—

“(2ZBA) In subsection (2ZB)—

- (a) “promoter” has the same meaning as in Part 7 of the Finance Act 2004, and
- (b) “relevant person” means a person who enters into any transaction forming part of notifiable arrangements within the meaning of that Part.”

(11) Section 310A of FA 2004 applies to a person who provides the prescribed information about notifiable proposals or arrangements in compliance or purported compliance with section 308, 309 or 310 on or after the day on which this Act is passed.

### *Code of Practice on Taxation for Banks*

## **285 The Code of Practice on Taxation for Banks: HMRC to publish reports**

- (1) No later than the end of the calendar year in which a reporting period ends, the Commissioners for Her Majesty's Revenue and Customs must publish a report on the operation during the period of the Code of Practice on Taxation for Banks as published by the Commissioners on 31 May 2013 (“the Code”).
- (2) If the Commissioners determine that a group or entity which was a participating group or entity (see section 286) during some or all of a reporting period breached the Code at a time during the period, the Commissioners may name the group or entity in a report under this section.

This subsection is subject to section 287.

(3) If—

- (a) the Commissioners determine that there has been a breach of the Code, but
- (b) it was not reasonably practicable for information relating to the breach to be included in the report for the reporting period in which the breach occurred,

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the information may be included in the first subsequent report in which it is reasonably practicable for the information to be included.

- (4) The report for a reporting period must list—
- (a) the groups or entities which were participating groups or entities during some or all of the reporting period,
  - (b) the groups or entities appearing to the Commissioners—
    - (i) not to be covered by paragraph (a), and
    - (ii) to be groups or entities in relation to which the bank levy is charged in a case where the chargeable period ends in the reporting period (or would be charged in such a case if it is assumed that any period of account beginning before or in, but ending after, the reporting period ends at the end of the reporting period instead), and
  - (c) the entities appearing to the Commissioners—
    - (i) not to be covered by paragraph (a) or (b), and
    - (ii) to be entities which fell within subsection (2)(b) or (c) of section 991 of ITA 2007 (subject to subsection (3) of that section) during some or all of the reporting period.
- (5) In a case where the bank levy is (or would be) charged in relation to a relevant non-banking group (as defined in paragraph 11 of Schedule 19 to FA 2011), any list prepared under subsection (4)(b) is to refer to the group only so far as it consists (or would consist) of—
- (a) relevant UK banking sub-groups (as defined in paragraph 19(5) of that Schedule), and
  - (b) so far as not covered by paragraph (a)—
    - (i) UK resident banks (as defined in paragraph 80 of that Schedule), and
    - (ii) relevant foreign banks (as defined in paragraph 78 of that Schedule).
- (6) For the purposes of subsection (4)(b)(ii) it does not matter if the amount of the bank levy is (or would be) nil in the case of a group or entity.
- (7) The first “reporting period” is the period beginning with 5 December 2013 and ending with 31 March 2015.
- (8) After that, each year beginning with 1 April is a “reporting period”.
- (9) The report for the first reporting period must list the groups or entities which were participating groups or entities on 5 December 2013.
- (10) Subsection (9) does not require the inclusion in the report of any information which has previously been published by the Commissioners, so long as the report makes reference to the previous publication.
- (11) If, on or after 31 May 2013, the Commissioners publish a document which states that only Part 1 of the Code is to apply in the case of a group or entity of a specified description, in the case of such a group or entity references to the Code are to be read as references to Part 1 of the Code.

## **286 The Code of Practice on Taxation for Banks: “participating” groups or entities**

- (1) This section applies for the purposes of section 285.

