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**Changes to legislation:** There are currently no known outstanding effects for the National Insurance Contributions Act 2014, SCHEDULE 1. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 1

Section 3

#### EMPLOYMENT ALLOWANCE: RULES FOR DETERMINING IF PERSONS ARE “CONNECTED”

#### PART 1

#### COMPANIES

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

- C1** Sch. 1 Pt. 1 applied (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 101\(17\)](#)
- C2** Sch. 1 Pt. 1 applied (N.I.) (26.5.2020) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Northern Ireland\) Regulations 2020 \(S.I. 2020/513\), regs. 1, 4\(4\)\(a\)](#)
- C3** Sch. 1 Pt. 1 applied (E.W.S.) (26.5.2020) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) Regulations 2020 \(S.I. 2020/512\), regs. 1, 4\(4\)\(a\)](#)

#### *Application*

- 1 This Part applies for the purposes of section 3(1).

#### *The basic rule*

- 2 (1) Two companies are “connected” with one another if—
- (a) one of the two has control of the other, or
  - (b) both are under the control of the same person or persons.
- (2) In sub-paragraph (1) “control” has the same meaning as in Part 10 of CTA 2010 (see sections 450 and 451 of that Act) (and a limited liability partnership is to be treated as a company for the purposes of that Part as applied by this sub-paragraph).
- (3) For this purpose, where under section 450 of that Act “C” is a limited liability partnership, subsection (3) of that section has effect as if before paragraph (a) there were inserted—
- “(za) rights to a share of more than half the assets, or of more than half the income, of C.”.
- (4) Sub-paragraphs (1) to (3) are subject to paragraphs 3 to 6.
- (5) Paragraph 7 provides for further connections.
- (6) In this Part “CTA 2010” means the Corporation Tax Act 2010.

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*Companies whose relationship is not one of substantial commercial interdependence*

- 3 (1) This paragraph applies for the purpose of determining under paragraph 2(1) if two companies are connected with one another if the relationship between the companies is not one of substantial commercial interdependence.
- (2) In the application of section 451 of CTA 2010 for the purposes of the determination, any person to whom rights and duties fall to be attributed under subsections (4) and (5) of that section is to be treated, for the purposes of those subsections, as having no associates.
- (3) In determining for the purposes of sub-paragraph (1) if two companies have a relationship of “substantial commercial interdependence”, the following factors are to be taken into account—
- (a) the degree to which the companies are financially interdependent (see sub-paragraph (4)),
  - (b) the degree to which the companies are economically interdependent (see sub-paragraph (5)), and
  - (c) the degree to which the companies are organisationally interdependent (see sub-paragraph (6)).
- (4) Two companies are “financially interdependent” if (in particular)—
- (a) one gives financial support (directly or indirectly) to the other, or
  - (b) each has (directly or indirectly) a financial interest in the other's activities.
- (5) Two companies are “economically interdependent” if (in particular)—
- (a) they seek to realise the same economic objective,
  - (b) the activities of one benefit the other, or
  - (c) their activities involve common customers.
- (6) Two companies are “organisationally interdependent” if (in particular) they have—
- (a) common management,
  - (b) common employees,
  - (c) common premises, or
  - (d) common equipment.

*Fixed-rate preference shares*

- 4 (1) In determining for the purposes of paragraph 2(1) if a company is under the control of another, fixed-rate preference shares held by a company are ignored if the company holding them—
- (a) is not a close company,
  - (b) takes no part in the management or conduct of the company which issued the shares, or in the management or conduct of its business, and
  - (c) subscribed for the shares in the ordinary course of a business which includes the provision of finance.
- (2) In sub-paragraph (1) “fixed-rate preference shares” means shares which—
- (a) were issued wholly for new consideration,
  - (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities, and

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- (c) do not carry any right to dividends other than dividends which—
  - (i) are of a fixed amount or at a fixed rate per cent of the nominal value of the shares, and
  - (ii) together with any sum paid on redemption, represent no more than a reasonable commercial return on the consideration for which the shares were issued.
- (3) In sub-paragraph (2)(a) “new consideration” has the meaning given by section 1115 of CTA 2010.
- (4) In sub-paragraph (1)(a) “close company” is to be read in accordance with Chapter 2 of Part 10 of CTA 2010 (see, in particular, section 439 of that Act).

*Connection through a loan creditor*

- 5
- (1) A company (“A”) is not under the control of another company (“B”) for the purposes of paragraph 2(1) if—
    - (a) B is a loan creditor of A,
    - (b) there is no other connection between A and B, and
    - (c) either—
      - (i) B is not a close company, or
      - (ii) B's relationship to A as a loan creditor arose in the ordinary course of a business which B carries on.
  - (2) Sub-paragraph (3) applies if—
    - (a) two companies (“A” and “B”) are under the control of the same person who is a loan creditor of each of them,
    - (b) there is no other connection between A and B, and
    - (c) either—
      - (i) the loan creditor is a company which is not a close company, or
      - (ii) the loan creditor's relationship to each of A and B as a loan creditor arose in the ordinary course of a business which the loan creditor carries on.
  - (3) In determining under paragraph 2(1) if A and B are connected with one another, rights which the loan creditor has as a loan creditor of A, or as a loan creditor of B, are ignored.
  - (4) In sub-paragraph (2)(a) “control” has the same meaning as in paragraph 2(1).
  - (5) In this paragraph—
    - (a) “close company” is to be read in accordance with Chapter 2 of Part 10 of CTA 2010 (see, in particular, section 439 of that Act),
    - (b) “connection” includes a connection in the past as well as a connection in the present and references to a connection between two companies include any dealings between them, and
    - (c) references to a loan creditor of a company are to be read in accordance with section 453 of CTA 2010.

