



Finance Act 2015

2015 CHAPTER 11

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

CHARGE, RATES ETC

Income tax

1 Charge and rates for 2015-16

- (1) Income tax is charged for the year 2015-16.
- (2) For that tax year—
 - (a) the basic rate is 20%,
 - (b) the higher rate is 40%, and
 - (c) the additional rate is 45%.

2 Limits and allowances for 2015-16

- (1) For the tax year 2015-16—
 - (a) the amount specified in section 37(2) of ITA 2007 (income limit for personal allowance for those born before 6 April 1938) is replaced with “ £27,700 ”,
 - (b) the amount specified in section 38(1) of that Act (blind person's allowance) is replaced with “ £2,290 ”,
 - (c) the amount specified in section 43 of that Act (“minimum amount” for calculating tax reductions for married couples and civil partners) is replaced with “ £3,220 ”,

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- (d) the amount specified in section 45(3)(a) of that Act (amount for calculating allowance in relation to marriages before 5 December 2005 where spouse is 75 over) is replaced with “ £8,355 ”,
 - (e) the amount specified in section 45(4) of that Act (income limit for calculating allowance in relation to marriages before 5 December 2005) is replaced with “ £27,700 ”,
 - (f) the amount specified in section 46(3)(a) of that Act (amount for calculating allowance in relation to marriages and civil partnerships on or after 5 December 2005 where spouse or civil partner is 75 or over) is replaced with “ £8,355 ”, and
 - (g) the amount specified in section 46(4) of that Act (income limit for calculating allowance in relation to marriages and civil partnerships on or after 5 December 2005) is replaced with “ £27,700 ”.
- (2) Accordingly, for that tax year, section 57 of that Act (indexation of allowances), so far as relating to the amounts specified in sections 37(2), 38(1), 43, 45(3)(a), 45(4), 46(3)(a) and 46(4) of that Act, does not apply.

3 Personal allowances for 2015-16

- (1) Section 2 of FA 2014 (basic rate limit for 2015-16 and personal allowances from 2015) is amended as set out in subsections (2) and (3).
- (2) In subsection (1)(b) (amount specified for 2015-16 in section 35(1) of ITA 2007 (personal allowance for those born after 5 April 1938)), for “ £10,500 ” substitute “ £10,600 ”.
- (3) In subsection (8) (amendments of section 57 of ITA 2007), omit the “and” at the end of paragraph (a) and after that paragraph insert—
 “(aa) in subsection (1)(h), omit “36(2),” and”.
- (4) In section 55B(4)(a) of ITA 2007 (transferable tax allowance for married couples and civil partners: entitlement to tax reduction), for “£1,050” substitute “ £1,060 ”.
- (5) The amendments made by subsections (3) and (4) have effect for the tax year 2015-16 and subsequent tax years.

4 Basic rate limit from 2016

- (1) The amount specified in section 10(5) of ITA 2007 (basic rate limit) is replaced—
 - (a) for the tax year 2016-17, with [^{F1}“£32,000”], and
 - (b) for the tax year 2017-18, with [^{F2}“£33,500”].
- (2) Accordingly, for those tax years section 21 of that Act (indexation of limits), so far as relating to the basic rate limit, does not apply.

Textual Amendments

- F1** Word in s. 4(1)(a) substituted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 6\(a\)](#)
F2 Word in s. 4(1)(b) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 2\(1\)](#)

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5 Personal allowance from 2016

- (1) The amount specified in section 35(1) of ITA 2007 (personal allowance for those born after 5 April 1938) is replaced—
 - (a) for the tax year 2016-17, with [^{F3}“£11,000”], and
 - (b) for the tax year 2017-18, with [^{F4}“£11,500”].
- (2) Accordingly, for those tax years, 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.
- (3) In section 34(1)(a) of that Act, for “sections 35 and 37 deal” substitute “ section 35 deals ”.
- (4) In section 35 of that Act (personal allowance for those born after 5 April 1938)—
 - (a) for paragraphs (a) and (b) substitute “ meets the requirements of section 56 (residence etc). ”, and
 - (b) for the heading substitute “ Personal allowance ”.
- (5) Omit section 37 of that Act (personal allowance for those born before 6 April 1938).
- (6) In section 45(4) of that Act (marriages before 5 December 2005), for paragraphs (a) and (b) substitute “ half the excess ”.
- (7) In section 46(4) of that Act (marriages and civil partnerships on or after 5 December 2005), for paragraphs (a) and (b) substitute “ half the excess ”.
- (8) In section 55B of that Act (transferable tax allowance for married couples and civil partners: tax reduction: entitlement), in subsection (6) omit “or 37”.
- (9) In section 55C of that Act (election to reduce personal allowance), in subsections (1) (b) and (2), omit “or 37”.
- (10) In section 57 of that Act (indexation of allowances)—
 - (a) in subsection (1)(a), for the words following “35(1)” substitute “ (personal allowance) ”,
 - (b) in subsection (1)(h), omit “37(2),” , and
 - (c) in subsection (4), omit “37(2),”.
- (11) The amendments made by subsections (3) to (10) have effect for the tax year 2016-17 and subsequent tax years.

Textual Amendments

- F3** Word in s. 5(1)(a) substituted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 5\(a\)](#)
F4 Word in [s. 5\(1\)\(b\)](#) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 3\(1\)](#)

Corporation tax

6 Charge for financial year 2016

- (1) Corporation tax is charged for the financial year 2016.
- (2) For that year the main rate of corporation tax is 20%.

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CHAPTER 2

INCOME TAX: GENERAL

7 **Cars: the appropriate percentage for 2017-18**

- (1) ITEPA 2003 is amended as follows.
- (2) Section 139 (car with a CO₂ figure: the appropriate percentage) is amended as set out in subsections (3) and (4).
- (3) In subsection (2)—
 - (a) in paragraph (a), for “7%” substitute “ 9% ”,
 - (b) in paragraph (aa), for “11%” substitute “ 13% ”, and
 - (c) in paragraph (b), for “15%” substitute “ 17% ”.
- (4) In subsection (3), for “16%” substitute “ 18% ”.
- (5) In section 140(2) (car without a CO₂ figure: the appropriate percentage), in the Table—
 - (a) for “16%” substitute “ 18% ”, and
 - (b) for “27%” substitute “ 29% ”.
- (6) In section 142(2) (car first registered before 1 January 1998: the appropriate percentage), in the Table—
 - (a) for “16%” substitute “ 18% ”, and
 - (b) for “27%” substitute “ 29% ”.
- (7) The amendments made by this section have effect for the tax year 2017-18.

8 **Cars: the appropriate percentage for subsequent tax years**

- (1) ITEPA 2003 is amended as follows.
- (2) Section 139 (car with a CO₂ figure: the appropriate percentage) is amended as set out in subsections (3) and (4).
- (3) In subsection (2)—
 - (a) in paragraph (a), for “9%” substitute “ 13% ”,
 - (b) in paragraph (aa), for “13%” substitute “ 16% ”, and
 - (c) in paragraph (b), for “17%” substitute “ 19% ”.
- (4) In subsection (3), for “18%” substitute “ 20% ”.
- (5) In section 140(2) (car without a CO₂ figure: the appropriate percentage), in the Table—
 - (a) for “18%” substitute “ 20% ”, and
 - (b) for “29%” substitute “ 31% ”.
- (6) In section 142(2) (car first registered before 1 January 1998: the appropriate percentage), in the Table—
 - (a) for “18%” substitute “ 20% ”, and
 - (b) for “29%” substitute “ 31% ”.
- (7) The amendments made by this section have effect for the tax year 2018-19 and subsequent tax years.

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9 Diesel cars: the appropriate percentage for 2015-16

- (1) In section 141(2) of ITEPA 2003 (diesel cars: the appropriate percentage), in Step 3, for “35%” substitute “ 37% ”.
- (2) The amendment made by this section has effect for the tax year 2015-16.

10 Zero-emission vans

- (1) ITEPA 2003 is amended as follows.
- (2) In section 155 (cash equivalent of the benefit of a van), for subsections (1) and (2) substitute—
 - “(1) The cash equivalent of the benefit of a van for a tax year is calculated as follows.
 - (1A) If the restricted private use condition is met in relation to the van for the tax year, the cash equivalent is nil.
 - (1B) If that condition is not met in relation to the van for the tax year—
 - (a) if the van cannot in any circumstances emit CO₂ by being driven and the tax year is any of the tax years 2015-16 to 2019-20, the cash equivalent is the appropriate percentage of £3,150, and
 - (b) in any other case, the cash equivalent is £3,150.
 - (1C) The appropriate percentage for the purposes of subsection (1B)(a) is—
 - (a) 20% for the tax year 2015-16,
 - (b) 40% for the tax year 2016-17,
 - (c) 60% for the tax year 2017-18,
 - (d) 80% for the tax year 2018-19, and
 - (e) 90% for the tax year 2019-20.”
 - (3) In section 156(1) (reduction for periods when van unavailable), for “155(1)” substitute “ 155 ”.
 - (4) In section 158(1) (reduction for payments for private use), for “155(1)” substitute “ 155 ”.
 - (5) In section 160(1)(c) (benefit of fuel treated as earnings), for “section 155(1)(b)” substitute “ section 155(1B)(b) ”.
 - (6) In section 170 (orders etc relating to Chapter 6 of Part 3), for subsection (1A) substitute—
 - “(1A) The Treasury may by order substitute a different amount for the amount for the time being specified in—
 - (a) section 155(1A) (cash equivalent where van subject only to restricted private use by employee),
 - (b) section 155(1B)(a) (cash equivalent for zero-emission van), and
 - (c) section 155(1B)(b) (cash equivalent in other cases).”
 - (7) Article 3 of the Van Benefit and Car and Van Fuel Benefit Order 2014 (S.I. 2014/2896) is revoked.

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

11 Exemption for amounts which would otherwise be deductible

- (1) In Part 4 of ITEPA 2003 (employment income: exemptions) after Chapter 7 insert—

“CHAPTER 7A

EXEMPTIONS: AMOUNTS WHICH WOULD OTHERWISE BE DEDUCTIBLE

289A Exemption for paid or reimbursed expenses

- (1) No liability to income tax arises by virtue of Chapter 3 of Part 3 (taxable benefits: expenses payments) in respect of an amount (“amount A”) paid or reimbursed by a person to an employee (whether or not an employee of the person) in respect of expenses if—
- (a) an amount equal to or exceeding amount A would (ignoring this section) be allowed as a deduction from the employee's earnings under Chapter 2 or 5 of Part 5 in respect of the expenses, and
 - (b) the payment or reimbursement is not provided pursuant to relevant salary sacrifice arrangements.
- (2) No liability to income tax arises in respect of an amount paid or reimbursed by a person (“the payer”) to an employee (whether or not an employee of the payer) in respect of expenses if—
- (a) the amount has been calculated and paid or reimbursed in an approved way (see subsection (6)),
 - (b) the payment or reimbursement is not provided pursuant to relevant salary sacrifice arrangements, and
 - (c) conditions A and B are met.
- (3) Condition A is that the payer or another person operates a system for checking—
- (a) that the employee is, or employees are, in fact incurring and paying amounts in respect of expenses of the same kind, and
 - (b) that a deduction would (ignoring this section) be allowed under Chapter 2 or 5 of Part 5 in respect of those amounts.
- (4) Condition B is that neither the payer nor any other person operating the system knows or suspects, or could reasonably be expected to know or suspect—
- (a) that the employee has not incurred and paid an amount in respect of the expenses, or
 - (b) that a deduction from the employee's earnings would not be allowed under Chapter 2 or 5 of Part 5 in respect of the amount.
- (5) “Relevant salary sacrifice arrangements”, in relation to an employee to whom an amount is paid or reimbursed in respect of expenses, means arrangements (whenever made, whether before or after the employment began) under which—

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- (a) the employee gives up the right to receive an amount of general earnings or specific employment income in return for the payment or reimbursement, or
 - (b) the amount of other general earnings or specific employment income received by the employee depends on the amount of the payment or reimbursement.
- (6) For the purposes of this section, a sum is calculated and paid or reimbursed in an approved way if—
- (a) it is calculated and paid or reimbursed in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, or
 - (b) it is calculated and paid or reimbursed in accordance with an approval given under section 289B.
- (7) Regulations made under subsection (6)(a) may make different provision for different purposes.

289B Approval to pay or reimburse expenses at a flat rate

- (1) A person (“the applicant”) may apply to Her Majesty's Revenue and Customs for approval to pay or reimburse expenses of the applicant's employees, or employees of another person, at a rate set out in the application (“the proposed rate”).
- (2) An officer of Revenue and Customs may give the approval if satisfied that any calculation of a payment or reimbursement of expenses in accordance with the proposed rate, or such other rate as is agreed between the applicant and the officer, would be a reasonable estimate of the amount of expenses actually incurred.
- (3) An approval under subsection (2) takes effect in accordance with a notice (an “approval notice”) given to the applicant by an officer of Revenue and Customs.
- (4) An approval notice must specify—
 - (a) the rate at which expenses may be paid or reimbursed,
 - (b) the day from which the approval takes effect, that day not being earlier than the day on which the approval notice is given,
 - (c) the day on which the approval ceases to have effect, that day not being later than the end of the period of 5 years beginning with the day on which the approval takes effect, and
 - (d) the type of expenses to which the approval relates.
- (5) An approval notice may specify that the approval is subject to conditions specified or described in the notice.
- (6) An application for an approval under this section must be in such form and manner, and contain such information, as is specified by Her Majesty's Revenue and Customs.

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289C Revocation of approvals

- (1) An officer of Revenue and Customs may, if in the officer's opinion there is reason to do so, revoke an approval given under section 289B by giving a further notice (a “revocation notice”) to either or both of the following—
 - (a) the person who applied for the approval, and
 - (b) the person who is paying or reimbursing expenses in accordance with the approval.
- (2) A revocation notice may revoke the approval from—
 - (a) the day on which the approval took effect, or
 - (b) a later day specified in the notice.
- (3) A revocation under subsection (1) may be in relation to all expenses or expenses of a description specified in the revocation notice.
- (4) If the revocation notice revokes the approval from the day on which the approval took effect—
 - (a) any liability to tax that would have arisen in respect of the payment or reimbursement of expenses if the approval had never been given in relation to such expenses is to be treated as having arisen, and
 - (b) any person who has made, and any employee who has received, a payment or reimbursement of expenses calculated in accordance with the approval must make all the returns which they would have had to make if the approval had never been given in relation to such expenses.
- (5) If the revocation notice revokes the approval from a later day—
 - (a) any liability to tax that would have arisen in respect of the payment or reimbursement of expenses if the approval had ceased to have effect on that day in relation to such expenses is to be treated as having arisen, and
 - (b) any person who has made, and any employee who has received, a payment or reimbursement of expenses calculated in accordance with the approval must make all the returns which they would have had to make if the approval had ceased to have effect in relation to such expenses on that day.

289D Exemption for other benefits

- (1) No liability to income tax arises by virtue of any provision of the benefits code in respect of an amount (“amount A”) treated as earnings of an employee as a result of the provision of a benefit if—
 - (a) an amount equal to amount A would (ignoring this section) be allowed as a deduction from the employee's earnings under Chapter 3 of Part 5 in respect of the provision of the benefit, and
 - (b) the benefit is not provided pursuant to relevant salary sacrifice arrangements.

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- (2) “Relevant salary sacrifice arrangements”, in relation to an employee to whom a benefit is provided, means arrangements (whenever made, whether before or after the employment began) under which—
- (a) the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of the benefit, or
 - (b) the amount of other general earnings or specific employment income received by the employee depends on the provision of the benefit.

289E Anti-avoidance

- (1) This section applies if conditions A to C are met.
 - (2) Condition A is that, pursuant to arrangements, an amount—
 - (a) is paid or reimbursed to an employee in respect of expenses, or
 - (b) is treated as earnings of an employee as a result of the provision of a benefit,
 which, in the absence of this section, would have been exempt from income tax.
 - (3) Condition B is that, in the absence of those arrangements, the employee would have received a greater amount of general earnings or specific employment income in respect of which—
 - (a) tax would have been chargeable, or
 - (b) national insurance contributions would have been payable (whether by the employee or another person).
 - (4) Condition C is that the main purpose, or one of the main purposes, of the arrangements is the avoidance of tax or national insurance contributions.
 - (5) If this section applies—
 - (a) the exemption conferred by section 289A does not apply in respect of the amount paid or reimbursed as mentioned in subsection (2)(a), and
 - (b) the exemption conferred by section 289D does not apply in respect of the amount treated as earnings as mentioned in subsection (2)(b).
 - (6) In this section “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable.”
- (2) The amendment made by this section has effect for the tax year 2016-17 and subsequent tax years.

12 Abolition of dispensation regime

- (1) ITEPA 2003 is amended as follows.
- (2) Omit section 65 (dispensations relating to benefits for certain employees).
- (3) Omit section 96 (dispensations relating to vouchers or credit-tokens).
- (4) Accordingly—
 - (a) in section 95 (disregard for money, services or goods obtained), omit subsection (1)(b) and the “or” before it, and

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- (b) in Schedule 7 (transitionals and savings), omit paragraphs 15, 16, 19 and 20 and the italic headings before paragraphs 15 and 19.
- (5) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.
- (6) The repeal of sections 65 and 96 of ITEPA 2003 does not affect the power of an officer of Revenue and Customs to revoke a pre-commencement dispensation from a date earlier than 6 April 2016.
- (7) Accordingly, sections 65(6) to (9) and 96(5) to (8) of ITEPA 2003 continue to have effect in relation to a pre-commencement dispensation.
- (8) In this section “pre-commencement dispensation” means a dispensation given (or treated as given) under section 65 or 96 of ITEPA 2003 which is in force immediately before 6 April 2016.

13 Extension of benefits code except in relation to certain ministers of religion

- (1) Omit Chapter 11 of Part 3 of ITEPA 2003 (taxable benefits: exclusion of lower-paid employments from parts of benefits code).
- (2) In Part 4 of that Act (employment income: exemptions), after section 290B insert—

“290C Provisions of benefits code not applicable to lower-paid ministers of religion

- (1) This section applies where a person is in employment which is lower-paid employment as a minister of religion in relation to a tax year.
- (2) No liability to income tax arises in respect of the person in relation to the tax year by virtue of any of the following Chapters of the benefits code—
 - (a) Chapter 3 (taxable benefits: expenses payments);
 - (b) Chapter 6 (taxable benefits: cars, vans and related benefits);
 - (c) Chapter 7 (taxable benefits: loans);
 - (d) Chapter 10 (taxable benefits: residual liability to charge).
- (3) Subsection (2)—
 - (a) means that in any of those Chapters a reference to an employee does not include an employee whose employment is within the exclusion in that subsection, if the context is such that the reference is to an employee in relation to whom the Chapter applies, but
 - (b) does not restrict the meaning of references to employees in other contexts.
- (4) Subsection (2) has effect subject to—
 - (a) section 188(2) (discharge of loan: where employment becomes lower-paid), and
 - (b) section 290G (employment in two or more related employments).

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290D Meaning of “lower-paid employment as a minister of religion”

- (1) For the purposes of this Part an employment is “lower-paid employment as a minister of religion” in relation to a tax year if—
- (a) the employment is direct employment as a minister of a religious denomination, and
 - (b) the earnings rate for the employment for the year (calculated under section 290E) is less than £8,500.
- (2) An employment is not “direct employment” for the purposes of subsection (1) (a) if—
- (a) it is an employment which is treated as existing under—
 - (i) section 56(2) (deemed employment of worker by intermediary), or
 - (ii) section 61G(2) (deemed employment of worker by managed service company), or
 - (b) an amount counts as employment income in respect of it by virtue of section 554Z2(1) (treatment of relevant step under Part 7A (employment income provided through third parties)).
- (3) Subsection (1) is subject to section 290G.

290E Calculation of earnings rate for a tax year

- (1) For any tax year the earnings rate for an employment is to be calculated as follows—

Step 1 Find the total of the following amounts—

- (a) the total amount of the earnings from the employment for the year within Chapter 1 of Part 3 (earnings),
- (b) the total of any amounts that are treated as earnings from the employment for the year under the benefits code (see subsections (2) and (3)), and
- (c) the total of any amounts that are treated as earnings from the employment for the year under Chapter 12 of Part 3 (other amounts treated as earnings),

excluding any exempt income, other than any attributable to section 290A or 290B (accommodation outgoings of ministers of religion).

Step 2 Add to that total any extra amount required to be added for the year by section 290F (extra amounts to be added in connection with a car).

Step 3 Subtract the total amount of any authorised deductions (see subsection (4)) from the result of step 2.

Step 4 The earnings rate for the employment for the year is given by the formula—

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$$R \times \frac{Y}{E}$$

where—

R is the result of step 3,

Y is the number of days in the year, and

E is the number of days in the year when the employment is held.