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- (2) A group or entity becomes a “participating” group or entity if, on or after 31 May 2013, it notifies the Commissioners in writing that it is unconditionally committed to complying with the Code.
- (3) A group or entity ceases to be a “participating” group or entity if it notifies the Commissioners in writing that it is no longer unconditionally committed to complying with the Code.
- (4) A group or entity which ceases to be a “participating” group or entity in accordance with subsection (3) becomes a “participating” group or entity again if it gives a further written notice of the kind mentioned in subsection (2) (subject to what follows).
- (5) Subsections (6) and (7) apply if a group or entity is named in a report under section 285 under subsection (2) of that section.
- (6) If the group or entity is a “participating” group or entity immediately before the publication of the report, it ceases to be so on the publication of the report.
- (7) In any case, the group or entity cannot be a “participating” group or entity after the publication of the report unless and until—
  - (a) it gives the Commissioners a further written notice of the kind mentioned in subsection (2), and
  - (b) the Commissioners are satisfied that it is unconditionally committed to complying with the Code.

## **287 The Code of Practice on Taxation for Banks: operation & breaches of the Code**

- (1) The Commissioners must—
  - (a) publish a protocol, to be called “the Governance Protocol”, setting out how the Commissioners are going to operate the Code and section 285(2), and
  - (b) follow the Governance Protocol when operating the Code and section 285(2).
- (2) The Governance Protocol must require the Commissioners, before determining for the purposes of section 285(2) whether a group or entity has breached the Code at a time during a reporting period, to commission a person (an “independent reviewer”) who is independent of the Commissioners and the group or entity to report on—
  - (a) whether the group or entity has breached the Code, and
  - (b) whether the group or entity should be named in a report under section 285 were the Commissioners to determine that the group or entity has breached the Code.
- (3) The independent reviewer—
  - (a) must give the group or entity a reasonable opportunity to make representations about the matters being considered by the independent reviewer,
  - (b) subject to subsection (8), must have regard to the group or entity's representations and may have regard to any other matter which the independent reviewer considers to be relevant,
  - (c) must give the group or entity a copy of the independent reviewer's report, and
  - (d) must otherwise follow the Governance Protocol but only so far as it is relevant to the independent reviewer's functions.
- (4) The Governance Protocol may provide that, in the case of any conduct of a group or entity to which subsection (5) [<sup>F197</sup>or (5A)] applies, the independent reviewer is to



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assume that the conduct constitutes a breach of the Code and, accordingly, is to report only on the matter mentioned in subsection (2)(b).

(5) This subsection applies to any conduct—

- (a) in relation to which there has been given—
  - (i) an opinion notice under paragraph 11(3)(b) of Schedule 43 to FA 2013 (GAAR advisory panel: opinion that conduct unreasonable) stating the joint opinion of all the members of a sub-panel arranged under paragraph 10 of that Schedule, or
  - (ii) one or more such notices stating the opinions of at least two members of such a sub-panel, and
- (b) in relation to which there has been given a notice under paragraph 12 of that Schedule [<sup>F198</sup>or paragraph 8 or 9 of Schedule 43A to that Act] (HMRC final decision on tax advantage) stating that a tax advantage is to be counteracted.

[<sup>F199</sup>(5A) This subsection applies to any conduct—

- (a) in relation to which there has been given—
  - (i) an opinion notice under paragraph 6(4)(b) of Schedule 43B to FA 2013 (GAAR advisory panel: opinion that such conduct unreasonable) stating the joint opinion of all the members of a sub-panel arranged under that paragraph, or
  - (ii) one or more such notices stating the opinions of at least two members of such a sub-panel, and
- (b) in relation to which there has been given a notice under paragraph 8 of that Schedule (HMRC final decision on tax advantage) stating that a tax advantage is to be counteracted.

(5B) For the purposes of subsection (5), any opinions of members of the GAAR advisory panel which must be considered before a notice is given under paragraph 8 or 9 of Schedule 43A to FA 2013 (opinions about the lead arrangements) are taken to relate to the conduct to which the notice relates.]