*Connection through a trustee*

- 6
- (1) Sub-paragraph (2) applies if—

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- (a) two companies (“A” and “B”) are under the control of the same person by virtue of rights or powers (or both) held in trust by that person, and
  - (b) there is no other connection between A and B.
- (2) In determining under paragraph 2(1) if A and B are connected with one another, the rights and powers mentioned in sub-paragraph (1)(a) are ignored.
- (3) In sub-paragraph (1)—
- (a) “control” has the same meaning as in paragraph 2(1), and
  - (b) “connection” includes a connection in the past as well as a connection in the present and the reference to a connection between A and B includes any dealings between them.

#### *Further connections*

- 7 (1) This paragraph applies if—
- (a) a company (“A”) is connected with another company (“B”), and
  - (b) B is connected with another company (“C”).
- (2) A and C are also connected with one another (if that would not otherwise be the case).
- (3) In sub-paragraph (1)(a) the reference to a company being connected with another company is to that company being so connected by virtue of paragraphs 2 to 6 or this paragraph, and in sub-paragraph (1)(b) the reference to a company being connected with another company is to that company being so connected by virtue of paragraphs 2 to 6.

## PART 2

### CHARITIES

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

- C4** Sch. 1 Pt. 2 applied (E.W.S.) (26.5.2020) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) Regulations 2020 \(S.I. 2020/512\)](#), regs. 1, **4(4)(b)**
- C5** Sch. 1 Pt. 2 applied (N.I.) (26.5.2020) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Northern Ireland\) Regulations 2020 \(S.I. 2020/513\)](#), regs. 1, **4(4)(b)**

- 8 (1) Two charities are connected with one another for the purposes of section 3(2) if—
- (a) they are connected with one another in accordance with section 993 of the Income Tax Act 2007 (meaning of “connected” persons), and
  - (b) their purposes and activities are the same or substantially similar.
- (2) In the application of section 993 of the Income Tax Act 2007 for the purposes of sub-paragraph (1)(a)—
- (a) a charity which is a trust is to be treated as if it were a company (and accordingly a person), including in this sub-paragraph;
  - (b) a charity which is a trust has “control” of another person if the trustees (in their capacity as trustees of the charity) have, or any of them has, control of the person;

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- (c) a person (other than a charity regulator) has “control” of a charity which is a trust if—
  - (i) the person is a trustee of the charity and some or all of the powers of the trustees of the charity could be exercised by the person acting alone or by the person acting together with any other persons who are trustees of the charity and who are connected with the person,
  - (ii) the person, alone or together with other persons, has power to appoint or remove a trustee of the charity, or
  - (iii) the person, alone or together with other persons, has any power of approval or direction in relation to the carrying out by the trustees of any of their functions.
- (3) A charity which is a trust is also connected with another charity which is a trust for the purposes of section 3(2) if at least half of the trustees of one of the charities are—
  - (a) trustees of the other charity,
  - (b) persons who are connected with persons who are trustees of the other charity, or
  - (c) a combination of both,and the charities' purposes and activities are the same or substantially similar.
- (4) In determining if a person is connected with another person for the purposes of sub-paragraph (2)(c)(i) or (3)(b), apply section 993 of the Income Tax Act 2007 with the omission of subsection (3) of that section (and without the modifications in sub-paragraph (2)).
- (5) If a charity (“A”) controls a company (“B”) which, apart from this sub-paragraph, would not be a charity—
  - (a) B is to be treated as if it were a charity for the purposes of section 3 and this Part (including this sub-paragraph), and
  - (b) A and B are connected with one another for the purposes of section 3(2).
- (6) In sub-paragraph (5) “control” is to be read in accordance with—
  - (a) paragraph 2(2) and (3) (but ignoring paragraphs 3 to 6), and
  - (b) sub-paragraph (2)(b) of this paragraph.
- 9 (1) This paragraph applies if—
  - (a) a charity (“A”) is connected with another charity (“B”) for the purposes of section 3(2), and
  - (b) B is connected with another charity (“C”) for the purposes of section 3(2).
- (2) A and C are also connected with one another for the purposes of section 3(2) (if that would not otherwise be the case).
- (3) In sub-paragraph (1)(a) the reference to a charity being connected with another charity for the purposes of section 3(2) is to that charity being so connected by virtue of paragraph 8 or this paragraph, and in sub-paragraph (1)(b) the reference to a charity being connected with another charity for the purposes of section 3(2) is to that charity being so connected by virtue of paragraph 8.

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