- (2) Section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion) is to be disregarded for the purpose of determining any amount under step 1.
- (3) If the benefit of living accommodation is to be taken into account under step 1, the cash equivalent is to be calculated in accordance with section 105 (even if the cost of providing the accommodation exceeds £75,000).
- (4) For the purposes of step 3 “authorised deduction” means any deduction that would (assuming it was an amount of taxable earnings) be allowed from any amount within step 1 under—
 - section 346 (employee liabilities),
 - section 370 (travel costs and expenses where duties performed abroad: employee's travel),
 - section 371 (travel costs and expenses where duties performed abroad: visiting spouse's, civil partner's or child's travel),
 - section 373 (non-domiciled employee's travel costs and expenses where duties performed in UK),
 - section 374 (non-domiciled employee's spouse's, civil partner's or child's travel costs and expenses where duties performed in UK),
 - section 376 (foreign accommodation and subsistence costs and expenses (overseas employments)),
 - section 713 (payroll giving to charities),
 - sections 188 to 194 of FA 2004 (contributions to registered pension schemes), or
 - section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions).

290F Extra amounts to be added in connection with a car

- (1) The provisions of this section apply for the purposes of section 290E in the case of a tax year in which a car is made available as mentioned in section 114(1) (cars, vans and related benefits) by reason of the employment.
- (2) Subsection (3) applies if in the tax year—
 - (a) an alternative to the benefit of the car is offered, and

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- (b) the amount that would be earnings within Chapter 1 of Part 3 if the benefit of the car were to be determined by reference to the alternative offered exceeds the benefit code earnings (see subsection (4)).
- (3) The amount of the excess is an extra amount to be added under step 2 in section 290E(1).
- (4) For the purposes of subsection (2) “the benefit code earnings” is the total for the year of—
 - (a) the cash equivalent of the benefit of the car (calculated in accordance with Chapter 6 of Part 3 (taxable benefits: cars, vans etc)), and
 - (b) the cash equivalent (calculated in accordance with that Chapter) of the benefit of any fuel provided for the car by reason of the employment.
- (5) Section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion) is to be disregarded for the purpose of determining any amount under this section.

290G Related employments

- (1) This section applies if a person is employed in two or more related employments.
- (2) None of the employments is to be regarded as lower-paid employment as a minister of religion in relation to a tax year if—
 - (a) the total of the earnings rates for the employments for the year (calculated in each case under section 290E) is £8,500 or more, or
 - (b) any of them is an employment falling outside the exclusion contained in section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion).
- (3) For the purposes of this section two employments are “related” if—
 - (a) both are with the same employer, or
 - (b) one is with a body or partnership (“A”) and the other is either—
 - (i) with an individual, partnership or body that controls A (“B”), or
 - (ii) with another partnership or body also controlled by B.
- (4) Section 69 (extended meaning of “control”) applies for the purposes of this section as it applies for the purposes of the benefits code.”
- (3) Schedule 1 contains amendments relating to subsections (1) and (2).
- (4) The amendments made by this section and Schedule 1 have effect for the tax year 2016-17 and subsequent tax years.

14 Exemption for board or lodging provided to carers

- (1) Part 4 of ITEPA 2003 (employment income: exemptions) is amended as follows.
- (2) In Chapter 8 (exemptions: special kinds of employees), after section 306 insert—

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“Carers

306A Carers: board and lodging

- (1) For the purposes of this section an individual is employed as a home care worker if the duties of the employment consist wholly or mainly of the provision of personal care to another individual (“the recipient”) at the recipient's home, in a case where the recipient is in need of personal care because of—
 - (a) old age,
 - (b) mental or physical disability,
 - (c) past or present dependence on alcohol or drugs,
 - (d) past or present illness, or
 - (e) past or present mental disorder.
- (2) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision of board or lodging (or both) to an individual employed as a home care worker if the provision is—
 - (a) on a reasonable scale,
 - (b) at the recipient's home, and
 - (c) by reason of the individual's employment as a home care worker.”
- (3) In section 228 (effect of exemptions on liability under provisions outside Part 2), in subsection (2)(d), after “291” insert “ and 306A ”.
- (4) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

15 Lump sums provided under armed forces early departure scheme

- (1) In section 640A of ITEPA 2003 (lump sums provided under armed forces early departure scheme), at the end insert “ or the Armed Forces Early Departure Payments Scheme Regulations 2014 (S.I. 2014/2328) ”.
- (2) Subsection (1) comes into force on 1 April 2015.

Commencement Information

II S. 15 wholly in force at 1.4.2015; s. 15(2) in force at Royal Assent; s. 15(1) in force at 1.4.2015; see s. 15(2)

16 Bereavement support payment: exemption from income tax

- (1) ITEPA 2003 is amended as follows.
- (2) In Part 1 of Table B in section 677(1) (UK social security benefits wholly exempt from tax), at the appropriate place insert—

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Any provision made for Northern Ireland which corresponds to section 30 of PA 2014”

- (3) In Part 1 of Schedule 1 (abbreviations of Acts and instruments), at the appropriate place insert—

“PA 2014

The Pensions Act 2014”

- (4) The amendments made by this section have effect in accordance with regulations made by the Treasury.
- (5) Regulations under subsection (4) may make different provision for different purposes.
- (6) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply in relation to regulations under subsection (4).

17 PAYE: benefits in kind

- (1) Section 684 of ITEPA 2003 (PAYE regulations) is amended as follows.
- (2) In the list in subsection (2), after item 1 insert—

Provision—

- (a) for authorising a person (“P”), in a case where the PAYE income of an employee (whether an employee of P or of another person) includes an amount charged to tax under any of Chapters 3 and 5 to 10 of Part 3 in respect of the provision of a benefit of a specified kind—
- (i) to make deductions of income tax in respect of the benefit from any payment or payments actually made of, or on account of, PAYE income of the employee, or
- (ii) to make repayments of such income tax,
- (b) for any such deductions or repayments to be made at a specified time,
- (c) for the amount of any such deductions or repayments to be calculated in accordance with the regulations,
- (d) for the provision of the benefit to be treated for specified purposes as a payment of PAYE income, and
- (e) for making persons who make any such deductions or repayments accountable to or, as the case may be, entitled to repayment from the Commissioners.”
- (3) For subsection (3) substitute—
- “(3) The deductions of income tax—
- (a) required to be made by PAYE regulations under item 1 in the above list, or
- (b) which a person is authorised to make by PAYE regulations under item 1ZA in that list,
- may be required to be made at the basic rate or other rates in such cases or classes of case as may be provided by the regulations.”

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18 Employment intermediaries: determination of penalties

- (1) Section 100 of TMA 1970 (determination of penalties by officer of Board) is amended as follows.
- (2) In subsection (2)(c), after “those amendments” insert “, subject to subsection (2A)”.
- (3) After subsection (2) insert—
 - “(2A) Subsection (2)(c) does not exclude the application of subsection (1) where the penalty relates to a failure to furnish any information or produce any document or record in accordance with regulations under section 716B of ITEPA 2003 (employment intermediaries to keep, preserve and provide information etc).”

19 Arrangements offering a choice of capital or income return

- (1) Chapter 3 of Part 4 of ITTOIA 2005 (dividends etc from UK resident companies and tax [^{F5}treated as paid] in respect of certain distributions) is amended in accordance with subsections (2) to (6).
- (2) After section 396 insert—

“Other amounts treated as distributions

396A Arrangements offering a choice of capital or income return

- (1) Subsection (2) applies if a person (“S”) has a choice either—
 - (a) to receive what would (ignoring this section) be a distribution of a company, or
 - (b) to receive from that company, or from a third party, anything else (“the alternative receipt”) which—
 - (i) is of the same or substantially the same value, and
 - (ii) (ignoring this section) would not be charged to income tax.
- (2) If S chooses the alternative receipt—
 - (a) for income tax purposes it is treated as a distribution made to S by that company in the tax year in which it is received by S, and
 - (b) for the purposes of the following provisions it is treated as a qualifying distribution so made—
 - (i) section 397 (tax credits for qualifying distributions of UK resident companies: UK residents and eligible non-UK residents);
 - (ii) section 399 (qualifying distributions received by persons not entitled to tax credits);
 - (iii) section 1100 of CTA 2010 (qualifying distributions: right to request a statement).
- (3) For the purposes of this section—
 - (a) it does not matter if the choice mentioned in subsection (1) is subject to any conditions being met or to the exercise of any power;

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- (b) where S is offered one thing subject to a right, however expressed, to choose another instead, S is to be regarded as making a choice if S abandons or fails to exercise such a right.
- (4) If at any time a tax other than income tax (“the other tax”) is charged in relation to the alternative receipt, in order to avoid a double charge to tax in respect of that receipt, a person may make a claim for one or more consequential adjustments to be made in respect of the other tax.
- (5) On a claim under subsection (4) an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (6) Consequential adjustments may be made—
- (a) in respect of any period,
 - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
 - (c) despite any time limit imposed by or under an enactment.”
- (3) In section 382 (contents of Chapter 3), in subsection (1), omit the “and” at the end of paragraph (b) and after paragraph (c) insert “, and
- (d) treats distributions as made in some circumstances (see section 396A).”
- (4) In section 385 (person liable), in subsection (1)(a) for “and 389(3)” substitute “, 389(3) and 396A ”.
- ^{F6}(5)
- ^{F6}(6)
- (7) In section 481 of ITA 2007 (other amounts to be charged at special rates for trustees), in subsection (3), after “Type 1” insert “ or Type 12 ”.
- (8) In section 482 of that Act (types of amount to be charged at special rates for trustees), at the end insert— “ *Type 12* Income treated as arising to the trustees under section 396A of ITTOIA 2005 (arrangements offering a choice of income or capital return). ”
- (9) In section 1100 of CTA 2010 (qualifying distributions: right to request a statement), after subsection (6) insert—
- “(7) This section needs to be read with section 396A(2) of ITTOIA 2005 (which treats certain receipts as “qualifying distributions” for the purposes of this section).”
- (10) The amendments made by subsections (2) to (4), (7) and (8) have effect in relation to things received on or after 6 April 2015 (even if the choice to receive them was made before that date).

Textual Amendments

- F5** Words in s. 19(1) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by Finance Act 2016 (c. 24), [Sch. 1 para. 72\(a\)](#)
- F6** S. 19(5)(6) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of Finance Act 2016 (c. 24), [Sch. 1 para. 72\(b\)](#)

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20 Intermediaries and Gift Aid

- (1) Chapter 2 of Part 8 of ITA 2007 (gift aid) is amended as follows.
- (2) In section 416 (meaning of “qualifying donation” for the purpose of gift aid relief)—
 - (a) in subsection (1)(b)—
 - (i) after “the individual” insert “, or an intermediary representing the individual,” and
 - (ii) after “the charity” insert “, or an intermediary representing the charity,” and
 - (b) after subsection (1) insert—

“(1A) For the purpose of subsection (1)(b) an intermediary is—

 - (a) a person authorised by the individual to give a gift aid declaration on behalf of that individual to the charity,
 - (b) a person authorised by a charity to receive a gift aid declaration on behalf of that charity, or
 - (c) a person authorised to perform both of the roles described in paragraphs (a) and (b).”
- (3) For section 428(3) (regulations in relation to gift aid declarations) substitute—

“(3) The regulations may also require—

 - (a) charities, or intermediaries within the meaning of section 416(1A), to keep records with respect to declarations received from individuals or from those intermediaries,
 - (b) charities or intermediaries to produce, for inspection by an officer of Revenue and Customs, any records required to be kept by those charities or intermediaries by regulations made under paragraph (a), and
 - (c) intermediaries to provide statements of account, and other specified information relating to declarations made, in such form and at such times as may be specified, to individuals who have authorised those intermediaries to give those declarations to charities on their behalf.

(4) The regulations may also make different provision for different cases or circumstances, including—

 - (a) different provision for declarations made in a different manner or by different descriptions of persons, and
 - (b) different provision depending on whether or not an intermediary, within the meaning of section 416(1A), is involved in the giving or receiving of the declaration.”
- (4) The amendments made by this section have effect in relation to gifts made on or after a day appointed in regulations made by the Treasury.
- (5) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply to regulations under subsection (4).

Commencement Information

- I2** S. 20(2) has effect as specified by [The Finance Act 2015, Section 20\(2\) and \(3\)](#) and the [Finance Act 2016, Section 173\(1\) \(Appointed Days\) Regulations 2016 \(S.I. 2016/1010\)](#), **reg. 4**

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- 13** S. 20(3) has effect as specified by [The Finance Act 2015, Section 20\(2\) and \(3\)](#) and the [Finance Act 2016, Section 173\(1\) \(Appointed Days\) Regulations 2016 \(S.I. 2016/1010\)](#), [reg. 2](#)

21 Disguised investment management fees

- (1) In Part 13 of ITA 2007 (tax avoidance), after Chapter 5D insert—

“CHAPTER 5E

DISGUISED INVESTMENT MANAGEMENT FEES

809EZA Disguised investment management fees: charge to income tax

- (1) Where one or more disguised fees arise to an individual in a tax year from one or more investment schemes (whether or not by virtue of the same arrangements), the individual is liable for income tax for the tax year in respect of the disguised fee or fees as if—
- the individual were carrying on a trade for the tax year,
 - the disguised fee or fees were the profits of the trade of the tax year, and
 - the individual were the person receiving or entitled to those profits.
- (2) For the purposes of subsection (1) the trade is treated as carried on—
- in the United Kingdom, to the extent that the individual performs the relevant services in the United Kingdom;
 - outside the United Kingdom, to the extent that the individual performs the relevant services outside the United Kingdom;
- and for this purpose “the relevant services” means the investment management services by virtue of which the disguised fee or fees arise to the individual in the tax year.
- (3) For the purposes of this Chapter a “disguised fee” arises to an individual in a tax year from an investment scheme if—
- the individual performs investment management services directly or indirectly in respect of the scheme under any arrangements,
 - the arrangements involve at least one partnership,
 - under the arrangements, a management fee arises to the individual directly or indirectly from the scheme in the tax year (see section 809EZB), and
 - some or all of the management fee is untaxed;
- and the amount of the disguised fee is so much of the management fee as is untaxed.
- (4) For the purposes of subsection (3) the management fee is “untaxed” if and to the extent that the fee would not (apart from this section)—
- be charged to tax under ITEPA 2003 as employment income of the individual for any tax year, or
 - be brought into account in calculating the profits of a trade of the individual for the purposes of income tax for any tax year.

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(5) In subsection (4) “trade” includes profession or vocation.

(6) In this Chapter “investment scheme” means—

- (a) a collective investment scheme, or
- (b) an investment trust.

809EZB Meaning of “management fee” in section 809EZA

(1) Subject as follows, for the purposes of section 809EZA “management fee” means any sum (including a sum in the form of a loan or advance or an allocation of profits) except so far as the sum constitutes—

- (a) a repayment (in whole or part) of an investment made directly or indirectly by the individual in the scheme,
- (b) an arm's length return on an investment made directly or indirectly by the individual in the scheme, or
- (c) carried interest (see sections 809EZC and 809EZD).

(2) For the purposes of subsection (1)(b) a return on an investment is “an arm's length return” if—

- (a) the return is on an investment which is of the same kind as investments in the scheme made by external investors,
- (b) the return on the investment is reasonably comparable to the return to external investors on those investments, and
- (c) the terms governing the return on the investment are reasonably comparable to the terms governing the return to external investors on those investments.

(3) In this Chapter “sum” includes any money or money's worth (and other expressions are to be construed accordingly).

(4) Where—

- (a) a sum in the form of money's worth arises to the individual from the scheme in the ordinary course of the scheme's business, and
 - (b) the individual gives the scheme money in exchange for the sum,
- the sum constitutes a “management fee” only to the extent that its market value at the time it arises exceeds the amount of the money given by the individual.

809EZC Meaning of “carried interest” in section 809EZA

(1) For the purposes of section 809EZA “carried interest” means a sum which arises to the individual under the arrangements by way of profit-related return.

This is subject to subsections (3) to (8) (sums where no significant risk of not arising); and see also section 809EZD (sums treated as carried interest).

(2) A sum which arises to the individual under the arrangements does so by way of “profit-related return” if under the arrangements—

- (a) the sum is to, or may, arise only if—
 - (i) there are profits for a period on the investments, or on particular investments, made for the purposes of the scheme,
 - or

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- (ii) there are profits arising from a disposal of the investments, or of particular investments, made for those purposes,
- (b) the amount of the sum which is to, or may, arise is variable, to a substantial extent, by reference to those profits, and
- (c) returns to external investors are also determined by reference to those profits;

but where any part of the sum does not meet these conditions, that part is not to be regarded as arising by way of “profit-related return”.

(3) Where—

- (a) one or more sums (“actual sums”) arise to the individual under the arrangements by way of profit-related return in a tax year, and
- (b) there was no significant risk that a sum of at least a certain amount (“the minimum amount”) would not arise to the individual,

so much of the actual sum, or of the aggregate of the actual sums, as is equal to the minimum amount is not “carried interest”.

(See subsections (7) and (8) as to how the minimum amount is to be apportioned between the actual sums where more than one actual sum arises in the tax year.)

(4) For the purposes of subsection (3)(b) assess the risk both—

- (a) in relation to each actual sum (and the investments to which it relates) individually, taking into account also any other sums that might have arisen to the individual under the arrangements instead of that sum, and
- (b) in relation to the actual sum or sums and any other sums that might have arisen to the individual under the arrangements by way of profit-related return in the tax year (and the investments to which all those sums relate) taken as a whole;

(so that, in a particular case, some of the minimum amount may arise by assessing the risk in accordance with paragraph (a) and some by assessing it in accordance with paragraph (b)).

(5) For the purposes of subsection (3)(b) assess the risk as at the latest of—

- (a) the time when the individual becomes party to the arrangements,
- (b) the time when the individual begins to perform investment management services directly or indirectly in respect of the scheme under the arrangements, and
- (c) the time when a material change is made to the arrangements so far as relating to the sums which are to, or may, arise to the individual.

(6) For the purposes of subsection (3)(b) ignore any risk that a sum is prevented from arising to the individual (by reason of insolvency or otherwise).

(7) Where more than one actual sum arises in the tax year, the minimum amount is to be apportioned between the actual sums as follows for the purposes of subsection (3)—

- (a) so much of the minimum amount as is attributable to a particular actual sum is to be apportioned to that actual sum, and

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- (b) so much of the minimum amount as is not attributable to any particular actual sum is to be apportioned between the actual sums on a just and reasonable basis.
- (8) For the purpose of subsection (7) any part of the minimum amount is attributable to a particular actual sum to the extent that there was no significant risk that that part would not arise to the individual in relation to that actual sum, assessing the risk in accordance with subsection (4)(a).

809EZD Sums treated as “carried interest” for purposes of section 809EZB

- (1) A sum falling within subsection (2) or (3)—
 - (a) is to be assumed to meet the requirements of section 809EYC, and
 - (b) accordingly, is to be treated as constituting “carried interest” for the purposes of section 809EZB.
- (2) A sum falls within this subsection if, under the arrangements, it is to, or may, arise to the individual out of profits on the investments made for the purposes of the scheme, but only after—
 - (a) all, or substantially all, of the investments in the scheme made by the participants have been repaid to the participants, and
 - (b) each external investor has received a preferred return on all, or substantially all, of the investor's investments in the scheme.
- (3) A sum falls within this subsection if, under the arrangements, it is to, or may, arise to the individual out of profits on a particular investment made for the purposes of the scheme, but only after—
 - (a) all, or substantially all, of the relevant investments made by participants have been repaid to those participants, and
 - (b) each of those participants who is an external investor has received a preferred return on all, or substantially all, of the investor's relevant investments;

and for this purpose “relevant investments” means those investments in the scheme to which the particular investment made for the purposes of the scheme is attributable.
- (4) In this section “preferred return” means a return of not less than the amount that would be payable on the investment by way of interest if—
 - (a) compound interest were payable on the investment for the whole of the period during which it was invested in the scheme, and
 - (b) the interest were calculated at a rate of 6% per annum, with annual rests.