(6) The Governance Protocol must make provision—

- (a) for the Commissioners, in determining whether a group or entity has breached the Code or should be named in a report under section 285—
  - (i) to have regard to the independent reviewer's report, and
  - (ii) to give the group or entity a reasonable opportunity to make representations about the matters being considered by the Commissioners,
- (b) for the Commissioners to notify the group or entity in writing of their determination,
- (c) if the Commissioners' determination is different from the independent reviewer's determination, for the Commissioners to include in the notification of their determination to the group or entity their reasons for making a different determination, and
- (d) if the Commissioners determine that the group or entity should be named in a report under section 285, for the Commissioners to hold off including in a report under that section any information relating to the breach of the Code—
  - (i) until the notification of the determination is given to the group or entity, and
  - (ii) for at least 90 days after the day on which that notification is given.

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- (7) The Governance Protocol must make provision for the independent reviewer and the Commissioners, in determining whether a group or entity should be named in a report under section 285, to have regard to—
  - (a) any action taken by the group or entity to remedy the breach of the Code or otherwise to mitigate its effect, and
  - (b) any exceptional circumstances which might justify not naming the group or entity.
- (8) In determining whether a group or entity has breached the Code or should be named in a report under section 285, the independent reviewer and the Commissioners—
  - (a) may have regard to any conduct of the group or entity occurring on or after 5 December 2013, but
  - (b) must not have regard to any conduct of the group or entity occurring before that date or at a time when the group or entity is not a participating group or entity.
- (9) Subsection (10) applies if the independent reviewer determines—
  - (a) that a group or entity has not breached the Code, or
  - (b) that a group or entity should not be named in a report under section 285.
- (10) The Commissioners may make a determination which is different from the independent reviewer's determination only if—
  - (a) the independent reviewer's determination is flawed when considered in the light of the principles applicable in proceedings for judicial review, or
  - (b) there are other compelling reasons for making a different determination.
- (11) If the Commissioners make a different determination in a case where subsection (10) applies—
  - (a) their reasons notified under subsection (6)(c) must set out (in particular) why the independent reviewer's determination is flawed or (as the case may be) the other compelling reasons,
  - (b) in any proceedings in which an issue arises as to whether it was lawful for them to make the different determination it is for them to show that it was lawful for them to make the different determination, and
  - (c) subsection (12) applies in relation to any proceedings for judicial review of the different determination instituted by a member of the group or by the entity.
- (12) If the proceedings are instituted no later than the end of the 90 day period mentioned in subsection (6)(d)(ii)—
  - (a) they are to be treated as having been instituted within any applicable time limit (if that would not otherwise be the case),
  - (b) the court must give permission or leave for the proceedings to proceed (if the court's permission or leave is required), unless that would lead to multiple proceedings dealing with the same issues, and
  - (c) any hearing (including any hearing on appeal) must be held in private, unless (having regard to the risk that holding the hearing in public might undermine to any extent the purpose of the instituting of the proceedings) the court is satisfied that there are exceptional circumstances requiring the hearing to be held in public.
- (13) If a determination of the Commissioners is different from the independent reviewer's determination, they must mention that fact—

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- (a) in the report under section 285 for the reporting period in question, or
  - (b) if it was not reasonably practicable for that fact to be mentioned in that report, in the first subsequent report under section 285 in which it is reasonably practicable for that fact to be mentioned.
- (14) In determining for the purposes of section 285(3) or subsection (13)(b) of this section when it is reasonably practicable for any information to be included in a report under section 285, regard must be had (in particular) to the requirements of subsections (1) to (12) of this section.
- (15) The Commissioners must disclose to an independent reviewer such information held by them as they consider appropriate to enable the independent reviewer to carry out the independent reviewer's functions.
- (16) If the Commissioners disclose information to an independent reviewer under subsection (15), section 18 of CRCA 2005 (confidentiality) applies in relation to the independent reviewer's holding and use of the information as if the independent reviewer were an officer of Revenue and Customs and the independent reviewer's functions were functions of the independent reviewer as such an officer.

#### Textual Amendments

- F197** Words in s. 287(4) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(23\)](#)
- F198** Words in s. 287(5)(b) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(24\)](#)
- F199** Words in s. 287(5A)(5B) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(25\)](#)

## 288 The Code of Practice on Taxation for Banks: documents relating to the Code

- (1) The Commissioners may publish a relevant document, or revoke or modify a relevant document previously published by them, only after—
  - (a) consultation with such persons as they consider appropriate, and
  - (b) consideration of any representations made to them in the course of the consultation.
- (2) When publishing a relevant document or a modified relevant document or when revoking a relevant document, the Commissioners must also publish—
  - (a) an account of the representations mentioned in subsection (1)(b), and
  - (b) their responses to those representations.
- (3) In this section “relevant document” means—
  - (a) the Governance Protocol, or
  - (b) any document of the kind mentioned in section 285(11).
- (4) This section does not apply in relation to the first publication of the Governance Protocol.
- (5) This section does not affect any document of the kind mentioned in section 285(11) published before the passing of this Act except where it is to be revoked or modified after the passing of this Act.

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### *Offshore funds*

## **289 Undertakings for collective investment in transferable securities and alternative investment funds**

(1) Section 363A of TIOPA 2010 (residence of offshore funds which are undertakings for collective investment in transferable securities) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) This section applies to—

- (a) a UCITS which is authorised in a foreign country or territory pursuant to Article 5 of the UCITS Directive, and
- (b) an AIF which is authorised or registered in a foreign country or territory, or is not authorised or registered but has its registered office in a foreign country or territory,

unless the UCITS or AIF is an excluded entity.

(2) If the UCITS or AIF is a body corporate which (apart from this section) would be treated as resident in the United Kingdom for the purposes of any enactment (within the meaning of section 354) relating to income tax, corporation tax or capital gains tax, the body corporate is instead to be treated as if it were not resident in the United Kingdom.

(2A) A UCITS or AIF is “an excluded entity” if it—

- (a) is a unit trust scheme the trustees of which are UK resident,
- (b) is resident in the United Kingdom by virtue of section 14 of CTA 2009,
- (c) is, or has been, an investment trust with respect to an accounting period, or
- (d) is or has been—
  - (i) a company UK REIT in relation to an accounting period, or
  - (ii) a member of a group of companies at a time when the group is or was a group UK REIT in relation to an accounting period.

(2B) The Treasury may, by regulations, modify this section so as to—

- (a) add a description of UCITS or AIF as an excluded entity,
- (b) provide that a description of UCITS or AIF is no longer an excluded entity, or
- (c) vary a description of an excluded entity.”

(3) In subsection (3), for “offshore fund” substitute “ UCITS or AIF ”.

(4) In subsection (4), for the words after “section” substitute “—

AIF” has the meaning given in regulation 3 of the Alternative Investment Fund Managers Regulations 2013,

“foreign country or territory” means a country or territory outside the United Kingdom,

“investment trust with respect to an accounting period” is to be construed in accordance with section 1158 of CTA 2010,

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“UCITS” means an undertaking for collective investment in transferable securities,

“the UCITS Directive” means Directive [2009/65/EC](#) of the European Parliament and of the Council,

“company UK REIT in relation to an accounting period” and “group UK REIT in relation to an accounting period” are to be construed in accordance with section 527 of CTA 2010.”

(5) Accordingly, in TIOPA 2010—

- (a) in section 1 (overview of Act), in subsection (1)(e) after “funds” insert “ etc ”,
- (b) in the heading for Part 8, after “FUNDS” insert “ ETC ”, and
- (c) for the heading of section 363A substitute “ **Residence of undertakings for collective investment in transferable securities and alternative investment funds** ”.

(6) The amendments made by this section are treated as having come into force on 5 December 2013.

#### *Employee-ownership trusts*

### **290 Companies owned by employee-ownership trusts**

Schedule 37 contains provision about tax reliefs in connection with companies owned by employee-ownership trusts.