809EZE Interpretation of Chapter

- (1) In this Chapter—
 - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
 - “collective investment scheme” has the meaning given by section 235 of FISMA 2000;

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“external investor”, in relation to an investment scheme and any arrangements, means a participant in the scheme other than—

- (a) an individual who performs investment management services directly or indirectly in respect of the scheme, or
- (b) a person through whom sums are to, or may, arise directly or indirectly to such an individual from the scheme under the arrangements;

“investment management services”, in relation to an investment scheme, includes—

- (a) seeking funds for the purposes of the scheme from participants or potential participants,
- (b) researching potential investments to be made for the purposes of the scheme,
- (c) acquiring, managing or disposing of property for the purposes of the scheme, and
- (d) acting for the purposes of the scheme with a view to assisting a body in which the scheme has made an investment to raise funds;

“investment trust” means a company in relation to which conditions A to C in section 1158 of CTA 2010 are met (or treated as met); and for this purpose “company” has the meaning given by section 1121 of CTA 2010;

“market value” has the same meaning as in TCGA 1992 (see sections 272 and 273 of that Act);

“participant”—

- (a) in relation to a collective investment scheme, is construed in accordance with section 235 of FISMA 2000;
- (b) in relation to an investment trust, means a member of the investment trust;

“profits”, in relation to an investment made for the purposes of an investment scheme, means profits (including unrealised profits) arising from the acquisition, holding, management or disposal of the investment (taking into account items of a revenue nature and items of a capital nature).

- (2) In this Chapter a reference to an investment made by a person in an investment scheme is a reference to a contribution by the person (whether by way of capital, loan or otherwise) towards the property subject to the scheme (but does not include a sum committed but not yet invested).
- (3) For the purposes of subsection (2) a person who holds a share in an investment scheme which is a company limited by shares and who acquired the share from a person other than the scheme is to be taken to have made a contribution towards the property subject to the scheme equal to—
 - (a) the consideration given by the person for the acquisition of the share, or
 - (b) if less, the market value of the share at the time of the acquisition.
- (4) In this Chapter, in relation to an investment scheme which is a company limited by shares—

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- (a) references to a repayment of, or a return on, an investment in the scheme include a repayment of, or a return on, an investment represented by a share in the scheme resulting from—
 - (i) the purchase of the share by the scheme,
 - (ii) the redemption of the share by the scheme,
 - (iii) the distribution of assets in respect of the share on the winding up of the scheme, or
 - (iv) any similar process;
- (b) references to a return on an investment in the scheme include a dividend or similar distribution in respect of a share in the scheme representing the investment.

809EZF Disguised investment management fees: anti-avoidance

In determining whether section 809EZA applies in relation to an individual, no regard is to be had to any arrangements the main purpose, or one of the main purposes, of which is to secure that that section does not apply in relation to—

- (a) the individual, or
- (b) the individual and one or more other individuals.

809EZG Disguised investment management fees: avoidance of double taxation

- (1) This section applies where—
 - (a) income tax is charged on an individual by virtue of section 809EZA in respect of a disguised fee, and
 - (b) at any time, a tax (whether income tax or another tax) is charged on the individual otherwise than by virtue of section 809EZA in relation to the disguised fee.
- (2) This section also applies where—
 - (a) income tax is charged on an individual by virtue of section 809EZA in respect of a disguised fee which arises to the individual under the arrangements by way of a loan or advance,
 - (b) at any time, a tax (whether income tax or another tax) is charged on the individual in relation to another sum which arises to the individual under the arrangements, and
 - (c) some or all of the loan or advance has to be repaid as a result of the other sum having arisen to the individual.
- (3) In order to avoid a double charge to tax, the individual may make a claim for one or more consequential adjustments to be made in respect of the tax charged as mentioned in subsection (1)(b) or (2)(b).
- (4) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (5) The value of any consequential adjustments must not exceed the lesser of the income tax charged on the individual as mentioned in subsection (1)(a) or (2)(a) and—

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- (a) where subsection (1) applies, the tax charged as mentioned in subsection (1)(b);
 - (b) where subsection (2) applies, the tax charged as mentioned in subsection (2)(b) in relation to so much of the other sum as does not exceed the amount of the loan or advance that has to be repaid as mentioned in subsection (2)(c).
- (6) Consequential adjustments may be made—
- (a) in respect of any period,
 - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
 - (c) despite any time limit imposed by or under any enactment.

809EZH Powers to amend Chapter

- (1) The Treasury may by regulations amend this Chapter—
- (a) so as to change the definition of “investment scheme” for the purposes of this Chapter;
 - (b) so as to change the definition of “participant” for those purposes;
 - (c) so as to change what is “carried interest” for the purposes of section 809EZB.
- (2) Regulations under this section may—
- (a) make different provision for different purposes, and
 - (b) contain incidental, supplemental, consequential and transitional provision and savings.
- (3) A statutory instrument containing regulations under this section to which subsection (4) applies 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) This subsection applies if the regulations contain any provision which has or may have the effect of increasing any person's liability to tax.
- (5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.”
- (2) In section 2 of ITA 2007 (overview of Act), in subsection (13)—
- (a) after paragraph (h) insert—
 - “(ha) disposals of assets through partnerships (Chapter 5D),”;
 - (b) after paragraph (ha) insert—
 - “(hb) disguised investment management fees (Chapter 5E),”.
- (3) In Schedule 4 to ITA 2007 (index of defined expressions), at the appropriate places insert—

“arrangements (in Chapter 5E of Part 13)	section 809EZE(1)”
“collective investment scheme (in Chapter 5E of Part 13)	section 809EZE(1)”
“disguised fee (in Chapter 5E of Part 13)	section 809EZA(3)”

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“external investor (in Chapter 5E of Part 13)	section 809EZE(1)”
“investment (in investment scheme) (in Chapter 5E of Part 13)	section 809EZE(2)”
“investment management services (in Chapter 5E of Part 13)	section 809EZE(1)”
“investment scheme (in Chapter 5E of Part 13)	section 809EZA(6)”
“investment trust (in Chapter 5E of Part 13)	section 809EZE(1)”
“market value (in Chapter 5E of Part 13)	section 809EZE(1)”
“participant (in Chapter 5E of Part 13)	section 809EZE(1)”
“profits (on investment made for purposes of investment scheme) (in Chapter 5E of Part 13)	section 809EZE(1)”
“repayment of, and return on, investment in certain investment schemes (in Chapter 5E of Part 13)	section 809EZE(4)”
“sum (in Chapter 5E of Part 13)	section 809EZB(3)”.

(4) The amendments made by subsections (1), (2)(b) and (3) have effect in relation to sums arising on or after 6 April 2015 (whenever the arrangements under which the sums arise were made).

22 Miscellaneous loss relief

(1) Chapter 7 of Part 4 of ITA 2007 (losses from miscellaneous transactions) is amended as follows.

(2) In section 152 (losses from miscellaneous transactions)—

(a) for subsection (1) substitute—

“(1) If in a tax year (“the loss-making year”) a person makes a loss in a relevant transaction, the person may make a claim for loss relief against relevant miscellaneous income.”;

(b) in subsection (2)(a), for “section 1016 income” substitute “income on which income tax is charged under, or by virtue of, a relevant section 1016 provision (“the relevant provision”)”;

(c) after subsection (2) insert—

“(2A) A relevant section 1016 provision” means a provision to which section 1016 applies, other than—

(a) regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) (treatment of participants in non-reporting funds: charge to tax on disposal of asset), or

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- (b) Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc).”;
 - (d) in subsection (4), after “person's” insert “ relevant ”;
 - (e) in subsection (5), for “A person's miscellaneous income” substitute “ The person's “relevant miscellaneous income”, in relation to the loss, ”;
 - (f) for paragraph (b) of that subsection substitute—
 - “(b) income on which income tax is charged under, or by virtue of, the relevant provision.”;
 - (g) in subsection (7), before “miscellaneous”, in both places it appears, insert “ relevant ”;
 - (h) omit subsection (8);
 - (i) in subsection (9), omit the “and” at the end of paragraph (b) and after that paragraph insert—
 - “(ba) section 154A (anti-avoidance), and”.
- (3) In section 153 (how relief works), before “miscellaneous”, in each place it appears, insert “ relevant ”.
- (4) In section 154 (transactions in deposit rights), in subsection (3)—
- (a) after “against” insert “ relevant ”, and
 - (b) for the words from the second “miscellaneous” to the end substitute “ relevant miscellaneous income, for the tax year, in relation to the loss. ”
- (5) Before section 155 (time limit for claiming relief), but after the italic heading before that section (supplementary), insert—

“154A Anti-avoidance

- (1) Subsection (2) applies if—
 - (a) a person makes a loss in a relevant transaction, and
 - (b) that loss arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.
- (2) The person is not to be given loss relief under section 152 for the loss.
- (3) Subsection (4) applies if—
 - (a) a person has income on which income tax is chargeable under, or by virtue of, a relevant section 1016 provision, and
 - (b) that income arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.
- (4) The person is not to be given loss relief against that income under section 152.
- (5) In this section “relevant tax avoidance arrangements” means arrangements—
 - (a) to which the person is party, and
 - (b) the main purpose, or one of the main purposes, of which is to obtain a reduction in tax liability by means of loss relief under section 152.
- (6) In subsection (5) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”

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- (6) In section 155 (time limit for claiming relief), in subsections (1) and (2), before “miscellaneous” insert “relevant”.
- (7) In consequence of subsection (2)(h), in FA 2009, omit section 69.
- (8) The amendments made by subsections (2)(a) to (h), (3), (4), (6) and (7)—
 - (a) have effect for the tax year 2015-16 and subsequent tax years, and
 - (b) apply in relation to a loss whether it is made before, during or after that tax year.
- (9) The amendments made by subsections (2)(i) and (5) have effect in relation to losses and income arising on or after 3 December 2014 directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements (whenever the arrangements are made).
- (10) Subsection (4) of section 154A of ITA 2007 (inserted by subsection (5) of this section) applies in relation to loss relief, under section 152 of that Act, for losses whenever made.
- (11) In relation to income arising on or after 3 December 2014 but before the beginning of the tax year 2015-16, section 154A of ITA 2007 has effect as if for paragraph (a) of subsection (3) of that section there were substituted—
 - “(a) a person has section 1016 income (within the meaning of section 152), and”.

23 Exceptions from duty to deduct tax: qualifying private placements

- (1) In Chapter 3 of Part 15 of ITA 2007 (deduction of tax from certain payments of yearly interest), after section 888 insert—

“888A Qualifying private placements

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on a qualifying private placement.
- (2) “Qualifying private placement” means a security—
 - (a) which represents a loan relationship to which a company is a party as debtor,
 - (b) which is not listed on a recognised stock exchange, and
 - (c) in relation to which such other conditions as the Treasury may specify by regulations are met.
- (3) The conditions which may be specified under subsection (2)(c) include conditions relating to—
 - (a) the security itself,
 - (b) the loan relationship represented by the security,
 - (c) the terms on which, or circumstances under which, the security or loan relationship is entered into,
 - (d) the company which is party to the loan relationship as debtor,
 - (e) any person by or through whom a payment of interest on the security is made, or
 - (f) the holder of the security.

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- (4) Regulations under this section may make provision about the consequences of failing to make a deduction under section 874, in respect of a payment of interest on a security, in cases where the person required to make the deduction had a reasonable, but mistaken, belief that the security was a qualifying private placement.
 - (5) Regulations under this section may—
 - (a) make different provision for different cases;
 - (b) contain incidental, supplemental, consequential and transitional provision and savings.
 - (6) In this section “loan relationship” has the same meaning as in Part 5 of CTA 2009.”
- (2) Any power conferred on the Treasury by virtue of subsection (1) to make regulations comes into force on the day on which this Act is passed.
 - (3) So far as not already brought into force by subsection (2), the amendment made by this section comes into force on such day as the Treasury may by regulations appoint.
 - (4) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply to regulations under subsection (3).

Commencement Information

- I4** S. 23 in force at 1.1.2016 for the purposes of the amendment made by that section in so far as not already in force by S.I. 2015/2035, reg. 2

24 Increased remittance basis charge

- (1) Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.
- (2) In section 809C (claim for remittance basis by long-term UK resident: nomination of foreign income and gains to which section 809H(2) is to apply)—
 - (a) in subsection (1)(b), after “meets” insert “ the 17-year residence test, ”;
 - (b) after subsection (1) insert—

“(1ZA) An individual meets the 17-year residence test for a tax year if the individual has been UK resident in at least 17 of the 20 tax years immediately preceding that year.”;
 - (c) in subsection (1A), after “the individual” insert—
 - “(a) does not meet the 17-year residence test for that year, but
 - (b)”;
 - (d) in subsection (1B)(a), after “meet” insert “ the 17-year residence test or ”;
 - (e) in subsection (4)—
 - (i) before paragraph (a) insert—

“(za) for an individual who meets the 17-year residence test for that year, £90,000;”;
 - (ii) in paragraph (a), for “£50,000” substitute “ £60,000 ”.
- (3) In section 809H (claim for remittance basis by long-term UK resident: charge)—
 - (a) in subsection (1)(c), after “meets” insert “ the 17-year residence test, ”;

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- (b) in subsection (1A)—
 - (i) for “809C(1A)” substitute “ 809C(1ZA), (1A) ”;
 - (ii) after “meets” insert “ the 17-year residence test, ”;
 - (c) in subsection (5B)—
 - (i) before paragraph (a) insert—
 - “(za) if the individual meets the 17-year residence test for the relevant tax year, £90,000;”;
 - (ii) in paragraph (a), for “£50,000” substitute “ £60,000 ”.
- (4) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

CHAPTER 3

CORPORATION TAX: GENERAL

25 Loan relationships: repeal of certain provisions relating to late interest etc

- (1) Part 5 of CTA 2009 (loan relationships) is amended as follows.
- (2) Omit the following provisions—
- (a) section 374 (connection between debtor and person standing in position of creditor),
 - (b) section 377 (party to loan relationship having major interest in other party),
 - (c) section 407 (postponement until redemption of debits for connected companies' deeply discounted securities), and
 - (d) section 408 (companies connected for section 407).
- (3) In section 372 (introduction to Chapter 8), in subsection (3)—
- (a) omit paragraph (a),
 - (b) at the end of paragraph (b), insert “ and ”, and
 - (c) omit paragraph (c) (including the “and” at the end).
- (4) In section 373 (late interest treated as not accruing until paid in some cases), in subsection (1)(b), for “374, 375, 377” substitute “ 375 ”.
- (5) In section 406 (introduction to provisions dealing with deeply discounted securities)—
- (a) omit subsection (1)(a), and
 - (b) in subsections (2), (3) and (4), for “407” substitute “ 409 ”.
- (6) Subsections (2)(a) and (b), (3) and (4) have effect—
- (a) in relation to debtor relationships entered into by a company on or after 3 December 2014, and
 - (b) in relation to debtor relationships entered into by a company before 3 December 2014, where the actual accrual period (within the meaning of Chapter 8 of Part 5 of CTA 2009) begins on or after 1 January 2016.
- (7) Subsections (2)(c) and (d) and (5) have effect—
- (a) in relation to debtor relationships entered into by a company on or after 3 December 2014, and

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- (b) in relation to debtor relationships entered into by a company before 3 December 2014, where the relevant period (within the meaning of section 407 of CTA 2009) begins on or after 1 January 2016.
- (8) Subsections (6)(b) and (7)(b) are subject to subsections (9) to (14).
- (9) In the case of a company which has an accounting period beginning before 1 January 2016 and ending on or after that date (“the straddling period”), 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 for the purposes of subsections (6)(b) and (7)(b) as separate accounting periods.
- (10) If a debtor relationship entered into by a company before 3 December 2014 is modified on or after 3 December 2014 and before 1 January 2016, subsections (2)(a) and (b), (3) and (4) have effect in relation to that debtor relationship where the actual accrual period (within the meaning of Chapter 8 of Part 5 of CTA 2009) begins on or after the date on which the modification takes effect.
- (11) For the purposes of subsection (10) a debtor relationship of a company is modified if—
 - (a) there is a material change in the terms of the relationship, or
 - (b) there is a change in the person standing in the position of creditor.
- (12) If a the terms of a deeply discounted security issued by a company before 3 December 2014 are modified on or after 3 December 2014 and before 1 January 2016, subsections (2)(c) and (d) and (5) have effect in relation to the debtor relationship represented by that security where the relevant period (within the meaning of section 407 of CTA 2009) begins on or after the day on which the modification takes effect.
- (13) For the purposes of subsection (12) the terms of a deeply discounted security are modified if—
 - (a) there is a material change in the terms of the security, or
 - (b) there is a change in the person standing in the position of creditor.
- (14) Where subsection (10) or (12) applies, an accounting period is to be taken for the purposes of that subsection to end immediately before the day on which the modification takes effect, and a new accounting period is to be taken for those purposes to begin with that day.

F726 Intangible fixed assets: goodwill etc acquired from a related party

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Textual Amendments

F7 S. 26 omitted (with effect in accordance with s. 33(9)(10) of the commencing Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\), s. 33\(8\)](#)

27 Amount of relief for expenditure on research and development

- (1) CTA 2009 is amended as follows.
- (2) In Chapter 6A of Part 3 (trade profits: R&D expenditure credits), in section 104M (amount of R&D expenditure credit), in subsection (3), for “10%” substitute “ 11% ”.

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- (3) In Chapter 2 of Part 13 (relief for SMEs: cost of R&D incurred by SME)—
- (a) in section 1044 (additional deduction in calculating profits of trade), in subsection (8), for “125%” substitute “ 130% ”,
 - (b) in section 1045 (alternative treatment for pre-trading expenditure: deemed trading loss), in subsection (7), for “225%” substitute “ 230% ”, and
 - (c) in section 1055 (tax credit: meaning of “Chapter 2 surrenderable loss”), in subsection (2)(b), for “225%” substitute “ 230% ”.
- (4) In consequence of subsection (3), in Schedule 3 to FA 2012, omit paragraph 2(2) to (4).
- (5) The amendments made by this section have effect in relation to expenditure incurred on or after 1 April 2015.

28 Expenditure on research and development: consumable items

- (1) CTA 2009 is amended as follows.
- (2) In Part 13 (additional relief for expenditure on research and development), in section 1126 (software or consumable items: attributable expenditure), after subsection (6) insert—
- “(7) This section is subject to sections 1126A and 1126B.”
- (3) After section 1126 insert—

“1126A Attributable expenditure: special rules

- (1) Expenditure on consumable items is not to be treated as attributable to relevant research and development if—
- (a) the relevant research and development relates to an item that is produced in the course of the research and development,
 - (b) the consumable items form part of the item produced,
 - (c) the item produced is transferred by a relevant person for consideration in money or money's worth, and
 - (d) the transfer is made in the ordinary course of the relevant person's business.
- (2) Expenditure on consumable items is not to be treated as attributable to relevant research and development if—
- (a) the relevant research and development relates to a process of producing an item,
 - (b) the consumable items form part of an item produced in the course of that research and development,
 - (c) the item produced is transferred by a relevant person for consideration in money or money's worth, and
 - (d) the transfer is made in the ordinary course of the relevant person's business.
- (3) If—
- (a) the item produced as described in subsection (1) or (2) may be divided, and

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- (b) only a proportion (“the appropriate proportion”) of that item is transferred by a relevant person as described in subsection (1)(c) and (d) or (2)(c) and (d),

the appropriate proportion of the expenditure on the consumable items is not to be treated as attributable to the relevant research and development.

- (4) If—

- (a) a number of items are produced in the course of the relevant research and development described in subsection (2), and
- (b) only a proportion (“the appropriate proportion”) of those items is transferred by a relevant person as described in subsection (2)(c) and (d),

the appropriate proportion of the expenditure on the consumable items is not to be treated as attributable to the relevant research and development.

- (5) A reference in this section to producing an item includes a reference to preparing an item for transfer.

- (6) For the purposes of this section a consumable item forms part of an item produced if—

- (a) it is incorporated into the item produced, or
- (b) it is turned into, or it and other materials are turned into, the item produced or a part of the item produced.

- (7) A reference in this section to the transfer of an item is a reference to—

- (a) the transfer of ownership of an item to another person (whether by sale or otherwise), or
- (b) the transfer of possession of an item to another person (whether by letting on hire or otherwise),

and a reference to the transfer of an item includes, where the item is incorporated into another item, the transfer of that other item.

- (8) For the purposes of this section the provision of information obtained in testing an item is not to be regarded as consideration for the transfer of that item.

- (9) For the purposes of this section a transfer of an item produced in the course of research and development is not to be regarded as a transfer in the ordinary course of business if the item being transferred is waste.

- (10) In this section—

“item” includes any substance;

“relevant person”, in relation to relevant research and development, means—

- (a) the company that incurs the cost of the research and development, whether it is undertaken by itself or contracted out,
- (b) the company to which the research and development is contracted out, whether it is undertaken by itself or contracted out,

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- (c) the person (other than a company) who contracts out the research and development to a company and incurs the cost of the research and development,
- (d) the person (other than a company) to whom the research and development is contracted out, or
- (e) a person who is connected to a company or person described in paragraph (a), (b), (c) or (d).

1126B Attributable expenditure: further provision

- (1) The Treasury may by regulations make provision for the purpose of identifying when expenditure on consumable items is attributable to relevant research and development, including provision modifying the effect of section 1126 or 1126A.
 - (2) Regulations under this section may include provision about—
 - (a) the circumstances in which expenditure on consumable items employed directly in relevant research and development is, or is not, to be treated as attributable to that relevant research and development;
 - (b) the circumstances in which consumable items are, or are not, to be treated as employed directly in relevant research and development.
 - (3) Regulations under this section may—
 - (a) make different provision for different purposes;
 - (b) make incidental, consequential, supplementary or transitional provision or savings.
 - (4) Regulations under this section may amend—
 - (a) section 1126;
 - (b) section 1126A;
 - (c) any other provision of this Act, if that is appropriate in consequence of provision made under paragraph (a) or (b).
 - (5) Regulations under this section may make provision that has effect in relation to expenditure incurred before the making of the regulations, provided that it does not increase any person's liability to tax.”
- (4) In each of the following, after “1126” insert “ to 1126B ”
- (a) section 104D(5);
 - (b) section 104E(5);
 - (c) section 104G(6);
 - (d) section 104H(7);
 - (e) section 104J(6);
 - (f) section 104K(7);
 - (g) section 1052(7);
 - (h) section 1053(6);
 - (i) section 1066(5);
 - (j) section 1067(5);
 - (k) section 1071(7);
 - (l) section 1072(8);

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- (m) section 1077(6);
 - (n) section 1078(7);
 - ^{F8}(o)
 - ^{F8}(p)
- (5) In section 104Y(2), for “and 1126” substitute “ to 1126B ”.
- (6) In section 1310(4) (orders and regulations subject to affirmative procedure), after paragraph (za) insert—
- “(zb) section 1126B (provision about when expenditure on consumable items is attributable to relevant research and development),”.
- (7) The amendments made by this section have effect in relation to expenditure incurred on or after 1 April 2015.

Textual Amendments

F8 S. 28(4)(o)(p) omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), s. 47(14)(b)

29 Film tax relief

- (1) Part 15 of CTA 2009 (film production) is amended as follows.
- (2) In section 1184 (definitions of terms including “limited-budget film”)—
- (a) omit subsections (2) and (3), and
 - (b) in the heading for that section omit “and “limited-budget film””.
- (3) For section 1200(3) (film tax relief: amount of additional deduction: rate of enhancement) substitute—
- “(3) The rate of enhancement is 100%.”
- (4) In section 1202 (surrendering of loss and amount of film tax credit)—
- (a) in subsection (2) for “R is the payable credit rate (see subsection (3))” substitute “ R is 25% ”, and
 - (b) omit subsection (3).
- (5) Omit section 1215 (film tax relief on basis that film is limited-budget film).
- (6) In Schedule 4 (index of defined expressions) omit the entry for “limited-budget film”.
- (7) In consequence of subsection (4), in section 32 of FA 2014—
- (a) omit subsection (3),
 - (b) in subsection (4) for “amendments made by subsections (2) and (3) have” substitute “ amendment made by subsection (2) has ”,
 - (c) omit subsection (5), and
 - (d) in subsection (7) for “sections 1198(1) and 1202(2) and (3)” substitute “ section 1198(1) ”.
- (8) The amendments made by this section have effect in relation to films the principal photography of which is not completed before such day as the Treasury may specify by regulations.

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- (9) The specified day may be before the day on which the regulations are made, but may not be before 1 April 2015.
- (10) Section 1171(4) of CTA 2010 (orders and regulations subject to negative resolution procedure) does not apply in relation to any regulations made under subsection (8).

Modifications etc. (not altering text)

- C1** S. 29 having effect as specified (2.10.2015) by [The Finance Act 2015, Section 29 \(Film Tax Relief \(Specified Day\) Regulations 2015 \(S.I. 2015/1741\)](#), [reg. 2](#)

30 Reliefs for makers of children's television programmes

- (1) Part 15A of CTA 2009 (television production reliefs) is amended as follows.
- (2) In section 1216AB(2) (programmes that are not animation can be relevant programmes only if conditions C and D are met in addition to conditions A and B) for “not animation” substitute “neither animation nor a children's programme”.
- (3) In section 1216AB(3) (condition A: types of programme that can be relevant programmes)—
 - (a) omit the “or” after paragraph (b), and
 - (b) after paragraph (c) insert “, or
 - (d) a children's programme.”
- (4) In section 1216AC (types of programme: definitions) after subsection (2) insert—

“(2A) A programme is a children's programme if, when television production activities begin, it is reasonable to expect that the persons who will make up the programme's primary audience will be under the age of 15.”
- (5) In section 1216AD(1) (meaning of “excluded programme”) after “For the purposes of this Part” insert “, but subject to section 1216ADA, ”.
- (6) After section 1216AD insert—

“1216ADA Certain children's programmes not to be excluded programmes

- (1) A children's programme is not an excluded programme for the purposes of this Part if—
 - (a) the programme falls within—
 - (i) sub-head 3A set out in subsection (2), or
 - (ii) Head 4 set out in section 1216AD(5), and
 - (b) the prize total (see subsection (3)) does not exceed £1,000.
- (2) Sub-head 3A is any quiz show or game show.
- (3) “The prize total” for a programme is the total of—
 - (a) the amount of each relevant prize that is a money prize, and
 - (b) the amount spent on each other relevant prize by, or on behalf of, its provider,

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and here “relevant prize” means a prize offered in connection with participation in a quiz, game, competition or contest in, or promoted by, the programme.

- (4) The Treasury may by regulations amend subsection (1)(b) for the purpose of increasing the amount of the money limit for the time being specified in subsection (1)(b).”
- (7) The amendments made by this section have effect in relation to accounting periods beginning on or after 1 April 2015.
- (8) Subsections (9) and (10) apply where—
- (a) a company has an accounting period beginning before, and ending on or after, 1 April 2015 (“the straddling period”),
 - (b) in the part of the straddling period beginning with 1 April 2015 and ending with the end of the straddling period, the company carries on activities in relation to a television programme that—
 - (i) is within the definition of “children's programme” given by the new section 1216AC(2A), but
 - (ii) is not a relevant programme for the purposes of Part 15A of CTA 2009, and
 - (c) if that part of the straddling period were a separate accounting period, in that separate accounting period—
 - (i) the programme would be a relevant programme for the purposes of Part 15A of CTA 2009,
 - (ii) the company would for those purposes be the television production company in relation to the programme, and
 - (iii) the conditions for television tax relief (see section 1216C(2) of CTA 2009) would be met in relation to the programme.
- (9) For the purposes of calculating for corporation tax purposes the company's profits or losses for the straddling period of its activities in relation to the programme—
- (a) so much of the straddling period as falls before 1 April 2015, and
 - (b) so much of that period as falls on or after that date,
- are to be treated as separate accounting periods.
- (10) Any amounts brought into account for the purposes of calculating for corporation tax purposes the company's profits or losses for the straddling period of its activities in relation to the programme are to be apportioned to the two separate accounting periods on such basis as is just and reasonable.

31 Television tax relief

- (1) In section 1216CE(1) of CTA 2009 (television tax relief: UK expenditure condition) for “25%” substitute “ 10% ”.
- (2) The amendment made by subsection (1) has effect in relation to relevant programmes the principal photography of which is not completed before 1 April 2015.

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32 Restrictions applying to certain deductions made by banking companies

Schedule 2 contains provision restricting the amount of deductions which banking companies may make in respect of certain losses carried forward from previous accounting periods.

33 Tax avoidance involving carried-forward losses

Schedule 3 contains provision restricting the circumstances in which companies may make a deduction in respect of certain losses carried forward from previous accounting periods.

CHAPTER 4

OTHER PROVISIONS

Pensions

34 Pension flexibility: annuities etc

Schedule 4 contains provision about pension annuities, and other pension, paid in respect of deceased members of pension schemes.

Flood and coastal defence

35 Relief for contributions to flood and coastal erosion risk management projects

Schedule 5 makes provision about relief for contributions to flood and coastal erosion risk management projects.

Investment reliefs

36 Investment reliefs: excluded activities

Schedule 6 makes provision about excluded activities for the purposes of the following provisions of ITA 2007—

- (a) Part 5 (enterprise investment scheme) and, by virtue of section 257DA(9) of that Act, Part 5A (seed enterprise investment scheme),
- (b) Part 5B (tax relief for social investments), and
- (c) Part 6 (venture capital trusts).

Capital gains tax

37 Disposals of UK residential property interests by non-residents etc

Schedule 7 contains provision about capital gains tax on the disposal of UK residential property interests—

- (a) by a person who is not resident in the United Kingdom, or

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- (b) by an individual, in the overseas part of a split tax year.

38 Relevant high value disposals: gains and losses

Schedule 8 contains provision about the calculation of relevant high value disposals within the meaning of section 2C of TCGA 1992.

39 Private residence relief

Schedule 9 contains amendments of TCGA 1992 in connection with private residence relief.

40 Wasting assets

- (1) In section 45 of TCGA 1992 (exemption for certain wasting assets), after subsection (3) insert—

“(3A) But subsection (3) does not apply in the case of a disposal in relation to which subsection (3B) disapplies subsection (1).

(3B) Subsection (1) does not apply to a disposal of, or of an interest in, an asset if—

- (a) at any time in the period of ownership of the person making the disposal, the asset is used for the purposes of a trade, profession or vocation carried on by another person,
- (b) as a result of that use, the asset becomes plant,
- (c) but for the asset therefore being regarded under section 44(1)(c) as having a predictable life of less than 50 years, the disposal would not be of, or of an interest in, a wasting asset, and
- (d) the disposal is not within subsection (3C).

(3C) A disposal of, or of an interest in, an asset is within this subsection if the asset is plant used for the purpose of leasing under a long funding lease and—

- (a) the disposal takes place after the commencement of the term of the lease but before the termination of the lease, or
- (b) the disposal is the deemed disposal of the asset under section 25A(3)
 - (a) on the termination of the lease.

(3D) Section 25A(5) applies for the purposes of subsection (3C).”

- (2) The amendment made by this section has effect—

- (a) for corporation tax purposes, in relation to disposals on or after 1 April 2015, and
- (b) for capital gains tax purposes, in relation to disposals on or after 6 April 2015.

41 Entrepreneurs' relief: associated disposals

- (1) Section 169K of TCGA 1992 (disposal associated with relevant material disposal) is amended as follows.

- (2) For subsections (1) and (2) substitute—

“(1) There is a disposal associated with a relevant material disposal if—

- (a) condition A1, A2 or A3 is met, and

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- (b) conditions B and C are met.
- (1A) Condition A1 is that an individual (“P”) makes a material disposal of business assets which consists of the disposal of the whole or part of P’s interest in the assets of a partnership, and—
- (a) P’s disposed of interest is at least a 5% interest in the partnership’s assets, and
 - (b) at the date of the disposal, no partnership purchase arrangements exist.
- (1B) Condition A2 is that P makes a material disposal of business assets which consists of the disposal of shares in a company, all or some of which are ordinary shares, and at the date of the disposal—
- (a) the ordinary shares disposed of—
 - (i) constitute at least 5% of the company’s ordinary share capital, and
 - (ii) carry at least 5% of the voting rights in the company, and
 - (b) no share purchase arrangements exist.
- (1C) But condition A2 is not met if the disposal of shares is a disposal by virtue of section 122, other than such a disposal treated as made in consideration of a capital distribution from a company which is made in the course of dissolving or winding up the company.
- (1D) Condition A3 is that P makes a material disposal of business assets which consists of the disposal of securities of a company, and at the date of the disposal—
- (a) the securities disposed of constitute at least 5% of the value of the securities of the company, and
 - (b) no share purchase arrangements exist.
- (1E) For the purposes of conditions A2 and A3, in relation to the disposal of shares in or securities of a company (“company A”), “share purchase arrangements” means arrangements under which P or a person connected with P is entitled to acquire shares in or securities of—
- (a) company A, or
 - (b) a company which is a member of a trading group of which company A is a member.
- (2) For the purposes of subsection (1E)(b), a company is treated as a member of a trading group of which company A is a member if, at the date of the disposal mentioned in condition A2 or A3, arrangements exist which it is reasonable to assume will result in the company and company A becoming members of the same trading group.”
- (3) In subsection (3)—
- (a) for “the individual”, in the first place it occurs, substitute “ P ”, and
 - (b) for “the withdrawal of the individual” substitute “ P’s withdrawal ”.
- (4) After subsection (3) insert—
- “(3A) The disposal mentioned in condition B is not treated as part of P’s withdrawal from participation in the business carried on by a partnership if at the date of that disposal there exist any partnership purchase arrangements.

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- (3B) The disposal mentioned in condition B is not treated as part of P's withdrawal from participation in the business carried on by a company ("company A") if at the date of that disposal there exist any arrangements under which P or a person connected with P is entitled to acquire shares in or securities of—
- (a) company A, or
 - (b) a company which is a member of a trading group of which company A is a member.
- (3C) For the purposes of subsection (3B)(b), a company is treated as a member of a trading group of which company A is a member if, at the date of the disposal mentioned in condition B, arrangements exist which it is reasonable to assume will result in the company and company A becoming members of the same trading group."
- (5) After subsection (5) insert—
- "(6) In this section, in relation to a partnership, "partnership purchase arrangements" means arrangements under which P or a person connected with P is entitled to acquire any interest in, or increase that person's interest in, the partnership (including a share of the profits or assets of the partnership or an interest in such a share).
- (7) In this section—
- "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
- "securities" includes an interest in securities, and an "interest in securities" includes (in particular) an option to acquire securities;
- "shares" includes an interest in shares, and an "interest in shares" includes (in particular) an option to acquire shares.
- (8) For the purposes of this section, a person is treated as entitled to acquire anything which the person—
- (a) is entitled to acquire at a future date, or
 - (b) will at a future date be entitled to acquire.
- (9) For the purposes of this section the assets of—
- (a) a Scottish partnership, or
 - (b) a partnership under the law of any other country or territory under which assets of a partnership are regarded as held by or on behalf of the partnership as such,
- are to be treated as held by the members of the partnership in the proportions in which they are entitled to share in the profits of the partnership.
- References in this section to an individual's interest in the partnership's assets are to be construed accordingly."
- (6) The amendments made by this section have effect in relation to disposals made on or after 18 March 2015.

42 **Entrepreneurs' relief: exclusion of goodwill in certain circumstances**

- (1) Chapter 3 of Part 5 of TCGA 1992 (entrepreneurs' relief) is amended as follows.

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- (2) In section 169H (introduction), in subsection (3), for “section 169L” substitute “sections 169L and 169LA”.
- (3) In section 169L (relevant business assets), in subsection (2), after “including” insert “, subject to section 169LA,”.
- (4) After that section insert—

“169LA Relevant business assets: goodwill transferred to a related party etc

- (1) Subsection (4) applies if—
 - (a) as part of a qualifying business disposal, a person (“P”) disposes of goodwill directly or indirectly to a close company (“C”),
 - (b) at the time of the disposal, P is a related party in relation to C, and
 - (c) P is not a retiring partner.
- (2) P is a related party in relation to C for the purposes of this section if P is a related party in relation to C for the purposes of Part 8 of CTA 2009 (intangible fixed assets) (see Chapter 12 of that Part (related parties) and, in particular, section 835(5) of that Act).
- (3) P is a retiring partner if the goodwill is goodwill in a business carried on, immediately before the disposal, by a partnership of which P is a member and at the time of the disposal—
 - (a) P is not, and no arrangements exist under which P could become, a participator in C or in a company that has control of, or holds a major interest in, C (a “relevant participator”),
 - (b) P is a related party in relation to C because P is an associate of one or more relevant participators, and
 - (c) P is only an associate of each of those relevant participators because they are also members of the partnership.
- (4) For the purposes of this Chapter, the goodwill is not one of the relevant business assets comprised in the qualifying business disposal.
- (5) If a company—
 - (a) is not resident in the United Kingdom, but
 - (b) would be a close company if it were resident in the United Kingdom,
 the company is to be treated as being a close company for the purposes of this section (including for the purposes of determining whether a person is a related party in relation to the company for the purposes of this section).
- (6) If a person—
 - (a) disposes of goodwill as part of a qualifying business disposal, and
 - (b) is party to relevant avoidance arrangements,
 subsection (4) applies (if it would not otherwise do so).
- (7) In subsection (6) “relevant avoidance arrangements” means arrangements the main purpose, or one of the main purposes, of which is to secure—
 - (a) that subsection (4) does not apply in relation to the goodwill, or

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- (b) that the person is not a related party (for whatever purposes) in relation to a company to which the disposal of goodwill is directly or indirectly made.
- (8) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
 - “associate”, “control”, “major interest” and “participator” have the same meaning as in Chapter 12 of Part 8 of CTA 2009 (see, in particular, sections 836, 837 and 841 of that Act).”
- (5) The amendments made by this section have effect in relation to qualifying business disposals made on or after 3 December 2014.

43 Entrepreneurs' relief: trading company etc

- (1) Section 169S of TCGA 1992 (entrepreneurs' relief - interpretation) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) In this Chapter “trading company” and “trading group” have the same meaning as in section 165 (see section 165A), except that, for the purposes of this Chapter—
- (a) subsections (7) and (12) of section 165A are to be disregarded;
 - (b) in determining whether a company which is a member of a partnership is a trading company, activities carried on by the company as a member of that partnership are to be treated as not being trading activities (see section 165A(4)); and
 - (c) in determining whether a group of companies is a trading group in a case where any one or more companies in the group is a member of a partnership, activities carried on by such a company as a member of the partnership are to be treated as not being trading activities (see section 165A(9)).”
- (3) In subsection (5), omit the entry relating to “trading company” and “trading group” and the “and” preceding that entry.
- (4) For the purposes of conditions B and D in section 169I of TCGA 1992 (material disposal of business assets), any reference to a company ceasing to be a trading company or ceasing to be a member of a trading group does not include a case where a company ceases to be a trading company or ceases to be a member of a trading group by virtue only of the coming into force of subsections (2) and (3).
- (5) This section comes into force on 18 March 2015.

44 Deferred entrepreneurs' relief on invested gains

- (1) In Part 5 of TCGA 1992 (transfer of business assets) after Chapter 3 (entrepreneurs' relief) insert—

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“CHAPTER 4

ENTREPRENEURS' RELIEF WHERE HELD-OVER GAINS BECOME CHARGEABLE

169T Overview of Chapter

This Chapter makes provision about claiming entrepreneurs' relief in certain cases where, in relation to held-over gains that originally arose on a business disposal, there is a chargeable event for the purposes of Schedule 5B or 8B (relief for gains invested under the enterprise investment scheme or in social enterprises).

169U Eligibility conditions for deferred entrepreneurs' relief

- (1) Section 169V applies if, ignoring the operation of section 169V(2)(b), each of the following conditions is met.
- (2) The first condition is that a chargeable gain (“the first eventual gain”) accrues as a result of the operation of—
 - paragraph 4 of Schedule 5B (enterprise investment scheme), or
 - paragraph 5 of Schedule 8B (investments in social enterprises).
- (3) If the first condition is met, the paragraph and Schedule mentioned in subsection (2) that apply in the case are referred to in this section, and section 169V, as “the relevant paragraph” and “the applicable Schedule”.
- (4) The second condition is—
 - (a) that the first eventual gain accrues in a case in which the original gain would, but for the operation of the applicable Schedule, have accrued on a relevant business disposal, or
 - (b) where the first eventual gain accrues in a case in which the original gain would, but for the operation of the applicable Schedule, have accrued as a result of the operation of either of the paragraphs mentioned in subsection (2), that the underlying disposal is a relevant business disposal.
- (5) The third condition is that a claim for entrepreneurs' relief in respect of the first eventual gain is made, on or before the first anniversary of the 31 January following the tax year in which the first eventual gain accrues, by the individual who made the disposal mentioned in subsection (4)(a) or (b).
- (6) The fourth condition is that the first eventual gain is the first gain to accrue in the case as a result of the operation of the relevant paragraph.
- (7) In subsection (4) “the underlying disposal” means the disposal (not being a disposal within paragraph 3 of Schedule 5B or paragraph 6 of Schedule 8B) by virtue of which Schedule 5B or 8B has effect.
- (8) For the purposes of subsection (4), whether the disposal on which the original gain would have accrued is a relevant business disposal, or whether the underlying disposal is a relevant business disposal, is to be decided according to the law applicable to disposals made at the time the disposal was made.

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(9) In this section—

“the original gain”, in relation to a particular case, has the same meaning as in the applicable Schedule,

“relevant business asset” has the meaning given by section 169L, and

“relevant business disposal” means—

(a) a disposal—

(i) within section 169H(2)(a) or (c) (qualifying business disposals), and

(ii) consisting of the disposal of (or of interests in) shares in or securities of a company, or

(b) a disposal of relevant business assets which is comprised in a disposal—

(i) within section 169H(2)(a) or (c), and

(ii) not consisting of the disposal of (or of interests in) shares in or securities of a company.