#### *Trusts*

### **291 Trusts with vulnerable beneficiary: meaning of “disabled person”**

(1) Schedule 1A to FA 2005 (meaning of “disabled person”) is amended as follows.

(2) In paragraph 1—

- (a) for paragraph (c) substitute—
  - “(c) a person in receipt of a disability living allowance by virtue of entitlement to—
    - (i) the care component at the highest or middle rate, or
    - (ii) the mobility component at the higher rate,”, and”
- (b) in paragraph (d), omit “by virtue of entitlement to the daily living component”.

(3) In paragraph 3, after “rate” insert “ , or to the mobility component at the higher rate, ”.

(4) In paragraph 4, omit “by virtue of entitlement to the daily living component”.

(5) The amendments made by this section have effect—

- (a) for the purposes of sections 89, 89A and 89B of IHTA 1984, in relation to property transferred into settlement on or after 6 April 2014, and
- (b) for all other purposes, for the tax year 2014-15 and subsequent tax years.

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### *International matters*

## 292 Amounts allowed by way of double taxation relief

- (1) TIOPA 2010 is amended as follows.
- (2) For section 34(1)(b) (reduction in credit: payment by reference to foreign tax) substitute—
  - “(b) a tax authority makes a payment by reference to that tax, and that payment—
    - (i) is made to P or a person connected with P, or
    - (ii) is made to some other person directly or indirectly in consequence of a scheme that has been entered into.”
- (3) In section 34, after subsection (3) insert—
  - “(4) In subsection (1)(b)(ii) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.”
- (4) For section 112(3)(b) (deduction from income for foreign tax (instead of credit against UK tax)) substitute—
  - “(b) a tax authority makes a payment by reference to that tax, and that payment—
    - (i) is made to P or a person connected with P, or
    - (ii) is made to some other person directly or indirectly in consequence of a scheme that has been entered into.”
- (5) In section 112, after subsection (7) insert—
  - “(8) In subsection (3)(b)(ii) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.”
- (6) In section 42(4) (provisions relating to the limit imposed by section 42(2) on credit against corporation tax) for the “and” after “(as defined in section 44),” substitute—
 

“ section 49B, which requires subsection (2) to be applied separately to certain non-trading credits, and ”.
- (7) After section 49A insert—

### **“49B Applying section 42(2) to non-trading credits from loan relationships etc**

- (1) Subsection (2) applies for the purposes of section 42(2) if—
  - (a) the company has a non-trading credit relating to an item, and
  - (b) there is in respect of that item an amount of foreign tax for which, under the arrangements, credit is allowable against United Kingdom tax.
- (2) Credit for the foreign tax in respect of that item must not exceed—

$$R \times (\text{NTC} - D)$$

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where—

R has the same meaning as in section 42(2),

NTC is the amount of the non-trading credit, and

D is the amount given by subsection (3).

(3) D in the formula in subsection (2) is calculated as follows—

*Step 1* Calculate the total amount (“TNTD”) of the non-trading debits which are to be brought into account by the company—

- (a) in the same accounting period, and
- (b) in respect of the same loan relationship, derivative contract or intangible fixed asset,

as the non-trading credit.

*Step 2* Calculate the total (“A”) of the amounts which, as amount D, have already been deducted under subsection (2) from other non-trading credits which are to be brought into account in the same period and in respect of the same relationship, contract or asset.

*Step 3* Calculate the amount given by—

$$\text{TNTD} - A$$

*Step 4* If the amount calculated at step 3 is greater than or equal to NTC, then D equals NTC. Otherwise, D is the amount calculated at step 3.