169V Operation of deferred entrepreneurs' relief

(1) Where this section applies, the following rules have effect.

(2) The gain mentioned in section 169U(2) (“the first eventual gain”)—

(a) is treated for ER purposes as the amount resulting from a calculation under section 169N(1) carried out—

(i) in respect of a qualifying business disposal made when the first eventual gain accrues, and

(ii) because of the claim mentioned in section 169U(5), and

(b) except for ER purposes, is not to be taken into account under this Act as a chargeable gain.

(3) If the first eventual gain is a part only of the original gain in the case concerned, each part of the original gain that subsequently accrues as a chargeable gain as a result of the operation of the relevant paragraph—

(a) is treated for ER purposes as the amount resulting from a calculation under section 169N(1) carried out—

(i) in respect of a qualifying business disposal made when that chargeable gain so accrues, and

(ii) because of the claim mentioned in section 169U(5), and

(b) except for ER purposes, is not to be taken into account under this Act as a chargeable gain.

(4) If the disposal mentioned in paragraph (a) or (b) of section 169U(4) is a disposal within section 169H(2)(c) (qualifying business disposal: disposal associated with a relevant material disposal)—

(a) a disposal mentioned in subsection (2) or (3) of this section is treated for the purposes of section 169P(1) as a disposal associated with a relevant material disposal, but

(b) section 169P applies in relation to that disposal as if the disposal referred to in section 169P(4) were the disposal mentioned in section 169U(4)(a) or (b).

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- (5) In this section “ER purposes” means the purposes of—
- (a) section 169N(2) to (4B), (7) and (8), and
 - (b) section 169P.”
- (2) The amendment made by subsection (1) has effect in relation to cases where the disposal mentioned in the new section 169U(4)(a) or (b) is made on or after 3 December 2014.

Capital allowances

45 Zero-emission goods vehicles

- (1) CAA 2001 is amended as follows.
- (2) In section 45DA(1)(a) (period during which first-year qualifying expenditure may be incurred), for “5 years” substitute “8 years”.
- (3) Section 45DB (exclusions from allowances under section 45DA) is amended in accordance with subsections (4) to (7).
- (4) In subsection (7), omit “notified” (in both places).
- (5) In subsection (8), omit “to that extent”.
- (6) In subsection (11), omit the definition of “notified State aid”.
- (7) After that subsection insert—
- “(11A) 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 amendments made by subsections (3) to (7) have 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.
- (9) “The specified day” means—
- (a) for income tax purposes, 6 April 2015, and
 - (b) for corporation tax purposes, 1 April 2015.

46 Plant and machinery allowances: anti-avoidance

Schedule 10 contains provision about plant and machinery allowances.

Oil and gas

47 Extension of ring fence expenditure supplement

Schedule 11 contains provision enabling the ring fence expenditure supplement to be claimed for an additional 4 accounting periods (and as a result repeals provision for the extended ring fence expenditure supplement for onshore activities).

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48 Reduction in rate of supplementary charge

- (1) In section 330 of CTA 2010 (supplementary charge in respect of ring fence trades), in subsection (1), for “32%” substitute “ 20% ”.
- (2) The amendment made by subsection (1) has effect in relation to accounting periods beginning on or after 1 January 2015 (but see also subsection (3)).
- (3) Subsections (4) to (6) apply where a company has an accounting period beginning before 1 January 2015 and ending on or after that date (“the straddling period”).
- (4) For the purpose of calculating the amount of the supplementary charge on the company for the straddling period—
 - (a) so much of that period as falls before 1 January 2015, and so much of that period as falls on or after that date, are treated as separate accounting periods, and
 - (b) the company's adjusted ring fence profits for the straddling period are apportioned to the two separate accounting periods in proportion to the number of days in those periods.
- (5) Sections 330A and 330B of CTA 2010 do not apply in relation to the straddling period (but do apply in relation to the separate accounting period ending on 31 December 2014).
- (6) The amount of the supplementary charge on the company for the straddling period is the sum of the amounts of supplementary charge that would, in accordance with subsections (4) and (5), be chargeable on the company for those separate accounting periods.
- (7) In this section—

“adjusted ring fence profits” has the same meaning as in section 330 of CTA 2010;

“supplementary charge” means any sum chargeable under section 330(1) of CTA 2010 as if it were an amount of corporation tax.

49 Supplementary charge: investment allowance

Schedule 12 contains provision about the reduction of adjusted ring fence profits by means of an investment allowance.

50 Supplementary charge: cluster area allowance

Schedule 13 contains provision about the reduction of adjusted ring fence profits by means of a cluster area allowance.

51 Amendments relating to investment allowance and cluster area allowance

Schedule 14 contains further amendments related to the amendments made by Schedules 12 and 13.

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PART 2

EXCISE DUTIES AND OTHER TAXES

Petroleum revenue tax

52 Reduction in rate of petroleum revenue tax

- (1) OTA 1975 is amended as follows.
- (2) In section 1(2) (rate of petroleum revenue tax) for “50” substitute “ 35 ”.
- (3) In paragraph 17(5)(b) of Schedule 2 (relevant percentage in relation to the amount of loss which is treated as reducing assessable profit) after “60 per cent” insert “ if that later repayment period ends on or before 31 December 2015, and 45 per cent if it ends after 31 December 2015 ”.
- (4) The amendment made by subsection (2) has effect with respect to chargeable periods ending after 31 December 2015.

Alcohol

53 Rates of alcoholic liquor duties

- (1) ALDA 1979 is amended as follows.
- (2) In section 5 (rate of duty on spirits), for “£28.22” substitute “ £27.66 ”.
- (3) In section 36(1AA) (rates of general beer duty)—
 - (a) in paragraph (za) (rate of duty on lower strength beer), for “£8.62” substitute “ £8.10 ”, and
 - (b) in paragraph (a) (standard rate of duty on beer), for “£18.74” substitute “ £18.37 ”.
- (4) In section 37(4) (rate of high strength beer duty), for “£5.29” substitute “ £5.48 ”.
- (5) In section 62(1A) (rates of duty on cider)—
 - (a) in paragraph (b) (cider of strength exceeding 7.5% which is not sparkling cider) for “£59.52” substitute “ £58.75 ”, and
 - (b) in paragraph (c) (other cider), for “£39.66” substitute “ £38.87 ”.
- (6) For Part 2 of the table in Schedule 1 substitute—

“PART 2

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT

Description of wine or made-wine

*Rates of duty per
litre of alcohol in
wine or made-wine
£*

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Wine or made-wine of a strength exceeding 22 per cent 27.66”.

- (7) The amendments made by this section are treated as having come into force on 23 March 2015.

54 Wholesaling of controlled liquor

- (1) ALDA 1979 is amended as set out in subsections (2) to (5).
- (2) In section 4 (interpretation)—
- (a) in subsection (1), in the definition of “wholesale”, after “ “wholesale”” insert “ (except in Part 6A) ”,
 - (b) in the Table in subsection (3), at the appropriate place insert—
-
- “excise duty point”, and
-
- (c) in subsection (4), after “Act” insert “ (except in Part 6A) ”.
- (3) After Part 6 insert—

“PART 6A

WHOLESALING OF CONTROLLED LIQUOR

88A Definitions

- (1) This section defines certain expressions used in this Part.
- (2) A sale is of “controlled liquor” if—
 - (a) it is a sale of dutiable alcoholic liquor on which duty is charged under this Act at a rate greater than nil, and
 - (b) the excise duty point for the liquor falls at or before the time of the sale.
- (3) Controlled liquor is sold “wholesale” if—
 - (a) the sale is of any quantity of the liquor,
 - (b) the seller is carrying on a trade or business and the sale is made in the course of that trade or business,
 - (c) the sale is to a buyer carrying on a trade or business, for sale or supply in the course of that trade or business, and
 - (d) the sale is not an incidental sale, a group sale or an excluded sale, and a reference to buying controlled liquor wholesale is to be read accordingly.
- (4) A sale is an “incidental sale” if—
 - (a) the seller makes authorised retail sales of alcoholic liquor of any description, and
 - (b) the sale is incidental to those sales.
- (5) A sale is an “authorised retail sale” if it is made by retail under and in accordance with a licence or other authorisation under an enactment regulating the sale and supply of alcohol.

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- (6) A sale is a “group sale” if the seller and the buyer are both bodies corporate which are members of the same group (see section 88J).
- (7) A sale is an “excluded sale” if it is of a description prescribed by or under regulations made by the Commissioners.
- (8) “Controlled activity” means—
 - (a) selling controlled liquor wholesale,
 - (b) offering or exposing controlled liquor for sale in circumstances in which the sale (if made) would be a wholesale sale, or
 - (c) arranging in the course of a trade or business for controlled liquor to be sold wholesale, or offered or exposed for sale in circumstances in which the sale (if made) would be a wholesale sale.
- (9) “UK person” means a person who is UK-established for the purposes of value added tax (see paragraph 1(10) of Schedule 1 to the Value Added Tax Act 1994).
- (10) “Enactment” includes an enactment contained in—
 - (a) an Act of the Scottish Parliament;
 - (b) an Act or Measure of the National Assembly for Wales;
 - (c) Northern Ireland legislation.

88B Further provision relating to definitions

- (1) The Commissioners may by regulations make provision as to the cases in which sales are, or are not, to be treated for the purposes of this Part as—
 - (a) wholesale sales,
 - (b) sales of controlled liquor,
 - (c) incidental sales,
 - (d) authorised retail sales, or
 - (e) group sales.
- (2) The Commissioners may by regulations make provision as to the cases in which a person is, or is not, to be treated for the purposes of this Part as carrying on a controlled activity by virtue of section 88A(8)(b) or (c) (offering and exposing for sale and arranging for sale etc).

88C Approval to carry on controlled activity

- (1) A UK person may not carry on a controlled activity otherwise than in accordance with an approval given by the Commissioners under this section.
- (2) The Commissioners may approve a person under this section to carry on a controlled activity only if they are satisfied that the person is a fit and proper person to carry on the activity.
- (3) The Commissioners may approve a person under this section to carry on a controlled activity for such periods and subject to such conditions or restrictions as they may think fit or as they may by or under regulations made by them prescribe.

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- (4) The conditions or restrictions may include conditions or restrictions requiring the controlled activity to be carried on only at or from premises specified or approved by the Commissioners.
- (5) The Commissioners may at any time for reasonable cause revoke or vary the terms of an approval under this section.
- (6) In this Part “approved person” means a person approved under this section to carry on a controlled activity.

88D The register of approved persons

- (1) The Commissioners must maintain a register of approved persons.
- (2) The register is to contain such information relating to approved persons as the Commissioners consider appropriate.
- (3) The Commissioners may make publicly available such information contained in the register as they consider necessary to enable those who deal with a person who carries on a controlled activity to determine whether the person in question is an approved person in relation to that activity.
- (4) The information may be made available by such means (including on the internet) as the Commissioners consider appropriate.

88E Regulations relating to approval, registration and controlled activities

- (1) The Commissioners may by regulations make provision—
 - (a) regulating the approval and registration of persons under this Part,
 - (b) regulating the variation or revocation of any such approval or registration or of any condition or restriction to which such an approval or registration is subject,
 - (c) about the register maintained under section 88D,
 - (d) regulating the carrying on of controlled activities, and
 - (e) imposing obligations on approved persons.
- (2) The regulations may, in particular, make provision—
 - (a) requiring applications, and other communications with the Commissioners, to be made electronically,
 - (b) as to the procedure for the approval and registration of bodies corporate which are members of the same group and for members of such a group to be jointly and severally liable for any penalties imposed under—
 - (i) the regulations, or
 - (ii) Schedule 2B,
 - (c) requiring approved persons to keep and make available for inspection such records relating to controlled activities as may be prescribed by or under the regulations,
 - (d) imposing a penalty of an amount prescribed by the regulations (which must not exceed £1,000) for a contravention of—
 - (i) the regulations, or
 - (ii) any condition or restriction imposed under this Part,

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- (e) for the assessment and recovery of such a penalty, and
- (f) for dutiable alcoholic liquor (whether or not charged with any duty and whether or not that duty has been paid) to be subject to forfeiture for a contravention of—
 - (i) this Part or the regulations, or
 - (ii) any condition or restriction imposed under this Part.

88F Restriction on buying controlled liquor wholesale

A person may not buy controlled liquor wholesale from a UK person unless the UK person is an approved person in relation to the sale.

88G Offences

- (1) A person who contravenes section 88C(1) by selling controlled liquor wholesale is guilty of an offence if the person knows or has reasonable grounds to suspect that—
 - (a) the buyer is carrying on a trade or business, and
 - (b) the liquor is for sale or supply in the course of that trade or business.
- (2) A person who contravenes section 88C(1) by offering or exposing controlled liquor for sale in circumstances in which the sale (if made) would be a wholesale sale is guilty of an offence if the person intends to make a wholesale sale of the liquor.
- (3) A person who contravenes section 88C(1) by arranging in the course of a trade or business for controlled liquor to be sold wholesale, or offered or exposed for sale in circumstances in which the sale (if made) would be a wholesale sale, is guilty of an offence if the person intends to arrange for the liquor to be sold wholesale.
- (4) A person who contravenes section 88F is guilty of an offence if the person knows or has reasonable grounds to suspect that the UK person from whom the controlled liquor is bought is not an approved person in relation to the sale.
- (5) A person guilty of an offence under this section is liable on summary conviction—
 - (a) in England and Wales to—
 - (i) imprisonment for a term not exceeding 12 months,
 - (ii) a fine, or
 - (iii) both,
 - (b) in Scotland to—
 - (i) imprisonment for a term not exceeding 12 months,
 - (ii) a fine not exceeding the statutory maximum, or
 - (iii) both, and
 - (c) in Northern Ireland to—
 - (i) imprisonment for a term not exceeding 6 months,
 - (ii) a fine not exceeding the statutory maximum, or
 - (iii) both.

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- (6) A person guilty of an offence under this section is liable on conviction on indictment to—
- (a) imprisonment for a period not exceeding 7 years,
 - (b) a fine, or
 - (c) both.
- (7) The reference in subsection (5)(a)(i) to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.

88H Penalties

Schedule 2B contains provision about penalties for contraventions of this Part.

88I Regulations

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, and
- (d) may confer a discretion on the Commissioners.

88J Groups

- (1) Two or more bodies corporate are members of a group for the purposes of this Part if each is established or has a fixed establishment in the United Kingdom and—
- (a) one of them controls each of the others,
 - (b) one person (whether a body corporate or an individual) controls all of them, or
 - (c) two or more individuals carrying on a business in partnership control all of them.
- (2) For the purposes of this section, a body corporate is to be taken to control another body corporate if—
- (a) it is empowered by or under an enactment to control that body's activities, or
 - (b) it is that body's holding company within the meaning of section 1159 of, and Schedule 6 to, the Companies Act 2006.
- (3) For the purposes of this section—
- (a) an individual or individuals are to be taken to control a body corporate if the individual or individuals (were the individual or individuals a company) would be that body's holding company within the meaning of section 1159 of, and Schedule 6 to, the Companies Act 2006, and
 - (b) a body corporate is established or has a fixed establishment in the United Kingdom if it is so established or has such an establishment for the purposes of value added tax.

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88K Index

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

- (4) In section 90 (procedure for regulations)—
- (a) after subsection (1) insert—
- “(1A) A statutory instrument containing regulations under Part 6A is subject to annulment in pursuance of a resolution of the House of Commons.”, and
- (b) in subsection (2), after “containing” insert “ any other ”.
- (5) After Schedule 2A insert—

“SCHEDULE 2B

Section 88H

PENALTIES FOR CONTRAVENTIONS OF PART 6A

Liability to penalty

- 1 A penalty is payable by a person (“P”) who contravenes section 88C(1) or 88F.

Amount of penalty

- 2 (1) If the contravention is deliberate and concealed, the amount of the penalty is the maximum amount (see paragraph 10).
- (2) If the contravention is deliberate but not concealed, the amount of the penalty is 70% of the maximum amount.
- (3) In any other case, the amount of the penalty is 30% of the maximum amount.
- (4) The contravention is—
- (a) “deliberate and concealed” if the contravention is deliberate and P makes arrangements to conceal the contravention, and
- (b) “deliberate but not concealed” if the contravention is deliberate but P does not make arrangements to conceal the contravention.

Reductions for disclosure

- 3 (1) Paragraph 4 provides for reductions in penalties under this Schedule where P discloses a contravention.
- (2) P discloses a contravention by—
- (a) telling the Commissioners about it,
- (b) giving the Commissioners reasonable help in identifying any other contraventions of section 88C(1) or 88F of which P is aware, and
- (c) allowing the Commissioners access to records for the purpose of identifying such contraventions.
- (3) Disclosure of a contravention—

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- (a) is “unprompted” if made at a time when P has no reason to believe that the Commissioners have discovered or are about to discover the contravention, and
 - (b) otherwise, is “prompted”.
- (4) In relation to disclosure “quality” includes timing, nature and extent.
- 4 (1) Where P discloses a contravention, the Commissioners must reduce the penalty to one that reflects the quality of the disclosure.
- (2) If the disclosure is prompted, the penalty may not be reduced below—
 - (a) in the case of a contravention that is deliberate and concealed, 50% of the maximum amount,
 - (b) in the case of a contravention that is deliberate but not concealed, 35% of the maximum amount, and
 - (c) in any other case, 20% of the maximum amount.
- (3) If the disclosure is unprompted, the penalty may not be reduced below—
 - (a) in the case of a contravention that is deliberate and concealed, 30% of the maximum amount,
 - (b) in the case of a contravention that is deliberate but not concealed, 20% of the maximum amount, and
 - (c) in any other case, 10% of the maximum amount.

Special reduction

- 5 (1) If the Commissioners think it right because of special circumstances, they may reduce a penalty under this Schedule.
- (2) In sub-paragraph (1) “special circumstances” does not include ability to pay.
- (3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—
 - (a) staying a penalty, and
 - (b) agreeing a compromise in relation to proceedings for a penalty.

Assessment

- 6 (1) Where P becomes liable for a penalty under this Schedule, the Commissioners must—
 - (a) assess the penalty,
 - (b) notify P, and
 - (c) state in the notice the contravention in respect of which the penalty is assessed.
- (2) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.
- (3) An assessment is to be treated as an amount of duty due from P under this Act and may be recovered accordingly.
- (4) An assessment of a penalty under this Schedule may not be made later than one year after evidence of facts sufficient in the opinion of the Commissioners to indicate the contravention comes to their knowledge.

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- (5) Two or more contraventions may be treated by the Commissioners as a single contravention for the purposes of assessing a penalty under this Schedule.

Reasonable excuse

- 7 (1) Liability to a penalty does not arise under this Schedule in respect of a contravention which is not deliberate if P satisfies the Commissioners or (on an appeal made to the appeal tribunal) the tribunal that there is a reasonable excuse for the contravention.
- (2) For the purposes of sub-paragraph (1), where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the contravention.

Companies: officer's liability

- 8 (1) Where a penalty under this Schedule is payable by a company in respect of a contravention which was attributable to an officer of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as the Commissioners may specify by written notice to the officer.
- (2) Sub-paragraph (1) does not allow the Commissioners to recover more than 100% of a penalty.
- (3) In the application of sub-paragraph (1) to a body corporate other than a limited liability partnership, “officer” means—
- (a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006),
 - (b) a manager, and
 - (c) a secretary.
- (4) In the application of sub-paragraph (1) to a limited liability partnership, “officer” means a member.
- (5) In the application of sub-paragraph (1) in any other case, “officer” means—
- (a) a director,
 - (b) a manager,
 - (c) a secretary, and
 - (d) any other person managing or purporting to manage any of the company's affairs.
- (6) Where the Commissioners have specified a portion of a penalty in a notice given to an officer under sub-paragraph (1)—
- (a) paragraph 5 applies to the specified portion as to a penalty,
 - (b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,
 - (c) sub-paragraphs (3) to (5) of paragraph 6 apply as if the notice were an assessment of a penalty, and
 - (d) paragraph 9 applies as if the officer were liable to a penalty.
- (7) In this paragraph “company” means any body corporate or unincorporated association, but does not include a partnership.

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Double jeopardy

- 9 P is not liable to a penalty under this Schedule in respect of a contravention in respect of which P has been convicted of an offence.

The maximum amount

- 10 (1) In this Schedule “the maximum amount” means £10,000.
- (2) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, they may by regulations substitute for the sum for the time being specified in sub-paragraph (1) such other sum as appears to them to be justified by the change.
- (3) In sub-paragraph (2), “relevant date” means—
- (a) the date on which the Finance Act 2015 is passed, and
 - (b) each date on which the power conferred by that sub-paragraph has been exercised.
- (4) Regulations under this paragraph do not apply to any contravention which occurred before the date on which they come into force.