(4) In this section—

“intangible fixed asset” has the same meaning as in Part 8 of CTA 2009,

“non-trading credit” means—

- (a) a non-trading credit for the purposes of Part 5 of CTA 2009 (which is about loan relationships but also has application in relation to deemed loan relationships and derivative contracts), or
- (b) a non-trading credit for the purposes of Part 8 of CTA 2009 (intangible fixed assets), and

“non-trading debit” means—

- (a) a non-trading debit for the purposes of Part 5 of CTA 2009, or
- (b) a non-trading debit for the purposes of Part 8 of CTA 2009.”

(8) The amendments made by subsections (2), (3), (4) and (5) have effect in relation to payments made by a tax authority on or after 5 December 2013.

(9) The amendments made by subsections (6) and (7) have effect in relation to accounting periods beginning on or after 5 December 2013.

(10) For the purposes of subsection (9), an accounting period beginning before, and ending on or after, 5 December 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 accounting periods.

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## 293 Controlled foreign companies: qualifying loan relationships (1)

- (1) In Chapter 9 of Part 9A of TIOPA 2010 (controlled foreign companies: qualifying loan relationships) in section 371IH (exclusions from definition of “qualifying loan relationship”) after subsection (9) insert—

“(9A) Subsection (9B) applies to a creditor relationship of a CFC if—

- (a) a creditor relationship (“the UK creditor relationship”) of a UK connected company is made where the debtor is a non-UK resident company connected with the UK connected company,
- (b) subsequently, an arrangement (“the relevant arrangement”) is made directly or indirectly in connection with the UK creditor relationship, and
- (c) the main purpose, or one of the main purposes, of the relevant arrangement is to secure that—
  - (i) the relevant UK credits of a UK connected company for a corporation tax accounting period of the company are lower than they would be if the relevant arrangement had not been made, or
  - (ii) the relevant UK debits of a UK connected company for a corporation tax accounting period of the company are greater than they would be if the relevant arrangement had not been made.

(9B) The CFC's creditor relationship cannot be a qualifying loan relationship if it is, or is connected (directly or indirectly) to, the relevant arrangement.

(9C) Subsection (9D) applies for the purposes of subsection (9A)(c)(i) and (ii) in determining what the relevant UK credits or debits of a UK connected company for a corporation tax accounting period would be if the relevant arrangement had not been made.

(9D) Assume that, at all times after the relevant time, the UK creditor relationship remains in place on the same terms as it had at the relevant time.

(9E) In subsections (9A) to (9D)—

“corporation tax accounting period” means an accounting period for corporation tax purposes,

“the relevant time” means the time immediately before—

- (a) the time when the relevant arrangement is made, or
- (b) if earlier, the time when the UK creditor relationship ends,

“relevant UK credits”, in relation to a UK connected company, means credits which the company has under Part 5 or 7 of CTA 2009,

“relevant UK debits”, in relation to a UK connected company, means debits which the company has under Part 5 or 7 of CTA 2009, and

“UK connected company” means a UK resident company which—

- (a) is connected with the CFC, or
- (b) was connected with a company with which the CFC is connected.”

- (2) The amendment made by this section has effect for cases in which the relevant arrangement is made on or after 5 December 2013.



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## **294 Controlled foreign companies: qualifying loan relationships (2)**

- (1) In Chapter 9 of Part 9A of TIOPA 2010 (controlled foreign companies: qualifying loan relationships) in section 371IH (exclusions from definition of “qualifying loan relationship”) in subsection (10)(c) for “wholly or mainly used” substitute “ used to any extent (other than a negligible one) ”.
- (2) The amendment made by this section has effect for accounting periods of CFCs beginning on or after 5 December 2013.
- (3) The following subsections apply in relation to a qualifying loan relationship of a CFC if—
  - (a) profits of the qualifying loan relationship (“the relevant profits”) would, apart from those subsections, be included in the CFC's qualifying loan relationship profits for an accounting period of the CFC (“the straddling period”) which begins before 5 December 2013 but ends on or after that date, and
  - (b) the creditor relationship in question would not be a qualifying loan relationship for the straddling period were the amendment made by this section to have effect for accounting periods of CFCs beginning before 5 December 2013.
- (4) Apportion the relevant profits between the part of the straddling period falling before 5 December 2013 and the part falling on or after that date—
  - (a) in accordance with section 1172 of CTA 2010 (time basis), or
  - (b) if that method produces a result that is unjust or unreasonable, on a just and reasonable basis.
- (5) The relevant profits are to be excluded from the CFC's qualifying loan relationship profits for the straddling period so far as they are apportioned to the part of the straddling period falling on or after 5 December 2013.