Appeal tribunal

- 11 In this Schedule “appeal tribunal” has the same meaning as in Chapter 2 of Part 1 of the Finance Act 1994.”
- (6) In section 13A(2) of FA 1994 (meaning of “relevant decision”), after paragraph (e) insert—
- “(ea) any decision by HMRC that a person is liable to a penalty, or as to the amount of the person's liability, under—
 - (i) regulations under section 88E of the Alcoholic Liquor Duties Act 1979; or
 - (ii) Schedule 2B to that Act;”.
- (7) In Schedule 5 to that Act (decisions subject to review and appeal), in paragraph 3(1), after paragraph (o) insert—
- “(p) any decision for the purposes of Part 6A (wholesaling of controlled liquor) as to whether or not, and in which respects, any person is to be, or to continue to be, approved and registered or as to the conditions or restrictions subject to which any person is approved and registered.”.
- (8) Subject as follows, the amendments made by this section come into force on the day on which this Act is passed.
- (9) So far as relating to section 88C(1) of ALDA 1979, subsection (3) comes into force on 1 January 2016 (but see subsection (12) for the application of section 88C(1) in cases where an application has been made but not disposed of by that date).
- (10) So far as relating to section 88F of ALDA 1979, subsection (3) comes into force on such day as the Treasury may by regulations made by statutory instrument appoint.
- (11) An application for a person to be approved under section 88C of ALDA 1979 may not be made before 1 October 2015.

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- (12) Where such an application made before 1 January 2016 has not been disposed of by that date, section 88C(1) of ALDA 1979 does not apply in relation to the person until the application is disposed of.
- (13) An application is “disposed of” when—
- (a) it is determined by Her Majesty's Revenue and Customs,
 - (b) it is withdrawn, or
 - (c) it is abandoned or otherwise ceases to have effect.

Commencement Information

I5 [S. 54\(3\)](#) in force at 1.4.2017 for specified purposes by [S.I. 2017/494](#), [reg. 2](#)

Tobacco

55 Rates of tobacco products duty

- (1) For the table in Schedule 1 to TPDA 1979 substitute—

“1. Cigarettes	An amount equal to 16.5 per cent of the retail price plus £189.49 per thousand cigarettes
2. Cigars	£236.37 per kilogram
3. Hand-rolling tobacco	£185.74 per kilogram
4. Other smoking tobacco and chewing tobacco	£103.91 per kilogram”.

- (2) The amendment made by this section is treated as having come into force at 6 pm on 18 March 2015.

56 Excise duty on tobacco: anti-forestalling restrictions

After section 6 of TPDA 1979 (alteration of rates of duty) insert—

“6A Anti-forestalling notices in connection with anticipated alteration of rate of duty

- (1) If the Commissioners consider that an alteration to a rate of duty charged under section 2 on tobacco products may be made (whether under section 6 or otherwise), they may publish a notice under this section (an “anti-forestalling notice”).
- (2) An anti-forestalling notice—
- (a) must specify a period of up to 3 months (“the controlled period”),
 - (b) may impose such restrictions (“anti-forestalling restrictions”), as to the quantities of the tobacco products that may during the controlled period be removed for home use, as the Commissioners consider to be reasonable for the purpose of protecting the public revenue,

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- (c) may make provision for, and in connection with, the controlled period coming to an end early (including provision modifying an anti-forestalling restriction in such circumstances),
 - (d) may make provision for the removal of tobacco products for home use to be disregarded for the purposes of one or more anti-forestalling restrictions in certain circumstances, and
 - (e) may make different provision for different cases.
- (3) The anti-forestalling restrictions that may be imposed include, in particular—
- (a) restrictions as to the total quantity of the tobacco products, or of the tobacco products of a particular description, that may, during the controlled period, be removed for home use, and
 - (b) restrictions as to the quantity of the tobacco products, or the tobacco products of a particular description, that may be removed for home use during any month, or any period of two weeks, in the controlled period.

This is subject to subsections (4) and (5).

- (4) An anti-forestalling notice may not restrict a person, during the controlled period, to removing for home use a total quantity of the tobacco products, or of the tobacco products of a particular description, that is less than 80% of—

$$\frac{\text{TPY}}{365} \times \text{DCP}$$

where—

TPY is the total quantity of the tobacco products, or (as the case may be) of the tobacco products of a particular description, removed for home use by the person in the period of 12 months ending with the third month before the month in which the controlled period begins, and

DCP is the number of days in the controlled period.

- (5) An anti-forestalling notice may not restrict a person, in any month of the controlled period, to removing for home use less than 30% of the total quantity of the tobacco products, or of the tobacco products of a particular description, that could, under the anti-forestalling restrictions imposed by the notice, be removed for home use during the whole controlled period.
- (6) If, before the end of the controlled period, it appears to the Commissioners that the rate of duty—
- (a) will not be altered during the controlled period, but
 - (b) may be altered within a month of the end of the controlled period,
- the Commissioners may publish an extension notice.
- (7) An extension notice may—
- (a) extend the controlled period by up to one month, and

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- (b) in accordance with subsections (2) to (5), make such other modifications of the anti-forestalling notice as the Commissioners think appropriate in consequence of the extension.
- (8) The Commissioners may vary or revoke an anti-forestalling notice—
 - (a) as it applies generally, or
 - (b) if the Commissioners consider that exceptional circumstances justify doing so, in relation to a particular person.
- (9) This section does not affect the Commissioners' powers—
 - (a) under section 128 of the Customs and Excise Management Act 1979 (restriction of delivery of goods), or
 - (b) to make regulations under section 7 of this Act in relation to periods specified under that section of that Act.

6B Anti-forestalling notices: sanctions

- (1) This section applies if a person fails to comply with an anti-forestalling notice published under section 6A by, on one or more occasions, removing tobacco products for home use during the controlled period in contravention of an anti-forestalling restriction.
- (2) The failure to comply attracts a penalty under section 9 of the Finance Act 1994 (civil penalties) of an amount determined in accordance with subsection (3) (rather than that section).
- (3) The person is liable to a penalty of—
 - (a) if the person has given an admission notice, 150% of the lost duty, and
 - (b) otherwise, 200% of the lost duty.
- (4) An “admission notice” is a notice—
 - (a) in which the person admits that the person—
 - (i) has failed to comply with the anti-forestalling notice, and
 - (ii) is liable to a penalty determined in accordance with subsection (3), and
 - (b) that is in such form, and that provides such information, as the Commissioners may specify.
- (5) An admission notice cannot be given if, at any time in the period of 3 years ending with the day before the controlled period, the person has given an admission notice in relation to a failure to comply with another anti-forestalling notice.
- (6) An admission notice cannot be given—
 - (a) at a time when the person has reason to believe that Her Majesty's Revenue and Customs have discovered, or are about to discover, that the person has failed to comply with the anti-forestalling notice, or
 - (b) after the end of the controlled period.
- (7) The “lost duty” is the amount (if any) by which the duty that would have been charged under section 2 on the excess tobacco products if they had, immediately after the end of the controlled period, been removed for home use exceeds the duty that was charged under that section on those tobacco products.

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(8) The “excess tobacco products” are the tobacco products mentioned in subsection (1) that the person removed, for home use, in contravention of an anti-forestalling restriction.

(9) See section 6A for the meaning of “anti-forestalling notice”, “anti-forestalling restriction” and “controlled period”.

Air passenger duty

57 Air passenger duty: exemption for children in standard class

(1) In section 31 of FA 1994 (passengers: exceptions), after subsection (4) insert—

“(4ZA) A child who has not attained the age of 16 years is not a chargeable passenger in relation to a flight if the child's agreement for carriage—

- (a) is evidenced by a ticket, and
- (b) provides for standard class travel in relation to every flight on the child's journey.

(4ZB) Subsections (10) to (12) of section 30 (meaning of “standard class travel”) apply for the purposes of subsection (4ZA) as they apply for the purposes of that section.”

(2) The amendment made by this section has effect in relation to any carriage of a passenger which begins on or after 1 May 2015.

But, in relation to any carriage of a passenger which begins before 1 March 2016, section 31(4ZA) of FA 1994 has effect as if for “16 years” there were substituted “12 years”.

Vehicle excise duty

58 VED rates for light passenger vehicles and motorcycles

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

(2) 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>CO₂ 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>
<i>g/km</i>	<i>g/km</i>	<i>£</i>	<i>£</i>
130	140	120	130
140	150	135	145

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150	165	170	180
165	175	285	295
175	185	340	350
185	200	480	490
200	225	630	640
225	255	860	870
255		1090	1100

Table 2

RATES PAYABLE ON ANY OTHER VEHICLE LICENCE FOR VEHICLE

<i>CO₂ 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>
<i>g/km</i>	<i>g/km</i>	<i>£</i>	<i>£</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	280	290
225	255	480	490
255		495	505”;

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

“(a) in column (3), in the last two rows, “280” were substituted for “480” and “ 495 ”, and

(b) in column (4), in the last two rows, “290” were substituted for “490” and “ 505 ”.”

(3) In paragraph 2(1) (VED rates for motorcycles)—

(a) in paragraph (c), for “£58” substitute “ £59 ”, and

(b) in paragraph (d), for “£80” substitute “ £81 ”.

(4) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2015.

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59 VED: extension of old vehicles exemption from 1 April 2016

- (1) In Schedule 2 to VERA 1994 (exempt vehicles) in paragraph 1A(1) (exemption for old vehicles) for the words from “constructed” to the end substitute “ constructed before 1 January 1976 ”.
- (2) The amendment made by subsection (1) comes into force on 1 April 2016; 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.

Gaming duty

60 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 £2,347,500	15 per cent
The next £1,618,000	20 per cent
The next £2,833,500	30 per cent
The next £5,981,000	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 2015.

Aggregates levy

61 Tax credit in Northern Ireland

- (1) Part 2 of FA 2001 (aggregates levy) is amended in accordance with subsections (2) to (6).
- (2) After section 30A insert—

“30B Special tax credit in Northern Ireland

- (1) The Commissioners may by regulations make provision of the kind described in section 30(2) (entitlement to tax credit) in relation to cases within subsection (3) below.
- (2) Tax credit to which a person is entitled under the regulations is referred to in this section as “special tax credit”.
- (3) The cases are where—
 - (a) a person has been charged with, and has fully accounted for, aggregates levy in respect of the commercial exploitation of a quantity of aggregate, and

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- (b) the exploitation was of imported aggregate and occurred in Northern Ireland in the period defined in subsection (5).
- (4) For this purpose aggregate is “imported” if it was won from a site in a member State other than the United Kingdom.
- (5) The period mentioned in subsection (3)(b)—
 - (a) begins with 1 April 2004, and
 - (b) ends with 30 November 2010.
- (6) Regulations may in particular—
 - (a) provide that a person is not entitled to special tax credit unless the Department of the Environment in Northern Ireland (“the Department”) has certified under section 30D(4) that it is satisfied that specified requirements were met in relation to the site from which the aggregate originates during a period which includes the time when the aggregate was won from the site (and the certification has not been revoked);
 - (b) specify further conditions for entitlement to special tax credit;
 - (c) make provision about the rate at which special tax credit is to be given (including provision restricting the amount of special tax credit in cases where entitlement to a tax credit has already arisen);
 - (d) provide for compound interest at the applicable rate (see section 30C) to be treated as added, for such period and for such purposes as may be prescribed, to the amount of any special tax credit;
 - (e) authorise the Commissioners to adjust a person's claim for special tax credit in specified circumstances.
- (7) Regulations under subsection (6)(a) may specify the requirements in question by reference to any provisions of a notice published by the Department in pursuance of the regulations and not withdrawn by a further notice.
- (8) Subsection (3) of section 30 (except paragraph (f) of that subsection) applies to regulations under this section as it applies to regulations under that section.
- (9) Section 32(1) (time limit for claims) does not apply to a claim for repayment of aggregates levy made under regulations under this section.

30C Special tax credit: applicable rate of interest

- (1) The reference in section 30B(6)(d) to the applicable rate is to a rate provided for in regulations made by the Treasury.
- (2) Regulations under this section may—
 - (a) provide for the rate to be determined, and to change from time to time, by reference to a rate referred to in the regulations;
 - (b) include provision for different rates to apply at different times in a period for which interest is due to a person.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

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30D Special tax credit: certification by Department

- (1) A person may, for the purpose of making a claim for special tax credit, apply to the Department for a certification under subsection (4)(a).
- (2) The application must specify—
 - (a) a site, and
 - (b) a time (“the relevant time”).
- (3) Where a certification relating to a site has been wholly or partly revoked by virtue of subsection (7)(b), an application specifying that site may not specify a time falling within the period with respect to which the revocation has effect.
- (4) Where an application is made and the Department has not previously made a certification under paragraph (a) relating to both the specified site and a period that includes the relevant time, the Department must either—
 - (a) certify that it is satisfied that any requirements specified by virtue of section 30B(6)(a) were met in relation to the site during a period (specified in the certification) that includes the relevant time, or
 - (b) refuse the application.
- (5) If the Department makes a certification under subsection (4)(a) (a “special tax credit certification”) it must give a written notice of the certification to—
 - (a) the applicant, and
 - (b) HMRC.
- (6) Where an application is made and the Department has previously made a special tax credit certification relating to both the specified site and a period that includes the relevant time, the Department must give the applicant a written notice of that certification.
- (7) The Commissioners may by regulations—
 - (a) make provision about the time within which an application under subsection (1) must be made and the form and content of such an application;
 - (b) authorise the Department to revoke a special tax credit certification with respect to the whole or part of the period to which the certification relates if the Department is satisfied that its decision as regards the meeting of the relevant requirements (or that decision, so far as relating to the relevant part of that period) was not correct;
 - (c) make any other provision that is necessary in connection with paragraph (b) and subsection (8);
 - (d) provide that a revocation by virtue of paragraph (b) may not be made after a specified date.
- (8) A special tax credit certification is to be treated as never having had effect in relation to any period with respect to which it is revoked by virtue of subsection (7)(b).
- (9) Regulations under this section which make provision such as is mentioned in subsection (7)(b) must require the Department to inform the Commissioners, and any other person to whom the Department has given a written notice of the certification, if the Department revokes a special tax credit certification.

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- (10) Any expenses of the Department under or by virtue of this section or section 30B are to be appropriated from the Consolidated Fund of Northern Ireland by Act of the Northern Ireland Assembly.
- (11) In this section “the Department” and “special tax credit” have the same meaning as in section 30B.”
- (3) In section 17 (meaning of “aggregate” and “taxable aggregate”), in subsection (6)(a), for “or 30A” substitute “, 30A or 30B ”.
- (4) In section 48(1) (interpretation of Part), in the definition of “tax credit regulations”, for “or 30A” substitute “, 30A or 30B ”.
- (5) In paragraph 9A of Schedule 6 (incorrect records etc evidencing claim for tax credit), in sub-paragraph (1)(a)—
- (a) omit the “or” at the end of sub-paragraph (i), and
 - (b) after sub-paragraph (ii) insert “, or
(iii) section 30B(3) of this Act (special tax credit in Northern Ireland);”.
- (6) In paragraph 2 of Schedule 8 (interest payable by the Commissioners), in sub-paragraph (3)—
- (a) in paragraph (b), for “of this Act; but” substitute “ or 30B(6)(d); ”, and
 - (b) after paragraph (b) insert—
 - “(ba) do not include the amount of any tax credit to which a person is entitled by virtue of section 30B(1); but”.

Climate change levy

62 Climate change levy: main rates from 1 April 2016

- (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>Taxable commodity supplied</i>	<i>Rate at which levy payable if supply is not a reduced-rate supply</i>
Electricity	£0.00559 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	£0.00195 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.01251 per kilogram
Any other taxable commodity	£0.01526 per kilogram”

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

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63 Combined heat and power stations

- (1) Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- (2) In paragraph 24B (deemed taxable supply: commodities to be used in combined heat and power station)—
 - (a) in sub-paragraph (2), at the end insert “ to which sub-paragraph (2A) does not apply ”,
 - (b) after that sub-paragraph insert—
 - “(2A) This sub-paragraph applies to electricity so far as—
 - (a) it is included in the CHP Qualifying Power Output of the combined heat and power station's CHPQA scheme, and
 - (b) either condition A or B is met.
 - (2B) Condition A is that the producer of the electricity makes no supply of it to another person, but causes it to be consumed in the United Kingdom.
 - (2C) Condition B is that the electricity is supplied (within the meaning of Part 1 of the Electricity Act 1989 (see section 64 of that Act)) by a person who is an exempt unlicensed electricity supplier.”,
 - (c) in sub-paragraph (3), after “electricity” insert “ to which sub-paragraph (2A) does not apply ”, and
 - (d) for sub-paragraph (7) substitute—
 - “(7) For the purposes of this paragraph—

“CHP Qualifying Power Output” has the meaning given by section 4 of the Combined Heat and Power Quality Assurance Standard, Issue 5 (November 2013), prepared by the Department of Energy and Climate Change or, if that issue of the Standard has been replaced by another issue, by the current issue of the Standard (taking account, in either case, of any amendment which has been made to the issue);

“CHPQA scheme”, in relation to a combined heat and power station, means the scheme in relation to which the station's CHPQA certificate was issued;

“CHPQA site”, in relation to a fully exempt combined heat and power station or a partly exempt combined heat and power station, means the site of the CHPQA scheme.”
- (3) In paragraph 24C (initial determination under paragraph 24B(3) superseded by later determination), in sub-paragraph (1)—
 - (a) in paragraph (a), at the end insert “ to which paragraph 24B(2A) does not apply ”, and
 - (b) in paragraph (c)(i), after “electricity” insert “ to which paragraph 24B(2A) does not apply ”.
- (4) In paragraph 62 (tax credits), in sub-paragraph (1)(bb), after “electricity”, in both places, insert “ to which paragraph 24B(2A) does not apply ”.
- (5) The amendments made by this section have effect in relation to carbon price support rate commodities brought onto, or arriving at, a CHPQA site of a combined heat and power station in Great Britain on or after 1 April 2015.

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Landfill tax

64 Landfill tax: rates from 1 April 2016

- (1) Section 42 of FA 1996 (amount of landfill tax) is amended as follows.
- (2) In subsection (1) (standard rate), for paragraph (a) (but not the “or” following it) substitute—
 - “(a) £84.40 for each whole tonne disposed of and a proportionately reduced sum for any additional part of a tonne.”
- (3) In subsection (2) (reduced rate for certain disposals), for the words from “reference” to the end substitute “reference to £84.40 were to £2.65.”
- (4) The amendments made by this section have effect in relation to disposals made (or treated as made) on or after 1 April 2016.

65 Landfill tax: material consisting of fines

Schedule 15 makes provision about the treatment of fines for the purposes of landfill tax.

Value added tax

66 VAT: refunds to certain charities

- (1) In Part 2 of VATA 1994 (reliefs, exemptions and repayments), after section 33B insert—

“33C Refunds of VAT to charities within section 33D

- (1) This section applies to a charity that falls within any of the descriptions in section 33D.

A charity to which this section applies is referred to in this section as a “qualifying charity”.

- (2) This section applies where—
 - (a) VAT is chargeable on—
 - (i) the supply of goods or services to a qualifying charity,
 - (ii) the acquisition of any goods from another member State by a qualifying charity, or
 - (iii) the importation of any goods from a place outside the member States by a qualifying charity, and
 - (b) the supply, acquisition or importation is not for the purpose of any business carried on by the qualifying charity.
- (3) The Commissioners shall, on a claim made by the qualifying charity at such time and in such form and manner as the Commissioners may determine, refund to the qualifying charity the amount of the VAT so chargeable.
- (4) A claim under subsection (3) above in respect of a supply, acquisition or importation must be made before the end of the period of 4 years beginning

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with the day on which the supply is made or the acquisition or importation takes place.

- (5) Subsection (6) applies where goods or services supplied to, or acquired or imported by, a qualifying charity otherwise than for the purpose of any business carried on by the qualifying charity cannot be conveniently distinguished from goods or services supplied to, or acquired or imported by, the qualifying charity for the purpose of such a business.
- (6) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, or acquisition or importation by, the qualifying charity such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business.
- (7) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.

33D Charities to which section 33C applies

Palliative care charities

Palliative care charities

- (1) “Palliative care charity” means a charity the main purpose of which is the provision of palliative care at the direction of, or under the supervision of, a medical professional to persons who are in need of such care as a result of having a terminal illness.
- (2) In subsection (1) “medical professional” means—
 - (a) a registered medical practitioner, or
 - (b) a registered nurse.

Air ambulance charities

Air ambulance charities

- (3) “Air ambulance charity” means a charity the main purpose of which is to provide an air ambulance service in pursuance of arrangements made by, or at the request of, a relevant NHS body.
- (4) In subsection (3) “relevant NHS body” means a body the main purpose of which is to provide ambulance services and which is—
 - (a) an NHS foundation trust in England,
 - (b) an NHS trust in Wales,
 - (c) a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978, or
 - (d) a Health and Social Care trust established under the Health and Personal Social Services (Northern Ireland) Order 1991.