### *Financial sector regulation*

## **295 Tax consequences of financial sector regulation**

- (1) Section 221 of FA 2012 (tax consequences of financial sector regulation) is amended as follows.
- (2) In subsection (1) after “imposed” insert “ , or which appears to the Treasury likely to be imposed, ”.
- (3) After subsection (4) insert—

“(4A) Where regulations under this section make provision about the tax consequences of any regulatory requirement which appears to the Treasury likely to be imposed by any EU legislation or enactment—

  - (a) the regulations may be made (and, accordingly, may have effect) before the proposed legislation or enactment is adopted, passed or made, and
  - (b) failure after the regulations are made to adopt, pass or make the proposed legislation or enactment does not affect the validity of the regulations.”

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## Scotland

### 296 Scottish basic, higher and additional rates of income tax

Schedule 38 contains provision about the Scottish basic, higher and additional rates of income tax.

### 297 Report on administration of the Scottish rate of income tax

(1) In Chapter 2 of Part 4A of the Scotland Act 1998, after section 80H insert—

#### “80HA Report by the Comptroller and Auditor General

- (1) The Comptroller and Auditor General must for each financial year prepare a report on the matters set out in subsection (2).
- (2) Those matters are—
  - (a) the adequacy of any of HMRC's rules and procedures put in place, in consequence of the Scottish rate provisions, for the purpose of ensuring the proper assessment and collection of income tax charged at rates determined under those provisions,
  - (b) whether the rules and procedures described in paragraph (a) are being complied with,
  - (c) the correctness of the sums brought to account by HMRC which relate to income tax which is attributable to a Scottish rate resolution, and
  - (d) the accuracy and fairness of the amounts which are reimbursed to HMRC under section 80H (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in paragraph (a)).
- (3) The “Scottish rate provisions” are—
  - (a) any provision made by or under this Chapter, and
  - (b) any provision made by or under the Income Tax Acts relating to the Scottish basic rate, the Scottish higher rate or the Scottish additional rate.
- (4) A report under this section may also include an assessment of the economy, efficiency and effectiveness with which HMRC has used its resources in carrying out relevant functions.
- (5) “Relevant functions” are functions of HMRC in the performance of which HMRC incurs administrative expenses which are reimbursed to HMRC under section 80H (having been identified by it as administrative expenses incurred as a result of the charging of income tax as mentioned in subsection (2)(a)).
- (6) HMRC must give the Comptroller and Auditor General such information as the Comptroller and Auditor General may reasonably require for the purposes of preparing a report under this section.
- (7) A report prepared under this section must be laid before the Scottish Parliament not later than 31 January of the financial year following that to which the report relates.
- (8) In this section “HMRC” means Her Majesty's Revenue and Customs.”

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- (2) The amendment made by this section has effect in relation to the financial year ending on 31 March 2015 and subsequent financial years.

*Co-operative societies etc*

**298 Co-operative societies etc**

Schedule 39 makes provision about the tax treatment of co-operative, community benefit and industrial and provident societies and credit unions.

*Limitation periods*

**299 Removal of limitation period restriction for EU cases**

- (1) In section 107 of FA 2007 (limitation period in old actions for mistake of law relating to direct tax), after subsection (5) insert—
- “(5A) Subsection (1) also does not have effect in relation to an action, or so much of an action as relates to a cause of action, if the consequences of a mistake of law to which the action, or cause of action, relates is the charging of tax contrary to EU law.”
- (2) The amendment made by this section has effect in relation to actions brought, and causes of action arising, before, on or after the day on which this Act is passed.