Search and rescue charities

Search and rescue charities

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- (5) “Search and rescue charity” means a charity that meets condition A or B.
- (6) Condition A is that—
- (a) the main purpose of the charity is to carry out search and rescue activities in the United Kingdom or the UK marine area, and
 - (b) the search and rescue activities carried out by the charity are co-ordinated by a relevant authority.
- (7) Condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.
- (8) For the purposes of subsection (6)—
- “search and rescue activities” means searching for, and rescuing, persons who are, or may be, at risk of death or serious injury;
- “relevant authority” means—
- (a) the Secretary of State;
 - (b) a police force;
 - (c) the Scottish Fire and Rescue Service;
 - (d) any other person or body specified for the purposes of subsection (6) by an order made by the Treasury;
- “police force” means—
- (a) a police force within the meaning of the Police Act 1996;
 - (b) the Police Service of Scotland;
 - (c) the Police Service of Northern Ireland;
 - (d) the Police Service of Northern Ireland Reserve;
 - (e) the British Transport Police Force;
 - (f) the Civil Nuclear Constabulary;
 - (g) the Ministry of Defence Police;
- “UK marine area” has the meaning given by section 42(1) of the Marine and Coastal Access Act 2009.

Medical courier charities

Medical courier charities

- (9) “Medical courier charity” means a charity that meets condition A or B.
- (10) Condition A is that the main purpose of the charity is to provide services for the transportation of items intended for use for medical purposes, including in particular—
- (a) blood;
 - (b) medicines and other medical supplies;
 - (c) items relating to people who are undergoing medical treatment.
- (11) Condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.
- (12) In subsection (10) “item” includes any substance.”
- (2) In section 79 of VATA 1994 (repayment supplement in respect of certain delayed payments or refunds)—

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- (a) in subsection (1), after paragraph (d) insert “or
 - (e) a charity which is registered is entitled to a refund under section 33C.”;
 - (b) in subsection (5), after paragraph (d) insert “, and
 - (e) a supplement paid to a charity under subsection (1)(e) shall be treated as an amount due to the charity by way of refund under section 33C.”;
 - (c) in subsection (6)(b), for “or 33B” substitute “, 33B or 33C ”.
- (3) In section 90 of VATA 1994 (failure of resolution under Provisional Collection of Taxes Act 1968), in subsection (3), after “33B,” insert “ 33C, ”.
- (4) In Schedule 9 to VATA 1994 (exemptions), in Group 14 (supplies of goods where input tax cannot be recovered), in Note (9), after “33B,” insert “ 33C, ”.
- (5) The amendments made by this section have effect in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2015.
- ^{F9}(6)

Textual Amendments

F9 S. 66(6) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 7 para. 30](#); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)

67 VAT: refunds to strategic highways companies

- (1) In section 41 of VATA 1994 (application of Act to the Crown), in subsection (7)—
- (a) after “subsection (6)” insert “ each of the following is to be regarded as a body of persons exercising functions on behalf of a Minister of the Crown ”,
 - (b) omit the “and” after paragraph (j), and
 - (c) for the words after paragraph (k) substitute—
 - “(l) a strategic highways company appointed under section 1 of the Infrastructure Act 2015.”
- (2) The amendments made by this section come into force on 1 April 2015.

Stamp duty land tax

68 SDLT: alternative property finance relief

- (1) FA 2003 is amended as follows.
- (2) In section 73BA (meaning of “financial institution”), after subsection (2) insert—
- “(3) In sections 71A, 73AB and 73B, “financial institution” also includes a person with permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity specified in Article 63F(1) of the Financial Services and Markets Act (Regulated Activities) Order 2001 (S.I. 2001/544) (entering into regulated home purchase plans as home purchase provider).”

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- (3) In paragraph 9 of Schedule 4A (higher rate for certain SDLT transactions: interpretation), for the definition of “financial institution” substitute—

““financial institution” is to be read in accordance with subsections (1) and (2) of section 73BA and, in paragraphs 6A to 6H, also in accordance with subsection (3) of that section;”.

- (4) The amendment made by subsection (2) has effect where the effective date of the first transaction is, or is after, the day on which this Act is passed.
- (5) In subsection (4) “first transaction” means the first transaction within the meaning of section 71A(1)(a) of FA 2003.

69 SDLT: multiple dwellings relief

- (1) After paragraph 2(6) of Schedule 6B to FA 2003 (stamp duty land tax: superior interest in dwellings subject to a long lease excluded from multiple dwellings relief) insert—

“(7) Sub-paragraph (6) does not apply where—

- (a) the vendor is a qualifying body within the meaning of paragraph 5 of Schedule 9,
- (b) the transaction is a sale under a sale and leaseback arrangement within the meaning of section 57A(2),
- (c) that sale is the grant of a leasehold interest, and
- (d) the leaseback element of that arrangement is exempt from charge under section 57A.”

- (2) The amendment made by this section has effect in relation to any land transaction of which the effective date is, or is after, the day on which this Act is passed.

Annual tax on enveloped dwellings

70 ATED: annual chargeable amount

- (1) In section 99 of FA 2013 (amount of tax chargeable), in the table in subsection (4), for the last four entries substitute—

“£23,350	More than £2 million but not more than £5 million.
£54,450	More than £5 million but not more than £10 million.
£109,050	More than £10 million but not more than £20 million.
£218,200	More than £20 million.”

- (2) The amendment made by subsection (1) has effect for the chargeable period beginning on 1 April 2015 and, subject to section 101 of FA 2013, for subsequent chargeable periods.

- (3) Section 101(1) of FA 2013 does not apply in relation to the chargeable period beginning on 1 April 2015.

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- (4) Accordingly, the Treasury is not required to make an order under section 101(5) of FA 2013 in respect of that period.

71 ATED: taxable value

In section 102 of FA 2013 (annual tax on enveloped dwellings: taxable value), after subsection (2) insert—

“(2A) But a day that is a valuation date only because of subsection (2)(b) (a “5-yearly valuation date”) is to be treated as if it were not a valuation date for the purpose of determining the taxable value of a single-dwelling interest on any day in the chargeable period beginning with that 5-yearly valuation date.”

72 ATED: interests held by connected persons

(1) Section 110 of FA 2013 (interests held by connected persons) is amended as follows.

(2) In subsection (1), after “If on any day” insert “ (“the relevant day”) ”.

(3) In subsection (2)—

- (a) omit “on the day in question”;
- (b) after “P’s single dwelling interest” insert “ on the relevant day ”;
- (c) for “£500,000” substitute “ £250,000 ”.

(4) After subsection (2) insert—

“(2A) Subsection (2B) applies in any case where—

- (a) C would (without subsection (2B)) be treated, as a result of subsection (1) (read with section 109), as entitled to a single-dwelling interest with a taxable value (on the relevant day) of more than £2 million, but
- (b) C would not be so treated if the value specified in subsection (2) were £500,000 (instead of £250,000).

(2B) Subsection (2) has effect as if the value specified in it were £500,000 (instead of £250,000).”

(5) The amendments made by this section have effect in relation to chargeable periods beginning on or after 1 April 2015.

73 ATED: returns

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

(2) In section 159 (annual tax on enveloped dwellings return), after subsection (3) insert—

“(3A) Where a person—

- (a) would (apart from this subsection) be required in accordance with subsection (2) to deliver a return for a chargeable period (“the later period”) by 30 April in that period, and
- (b) is also required in accordance with subsection (3) to deliver a return for the previous chargeable period by a date (“the later date”) which is later than 30 April in the later period,

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subsection (2) has effect as if it required the return mentioned in paragraph (a) to be delivered by the later date.”

(3) After section 159 insert—

“159A Relief declaration returns

- (1) “Relief declaration return” means an annual tax on enveloped dwellings return which—
 - (a) states that it is a relief declaration return,
 - (b) relates to one (and only one) of the types of relief listed in the table in subsection (9), and
 - (c) specifies which type of relief it relates to.
- (2) A relief declaration return may be made in respect of one or more single-dwelling interests.
- (3) A relief declaration return delivered to an officer of Revenue and Customs on a particular day (“the day of the claim”) is treated as made in respect of any single-dwelling interest in relation to which the conditions in subsection (4) are met (but need not contain information which identifies the particular single-dwelling interest or interests concerned).
- (4) The conditions are that—
 - (a) the person making the return is within the charge with respect to the single-dwelling interest on the day of the claim;
 - (b) the day of the claim is relievable in relation to the single-dwelling interest by virtue of a provision which relates to the type of relief specified in the return (see subsection (9));
 - (c) none of the days in the pre-claim period is a taxable day.
- (5) The statement under subsection (1)(a) in a relief declaration return is treated as a claim for interim relief (see section 100) with respect to the single-dwelling interest (or interests) in respect of which the return is made.
- (6) Subsection (7) applies where—
 - (a) a person has delivered to an officer of Revenue and Customs on any day a relief declaration return for a chargeable period with respect to one or more single-dwelling interests (“the existing return”), and
 - (b) there is a subsequent day (“day S”) in the same chargeable period on which the relevant conditions are met in relation to another single-dwelling interest.
- (7) The existing return is treated as also made with respect to that other single-dwelling interest.
- (8) For the purposes of subsection (6)(b), the “relevant conditions” are the same as the conditions in subsection (4), except that for this purpose references in subsection (4) to the day of the claim are to be read as references to day S.
- (9) This table sets out the numbered types of relief to which the provisions specified in the left hand column relate—

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Provision	Type of relief to which it relates
Section 133 or 134 (property rental business)	1
Section 137 (dwellings opened to the public)	2
Section 138 or 139 (property developers)	3
Section 141 (property traders)	4
Section 143 (financial institutions acquiring dwellings)	5
Section 145 (dwellings used for trade purposes: occupation by certain employees or partners)	6
Section 148 (farmhouses)	7
Section 150 (providers of social housing)	8

(10) Where a person—

- (a) has failed to make annual tax on enveloped dwellings returns in respect of two or more single-dwelling interests, and
- (b) could have discharged the duties in question by making a single relief declaration return in respect of all the interests,

the failure may be taken, for the purposes of Schedule 55 to FA 2009, to be a failure to make a single annual tax on enveloped dwellings return.

(11) In this section—

“pre-claim period” has the same meaning as in section 100;

“taxable day”, in relation to a person and a single-dwelling interest, means a day on which the person is within the charge with respect to the interest, other than a day which is relievable in relation to the interest.”

(4) In section 161 (return to include self-assessment), for subsection (2) substitute—

“(2) In subsection (1) “return” means—

- (a) an annual tax on enveloped dwellings return, or
- (b) a return of the adjusted chargeable amount.

(2A) The reference in subsection (2)(a) to an annual tax on enveloped dwellings return does not include a relief declaration return.”

(5) In Schedule 33 (annual tax on enveloped dwellings: returns etc)—

- (a) in paragraph 2(a), after “159” insert “, 159A ”;
- (b) in paragraph 20(1), for “in question, the self assessment included in that return” substitute “ in question containing a self assessment, that self assessment ”.

(6) The amendments made by subsections (1) to (5) have effect for chargeable periods beginning on or after 1 April 2015.

(7) In a case (not falling within section 109(5) of FA 2014) which falls within subsection (8), section 159 of FA 2013 (annual tax on enveloped dwellings return) has

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effect with the same modifications as are set out in section 109(6) of FA 2014 (which provides for extended filing periods in certain cases).

- (8) The case is where—
- (a) a person has a duty to deliver to an officer of Revenue and Customs an annual tax on enveloped dwellings return with respect to a single-dwelling interest for the chargeable period beginning with 1 April 2015, and
 - (b) the circumstances on the first day in that chargeable period on which that person is within the charge with respect to that single-dwelling interest are such that that duty could be discharged by the delivery to an officer of Revenue and Customs on that day of a relief declaration return.

Inheritance tax

74 Inheritance tax: exemption for decorations and other awards

- (1) In section 6 of IHTA 1984 (excluded property), for subsection (1B) substitute—
- “(1B) A relevant decoration or award is excluded property if it has never been the subject of a disposition for a consideration in money or money's worth.
- (1BA) In subsection (1B) “relevant decoration or award” means a decoration or other similar award—
- (a) that is designed to be worn to denote membership of—
 - (i) an Order that is, or has been, specified in the Order of Wear published in the London Gazette (“the Order of Wear”), or
 - (ii) an Order of a country or territory outside the United Kingdom,
 - (b) that is, or has been, specified in the Order of Wear,
 - (c) that was awarded for valour or gallant conduct,
 - (d) that was awarded for, or in connection with, a person being, or having been, a member of, or employed or engaged in connection with, the armed forces of any country or territory,
 - (e) that was awarded for, or in connection with, a person being, or having been, an emergency responder within the meaning of section 153A (death of emergency service personnel etc), or
 - (f) that was awarded by the Crown or a country or territory outside the United Kingdom for, or in connection with, public service or achievement in public life.”
- (2) The amendment made by subsection (1) has effect in relation to transfers of value made, or treated as made, on or after 3 December 2014.

75 Inheritance tax: exemption for emergency service personnel etc

- (1) IHTA 1984 is amended as follows.
- (2) After section 153 insert—

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“Emergency services

153A Death of emergency service personnel etc

- (1) The reliefs in subsection (2) apply where a person—
 - (a) dies from an injury sustained, accident occurring or disease contracted at a time when that person was responding to emergency circumstances in that person's capacity as an emergency responder, or
 - (b) dies from a disease contracted at some previous time, the death being due to, or hastened by, the aggravation of the disease during a period when that person was responding to emergency circumstances in that person's capacity as an emergency responder.
- (2) The reliefs are—
 - (a) that no potentially exempt transfer made by the person becomes a chargeable transfer under section 3A(4) because of the death,
 - (b) that section 4 (transfers on death) does not apply in relation to the death, and
 - (c) that no additional tax becomes due under section 7(4) because of a transfer made by the person within 7 years of the death.
- (3) “Emergency circumstances” means circumstances which are present or imminent and are causing or likely to cause—
 - (a) the death of a person,
 - (b) serious injury to, or the serious illness of, a person,
 - (c) the death of an animal,
 - (d) serious injury to, or the serious illness of, an animal,
 - (e) serious harm to the environment (including the life and health of plants and animals),
 - (f) serious harm to any building or other property, or
 - (g) a worsening of any such injury, illness or harm.
- (4) A person is “responding to emergency circumstances” if the person—
 - (a) is going anywhere for the purpose of dealing with emergency circumstances occurring there, or
 - (b) is dealing with emergency circumstances, preparing to do so imminently or dealing with the immediate aftermath of emergency circumstances.
- (5) For the purposes of this section, circumstances to which a person is responding are to be taken to be emergency circumstances if the person believes and has reasonable grounds for believing they are or may be emergency circumstances.
- (6) “Emergency responder” means—
 - (a) a person employed, or engaged, in connection with the provision of fire services or fire and rescue services,
 - (b) a person employed for the purposes of providing, or engaged to provide, search services or rescue services (or both),

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- (c) a person employed for the purposes of providing, or engaged to provide, medical, ambulance or paramedic services,
 - (d) a constable or a person employed for police purposes or engaged to provide services for police purposes,
 - (e) a person employed for the purposes of providing, or engaged to provide, services for the transportation of organs, blood, medical equipment or medical personnel, or
 - (f) a person employed, or engaged, by the government of a state or territory, an international organisation or a charity in connection with the provision of humanitarian assistance.
- (7) For the purposes of subsection (6)—
- (a) it is immaterial whether the employment or engagement is paid or unpaid, and
 - (b) “international organisation” means an organisation of which—
 - (i) two or more sovereign powers are members, or
 - (ii) the governments of two or more sovereign powers are members.
- (8) The Treasury may, by regulations made by statutory instrument, extend the definition of “emergency responder” in subsection (6).
- (9) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons.”
- (3) In section 154 (death on active service)—
- (a) in subsection (1), for “Section 4 shall not apply” substitute “ The reliefs in subsection (1A) apply ”,
 - (b) after that subsection insert—
 - “(1A) The reliefs are—
 - (a) that no potentially exempt transfer made by the deceased becomes a chargeable transfer under section 3A(4) because of the death,
 - (b) that section 4 (transfers on death) does not apply in relation to the death, and
 - (c) that no additional tax becomes due under section 7(4) because of a transfer made by the deceased within 7 years of the death.”,
 - (c) in subsection (2) omit “either” and after paragraph (b) insert “or
 - (c) responding to emergency circumstances in the course of the person's duties as a member of any of those armed forces or as a civilian subject to service discipline.”, and
 - (d) after that subsection insert—
 - “(2A) Section 153A(3) to (5) applies for the purposes of this section.”
- (4) After section 155 insert—

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“Constables and service personnel

155A Death of constables and service personnel targeted because of their status

- (1) The reliefs in subsection (3) apply where a person—
 - (a) dies from an injury sustained or disease contracted in circumstances where the person was deliberately targeted by reason of his or her status as a constable or former constable, or
 - (b) dies from a disease contracted at some previous time, the death being due to, or hastened by, the aggravation of the disease by an injury sustained or disease contracted in circumstances mentioned in paragraph (a).
 - (2) The reliefs in subsection (3) apply where it is certified by the Defence Council or the Secretary of State that a person—
 - (a) died from an injury sustained or disease contracted in circumstances where the person was deliberately targeted by reason of his or her status as a service person or former service person, or
 - (b) died from a disease contracted at some previous time, the death being due to, or hastened by, the aggravation of the disease by an injury sustained or disease contracted in circumstances mentioned in paragraph (a).
 - (3) The reliefs are—
 - (a) that no potentially exempt transfer made by the person becomes a chargeable transfer under section 3A(4) because of the death,
 - (b) that section 4 (transfers on death) does not apply in relation to the death, and
 - (c) that no additional tax becomes due under section 7(4) because of a transfer made by the person within 7 years of the death.
 - (4) For the purposes of this section, it is immaterial whether a person who was a constable or service person at the time the injury was sustained or the disease was contracted was acting in the course of his or her duties as such at that time (and for this purpose ignore the references in subsections (1)(b) and (2)(b) to a disease contracted at some previous time).
 - (5) “Service person” means a person who is a member of the armed forces of the Crown or a civilian subject to service discipline (within the meaning of the Armed Forces Act 2006).
 - (6) This section does not apply where section 153A or 154 applies in relation to a person's death.”
- (5) The amendments made by this section have effect in relation to deaths occurring on or after 19 March 2014.

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The bank levy

76 The bank levy: rates from 1 April 2015

- (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 “0.078%” substitute “ 0.105% ”, and
 - (b) for “0.156%” substitute “ 0.21% ”.
- (3) In paragraph 7 (special provision for chargeable periods falling wholly or partly before 1 January 2014)—
 - (a) in sub-paragraph (1) for “1 January 2014” substitute “ 1 April 2015 ”;
 - (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 2014 ” substitute “1 January 2014 to 31 March 2015”;
 - (c) at the end of that table add—

“Any time on or after 1 April 2015	0.105%”;	0.21%”;
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- (d) in the italic heading before paragraph 7, for “1 January 2014” substitute “ 1 April 2015 ”.
- (4) The amendments made by subsections (2) and (3) come into force on 1 April 2015.
- (5) Subsections (6) to (12) 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 begins before but ends on or after 1 April 2015, and
 - (c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of E for the accounting period, were treated as becoming due and payable before 1 April 2015 (“pre-commencement instalment payments”).
- (6) Subsections (1) to (4) are to be ignored for the purpose of determining the amount of any pre-commencement instalment payment.
- (7) 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 1 April 2015 (“post-commencement instalment payments”), the amount of that instalment payment, or the first of them, is to be increased by the adjustment amount.
- (8) 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 on 30 April 2015.
- (9) “The adjustment amount” is the difference between—
 - (a) the aggregate amount of the pre-commencement instalment payments determined in accordance with subsection (6), and

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- (b) the aggregate amount of those instalment payments determined ignoring subsection (6) (and so taking account of subsections (1) to (4)).
- (10) 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 (5) to (9) (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 (5) to (9).
- (11) 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 (5) to (10).
- (12) 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 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.

PART 3

DIVERTED PROFITS TAX

Introduction and overview

77 Introduction to the tax

- (1) A tax (to be known as “diverted profits tax”) is charged in accordance with this Part on taxable diverted profits arising to a company in an accounting period.
- (2) Taxable diverted profits arise to a company in an accounting period only if one or more of sections 80, 81 and 86 applies or apply in relation to the company for that period.

78 Overview of Part 3

- (1) Sections 80 and 81 relate to cases involving entities or transactions which lack economic substance.
- (2) In these cases—
 - (a) sections 82 to 85 deal with the calculation of taxable diverted profits (and ensure appropriate account is taken of any transfer pricing adjustments already made), and
 - (b) section 96 deals with the estimation of those profits when initially imposing a charge.