*Local loans*

**300 Increase in limit for local loans**

- (1) In section 4(1) of the National Loans Act 1968 (local loans granted by the Public Works Loan Commissioners)—
- (a) for “£55,000 million” substitute “£85 billion”, and
- (b) for “£70,000 million” substitute “£95 billion”.
- (2) The Local Loans (Increase of Limit) Order 2008 (S.I. 2008/3004) is revoked.
- (3) This section comes into force on such day as the Treasury may by order made by statutory instrument appoint.

**Commencement Information**

**I5** [S. 300](#) in force at 1.12.2017 by [S.I. 2017/1183](#), [art. 2](#)

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## PART 7

### FINAL PROVISIONS

#### 301 Power to update indexes of defined terms

- (1) The Treasury may by order amend any index of defined expressions contained in an Act relating to taxation, so as to make amendments consequential on any enactment.
- (2) In this section—
  - “enactment” means any provision made by or under an Act (whether before or after the passing of this Act);
  - “index of defined expressions” means a provision contained in an Act relating to taxation which lists where expressions used in the Act, or in a particular part of the Act, are defined or otherwise explained.
- (3) The power to make an order under this section is exercisable by statutory instrument.
- (4) An order under this section is subject to annulment in pursuance of a resolution of the House of Commons.

#### 302 Interpretation

- (1) In this Act—
  - “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,
  - “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, and
  - “F(No.2)A”, followed by a year, means the Finance (No. 2) Act of that year.

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### **303 Short title**

This Act may be cited as the Finance Act 2014.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 212(2)(b) words inserted by [2021 c. 26 Sch. 27 para. 43\(a\)](#)
- s. 212(4)(d) word omitted by [2021 c. 26 Sch. 27 para. 43\(b\)\(i\)](#)
- s. 212(5)(a)(ii) word omitted by [2021 c. 26 Sch. 27 para. 43\(c\)\(i\)](#)
- s. 212(5)(b)(ii) word omitted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iii\)](#)
- s. 212(5)(d) words substituted by [2021 c. 26 Sch. 27 para. 43\(c\)\(vi\)](#)
- s. 253(6)(c) words inserted by [2017 c. 32 Sch. 14 para. 44](#)
- Sch. 31 para. 2(4) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(b\)](#)
- Sch. 31 para. 3(1) words inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(a\)](#)
- Sch. 31 para. 3(2) words inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(c\)](#)
- Sch. 31 para. 3(4)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(d\)\(i\)](#)
- Sch. 31 para. 3(4)(b) words inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(d\)\(ii\)](#)
- Sch. 32 para. 1(3) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(b\)](#)
- Sch. 32 para. 2(2) words inserted by [2017 c. 32 Sch. 14 para. 46\(3\)](#)
- Sch. 32 para. 3(5)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(4\)](#)
- Sch. 38 para. 2(b) omitted by [2016 c. 11 s. 15\(6\)\(a\)](#)
- Sch. 38 para. 3 omitted by [2016 c. 11 s. 15\(6\)\(b\)](#)
- Sch. 38 para. 6(a)-(c)(e) omitted by [2016 c. 11 s. 15\(6\)\(c\)](#)
- Sch. 38 para. 7 omitted by [2016 c. 11 s. 15\(6\)\(d\)](#)
- Sch. 38 para. 15(2)(3) omitted by [2016 c. 11 s. 15\(6\)\(e\)](#)
- Sch. 38 para. 16(2)(8) omitted by [2016 c. 11 s. 15\(6\)\(f\)](#)
- Sch. 38 para. 16(2) omitted by [2016 c. 11 s. 15\(6\)\(f\)](#)
- Sch. 38 para. 16(8) omitted by [2016 c. 11 s. 15\(6\)\(f\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

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

- s. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)