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- (3) Section 86 relates to cases where, despite activity being carried on in the United Kingdom, a company avoids carrying on its trade in the United Kingdom in circumstances where—
- (a) provision is made or imposed which involves entities or transactions lacking economic substance, or
 - (b) there are tax avoidance arrangements.
- (4) In these cases—
- (a) sections 88 to 91 deal with the calculation of taxable diverted profits, and
 - (b) section 97 deals with the estimation of those profits when initially imposing a charge.
- (5) There is an exception from section 86 for cases involving limited UK-related sales or expenses (see section 87).
- (6) Key terms used in this Part are defined in sections 106 to 114.
- (7) Other provisions in this Part—
- ensure HMRC are notified of companies potentially within the scope of the tax (see section 92);
 - deal with the process for imposing a charge to diverted profits tax (see sections 93 to 97);
 - deal with payment of the tax and make provision about credits given for other tax paid on the same profits (see sections 98 to 100); and
 - provide for reviews of, and appeals against, decisions to impose a charge to diverted profits tax (see sections 101 and 102).

Charge to tax

79 Charge to tax

- (1) A charge to diverted profits tax is imposed for an accounting period by a designated HMRC officer issuing to the company a charging notice in accordance with section 95 or a supplementary charging notice in accordance with section 101(8).
- (2) ^{F10}Subject to subsections (3) and (3A), the amount of tax charged by a notice is the sum of—
- (a) ^{F11}31% of the amount of taxable diverted profits specified in the notice, and
 - (b) the interest (if any) on the amount within paragraph (a) determined under subsection (4).
- (3) ^{F12}If, and to the extent that, the taxable diverted profits are adjusted ring fence profits or notional adjusted ring fence profits, and determined under section 84 or 85, subsection (2)(a) has effect in relation to those profits as if the rate specified were 55% rather than ^{F13}31%.
- ^{F14}(3A) If, and to the extent that, the taxable diverted profits are banking surcharge profits or notional banking surcharge profits, subsection (2)(a) has effect in relation to those profits as if the rate specified were 33% rather than ^{F15}31%.
- (4) The interest mentioned in subsection (2)(b) is interest at the rate applicable under section 178 of FA 1989 for the period (if any) which—

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- (a) begins 6 months after the end of the accounting period to which the charge relates, and
- (b) ends with the day the notice imposing the charge to tax is issued.

(5) In this section—

“adjusted ring fence profits” has the same meaning as in section 330 of CTA 2010 (supplementary charge in respect of ring fence trades);

[^{F16} “banking surcharge profits” means surcharge profits within the meaning of Chapter 4 of Part 7A of that Act (see section 269DA(2) of that Act);]

“notional adjusted ring fence profits”, in relation to the company, means the total of—

- (a) profits within section 85(5)(a), to the extent that (assuming they were profits of the company chargeable to corporation tax) they would have been adjusted ring fence profits, and
- (b) any amounts of relevant taxable income of a company (“CC”) within section 85(4)(b) or (5)(b), to the extent that (assuming those amounts were profits of CC chargeable to corporation tax) they would have been adjusted ring fence profits of CC.

[^{F17} “notional banking surcharge profits”, in relation to the company, means the total of—

- (a) profits within section 85(5)(a) or 91(5)(a), to the extent that (assuming they were profits of the company chargeable to corporation tax) they would have been banking surcharge profits, and
- (b) any amounts of relevant taxable income of a company (“CC”) within section 85(4)(b) or (5)(b) or 91(4)(b) or (5)(b), to the extent that (assuming those amounts were profits of CC chargeable to corporation tax) they would have been banking surcharge profits of CC.]

[^{F18}(6) But banking surcharge profits and notional banking surcharge profits, to the extent that they are determined by reference to notional PE profits (or what would have been notional PE profits) for an accounting period, do not include any amount which is (or would have been) included in notional PE profits for that period by virtue of section 88(5)(b).]

Textual Amendments

- F10** Words in s. 79(2) substituted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 3 para. 12\(2\)](#)
- F11** Word in s. 79(2)(a) substituted (with effect in accordance with s. 8(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 8\(1\)\(a\)](#)
- F12** Word in s. 79(3) substituted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 3 para. 12\(3\)](#)
- F13** Word in s. 79(3) substituted (with effect in accordance with s. 8(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 8\(1\)\(b\)](#)
- F14** S. 79(3A) inserted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 3 para. 12\(4\)](#)
- F15** Word in s. 79(3A) substituted (with effect in accordance with s. 8(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 8\(1\)\(b\)](#)
- F16** Words in s. 79(5) inserted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 3 para. 12\(5\)\(a\)](#)

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- F17** Words in s. 79(5) inserted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 3 para. 12\(5\)\(b\)](#)
- F18** S. 79(6) inserted (with effect in accordance with s. 43(7) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 43\(2\)](#)

Involvement of entities or transactions lacking economic substance

80 UK company: involvement of entities or transactions lacking economic substance

- (1) This section applies in relation to a company (“C”) for an accounting period if—
- (a) C is UK resident in that period,
 - (b) provision has been made or imposed as between C and another person (“P”) (whether or not P is UK resident) by means of a transaction or series of transactions (“the material provision”),
 - (c) the participation condition is met in relation to C and P (see section 106),
 - (d) the material provision results in an effective tax mismatch outcome, for the accounting period, as between C and P (see sections 107 and 108),
 - (e) the effective tax mismatch outcome is not an excepted loan relationship outcome (see section 109),
 - (f) the insufficient economic substance condition is met (see section 110), and
 - (g) C and P are not both small or medium-sized enterprises for that period.
- (2) For the purposes of subsection (1)(b) provision made or imposed as between a partnership of which C is a member and another person is to be regarded as provision made or imposed as between C and that person.

81 Non-UK company: involvement of entities or transactions lacking economic substance

- (1) This section applies in relation to a company (“the foreign company”) for an accounting period if—
- (a) it is non-UK resident in that period,
 - (b) by reason of the foreign company carrying on a trade in the United Kingdom through a permanent establishment in the United Kingdom (“UKPE”), Chapter 4 of Part 2 of CTA 2009 (non-UK resident companies: chargeable profits) applies to determine the chargeable profits of the foreign company for that period, and
 - (c) section 80 would apply to UKPE for that period were it treated for the purposes of section 80 and sections 106 to 110—
 - (i) as a distinct and separate person from the foreign company (whether or not it would otherwise be so treated),
 - (ii) as a UK resident company under the same control as the foreign company, and
 - (iii) as having entered into any transaction or series of transactions entered into by the foreign company to the extent that the transaction or series is relevant to UKPE.
- (2) For the purposes of subsection (1)(c)(iii) a transaction or series of transactions is “relevant” to UKPE only if, and to the extent that, it is relevant, for corporation tax

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purposes, when determining the chargeable profits of the foreign company attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE.

- (3) Where section 1313(2) of CTA 2009 (UK sector of the continental shelf: profits of foreign company deemed to be profits of trade carried on by the company in the UK through a permanent establishment in the UK) applies to treat profits arising to a company as profits of a trade carried on by the company in the United Kingdom through a permanent establishment in the United Kingdom, this Part applies as if the company actually carried on that trade in the United Kingdom through that permanent establishment.
- (4) In this section “control” is to be construed in accordance with section 1124 of CTA 2010.

Calculation of taxable diverted profits: section 80 or 81 cases

82 Calculation of taxable diverted profits in section 80 or 81 case: introduction

- (1) If section 80 or 81 applies in relation to a company (“the relevant company”) for an accounting period—
 - (a) no taxable diverted profits arise, in relation to the material provision in question, if section 83 applies, and
 - (b) in other cases, section 84 or 85 applies to determine the taxable diverted profits in relation to that material provision.
- (2) But see also section 96 for how a designated HMRC officer estimates those profits when issuing a preliminary notice under section 93 or a charging notice under section 95.
- (3) Subsections (4) to [F19(10)] define some key expressions used in sections 83 to 85 and this section.
- (4) “The material provision” has the same meaning as in section 80.
- (5) “The relevant alternative provision” means the alternative provision which it is just and reasonable to assume would have been made or imposed as between the relevant company and one or more companies connected with that company, instead of the material provision, had tax (including any non-UK tax) on income not been a relevant consideration for any person at any time.
- (6) For the purposes of subsection (5), making or imposing no provision is to be treated as making or imposing an alternative provision to the material provision.
- (7) “The actual provision condition” is met if—
 - (a) the material provision results in expenses of the relevant company for which ^{F20}... a deduction for allowable expenses would be allowed in computing—
 - (i) in a case where section 80 applies, its liability for corporation tax for the accounting period, and
 - (ii) in a case where section 81 applies, its chargeable profits attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE, and
 - (b) the relevant alternative provision—
 - (i) would also have resulted in allowable expenses of the relevant company of the same type and for the same purposes (whether or not payable to the same person) as so much of the expenses mentioned

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in paragraph (a) as results in the effective tax mismatch outcome mentioned in section 80(1)(d), but

(ii) would not have resulted in relevant taxable income of a connected company for that company's corresponding accounting period.

[^{F21}(7A) For the purposes of subsection (7)(a) ignore any adjustment that is required to be made to the results of the material provision under Part 4 of TIOPA 2010 (transfer pricing).]

(8) “Relevant taxable income” of a company for a period is—

(a) income of the company, for the period, which would have resulted from the relevant alternative provision and in relation to which the company would have been within the charge to corporation tax had that period been an accounting period of the company, less

(b) the total amount of expenses which it is just and reasonable to assume would have been incurred in earning that income and would have been allowable expenses of the company for that period.

(9) “Connected company” means a company which is or, if the relevant alternative provision had been made, would have been connected with the relevant company.

[^{F22}(10) “Diverted profits” of the relevant company for the accounting period means an amount—

(a) in respect of which the company is chargeable to corporation tax for that period by reason of any adjustment required to be made to the results of the material provision under Part 4 of TIOPA 2010 (transfer pricing), and

(b) which, in a case where section 81 applies, is attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE”.]

Textual Amendments

F19 Word in s. 82(3) substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 6 para. 2\(2\)](#)

F20 Words in s. 82(7)(a) omitted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 6 para. 2\(3\)](#)

F21 [S. 82\(7A\)](#) inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 6 para. 2\(4\)](#)

F22 [S. 82\(10\)](#) inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 6 para. 2\(5\)](#)

83 Section 80 or 81 cases where no taxable diverted profits arise

(1) Where section 80 or 81 applies in relation to a company for an accounting period, no taxable diverted profits arise to the company in that period in relation to the material provision in question if—

(a) the actual provision condition is met, and

(b) either—

(i) there are no diverted profits of that company for the accounting period, or

(ii) the full transfer pricing adjustment has been made.

^{F23}(2)

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- (3) “The full transfer pricing adjustment” is made if all of the company's diverted profits for the accounting period are taken into account in an assessment to corporation tax included, before the end of the review period, in the company's company tax return for the accounting period.

Textual Amendments

F23 S. 83(2) omitted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by virtue of Finance Act 2019 (c. 1), [Sch. 6 para. 3](#)

84 Section 80 or 81: calculation of profits by reference to the actual provision

- (1) This section applies where—
- section 80 or 81 applies in relation to a company for an accounting period,
 - the actual provision condition is met, and
 - section 83 (cases where no taxable diverted profits arise) does not apply for that period.
- (2) In relation to the material provision in question, the taxable diverted profits that arise to the company in the accounting period are [^{F24}an amount equal to so much of the diverted profits of the company for the accounting period as are not taken into account in an assessment to corporation tax included before the end of the review period in the company's company tax return for that accounting period.]

Textual Amendments

F24 Words in s. 84(2) substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by Finance Act 2019 (c. 1), [Sch. 6 para. 4](#)

85 Section 80 or 81: calculation of profits by reference to the relevant alternative provision

- (1) This section applies where—
- section 80 or 81 applies in relation to a company (“the relevant company”) for an accounting period, and
 - the actual provision condition is not met.
- (2) The taxable diverted profits that arise to the relevant company in the accounting period in relation to the material provision in question are determined in accordance with subsections (3) to (5).
- (3) Subsection (4) applies if the actual provision condition would have been met but for the fact that the relevant alternative provision would have resulted in relevant taxable income of a company for that company's corresponding accounting period.
- (4) The taxable diverted profits that arise to the relevant company in the accounting period are an amount equal to the sum of—
- [^{F25}(a) so much of the diverted profits (if any) of the company for the accounting period as are not taken into account in an assessment to corporation tax

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- included before the end of the review period in the company's company tax return for that accounting period,] and
- (b) the total amount of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision.
- (5) If subsection (4) does not apply, the taxable diverted profits that arise to the relevant company in the accounting period are the sum of—
- (a) the notional additional amount (if any) arising from the relevant alternative provision, and
- (b) the total amount (if any) of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision,
- (6) In subsection (5) “the notional additional amount” means ^{F26}...—
- (a) the [^{F27}additional] amount in respect of which the company would have been chargeable to corporation tax for that period had the relevant alternative provision been made or imposed instead of the material provision, [^{F28}less]
- (b) the amount—
- (i) in respect of which the company is chargeable to corporation tax for that period by reason of [^{F29}any adjustment required to be made to the results of the material provision (whether under Part 4 of TIOPA 2010 (transfer pricing) or otherwise),]
- (ii) which, in a case where section 81 applies, is attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE, and
- (iii) which is taken into account in an assessment to corporation tax which is included before the end of the review period in the company's company tax return for that accounting period.
- [^{F30}(7) In calculating the additional amount mentioned in paragraph (a) of subsection (6) no account is to be taken of any adjustment required to be made to the results of the material provision under Part 4 of TIOPA 2010 or otherwise.]

Textual Amendments

- F25** S. 85(4)(a) substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(2\)](#)
- F26** Words in s. 85(6) omitted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(3\)\(a\)](#)
- F27** Word in s. 85(6)(a) inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(3\)\(b\)](#)
- F28** Word in s. 85(6)(a) substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(3\)\(c\)](#)
- F29** Words in s. 85(6)(b)(i) substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(3\)\(d\)](#)
- F30** S. 85(7) inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(4\)](#)

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Avoidance of a UK taxable presence

86 Non-UK company avoiding a UK taxable presence

- (1) This section applies in relation to a company (“the foreign company”) for an accounting period if—
 - (a) the company is non-UK resident in that period,
 - (b) it carries on a trade during that period (or part of it),
 - (c) a person (“the avoided PE”), whether or not UK resident, is carrying on activity in the United Kingdom in that period in connection with supplies of services, goods or other property made by the foreign company in the course of that trade,
 - (d) section 87 (exception for companies with limited UK-related sales or expenses) does not operate to prevent this section applying in relation to the foreign company for the accounting period,
 - (e) it is reasonable to assume that any of the activity of the avoided PE or the foreign company (or both) is designed so as to ensure that the foreign company does not, as a result of the avoided PE's activity, carry on that trade in the United Kingdom for the purposes of corporation tax (whether or not it is also designed to secure any commercial or other objective),
 - (f) the mismatch condition (see subsection (2)) or the tax avoidance condition (see subsection (3)) is met or both those conditions are met,
 - (g) the avoided PE is not excepted by subsection (5), and
 - (h) the avoided PE and the foreign company are not both small or medium-sized enterprises for that period.
- (2) “The mismatch condition” is that—
 - (a) in connection with the supplies of services, goods or other property mentioned in subsection (1)(c) (or in connection with those supplies and other supplies), arrangements are in place as a result of which provision is made or imposed as between the foreign company and another person (“A”) by means of a transaction or series of transactions (“the material provision”),
 - (b) the participation condition is met in relation to the foreign company and A (see section 106),
 - (c) the material provision results in an effective tax mismatch outcome, for the accounting period, as between the foreign company and A (see sections 107 and 108),
 - (d) the effective tax mismatch outcome is not an excepted loan relationship outcome (see section 109),
 - (e) the insufficient economic substance condition is met (see section 110), and
 - (f) the foreign company and A are not both small or medium-sized enterprises for the accounting period.
- (3) “The tax avoidance condition” is that, in connection with the supplies of services, goods or other property mentioned in subsection (1)(c) (or in connection with those supplies and other supplies), arrangements are in place the main purpose or one of the main purposes of which is to avoid or reduce a charge to corporation tax.
- (4) In subsection (1)(e) the reference to activity of the avoided PE or the foreign company includes any limitation which has been imposed or agreed in respect of that activity.
- (5) The avoided PE is “excepted” if—

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- (a) activity of the avoided PE is such that, as a result of section 1142 or 1144 of CTA 2010, the foreign company would not be treated as carrying on a trade in the United Kingdom in the accounting period through a permanent establishment in the United Kingdom by reason of that activity, and
- (b) in a case where—
 - (i) section 1142(1) of that Act applies, but
 - (ii) the avoided PE is not regarded for the purposes of section 1142(1) of that Act as an agent of independent status by virtue of section 1145, 1146 or 1151 of that Act,
 the foreign company and the avoided PE are not connected at any time in the accounting period.
- (6) Where the foreign company is a member of a partnership—
 - (a) for the purposes of subsection (1)—
 - (i) a trade carried on by the partnership is to be regarded as a trade carried on by the foreign company, and
 - (ii) supplies made by the partnership in the course of that trade are to be regarded as supplies made by the foreign company in the course of that trade, and
 - (b) for the purposes of subsection (2)(a) provision made or imposed as between the partnership and another person is to be regarded as made between the foreign company and that person.
- (7) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

87 Exception for companies with limited UK-related sales or expenses

- (1) Section 86 does not apply to the foreign company for an accounting period if one or both of the following conditions is or are met.
- (2) The first condition is that, for the accounting period, the total of—
 - (a) the UK-related sales revenues of the foreign company, and
 - (b) the UK-related sales revenues of companies connected with the foreign company,
 does not exceed £10,000,000.
- (3) The second condition is that the total of—
 - (a) the UK-related expenses of the foreign company incurred in the accounting period, and
 - (b) the UK-related expenses of companies connected with the foreign company incurred in that period,
 does not exceed £1,000,000.
- (4) But if the accounting period is a period of less than 12 months, the amounts specified in subsections (2) and (3) are to be reduced proportionally.
- (5) In this section—
 - “the foreign company” has the same meaning as in section 86;
 - “UK activity” means activity carried on in the United Kingdom in connection with supplies of services, goods or other property made by the foreign company in the course of the trade mentioned in section 86(1)(b);

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“UK-related expenses”, of a company, means the expenses of that company which relate to UK activity;

“UK-related sales revenues” means—

- (a) in the case of the foreign company, the sales revenues of that company from UK-related supplies, and
- (b) in the case of a company connected with the foreign company, the sales revenues of the first mentioned company to the extent that they—
 - (i) are from UK-related supplies, and
 - (ii) are trading receipts which are not taken into account in calculating the profits of that company which are chargeable to corporation tax;

“UK-related supplies” means supplies of services, goods or other property which are made—

- (a) by the foreign company or a company connected with the foreign company, and
- (b) relate to UK activity.

- (6) For the purposes of this section “revenues” or “expenses” of a company, in the relevant accounting period, are amounts which, in accordance with generally accepted accounting practice (“GAAP”), are recognised as revenue or (as the case may be) expenses in the company's profit and loss account or income statement for that period.
- (7) Where a company does not draw up accounts for the relevant accounting period in accordance with GAAP, the reference in subsection (6) to any amounts which in accordance with GAAP are recognised as revenue or expenses in the company's profit and loss account or income statement for the relevant accounting period is to be read as a reference to any amounts which would be so recognised if the company had drawn up such accounts for the relevant accounting period.
- (8) “Generally accepted accounting practice” is to be construed in accordance with section 1127 of CTA 2010.
- (9) The Treasury may by regulations, made by statutory instrument, substitute a different figure for the figure for the time being specified in subsection (2) or (3).
- (10) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons.

Calculation of taxable diverted profits: section 86 cases

88 Calculation of taxable diverted profits in section 86 case: introduction

- (1) If section 86 applies for an accounting period, section 89, 90 or 91 applies to determine the taxable diverted profits of the foreign company.
- (2) But see also section 97 for how a designated HMRC officer estimates those profits when issuing a preliminary notice under section 93 or a charging notice under section 95.
- (3) Subsections (4) to (12) define some key expressions used in sections 89 to 91 and this section.
- (4) “The foreign company” has the same meaning as in section 86.

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[^{F31}(5) “Notional PE profits”, in relation to an accounting period, means an amount equal to the sum of—

- (a) the amount of profits (if any) which would have been the chargeable profits of the foreign company for that period, attributable (in accordance with sections 20 to 32 of CTA 2009) to the avoided PE, had the avoided PE been a permanent establishment in the United Kingdom through which the foreign company carried on the trade mentioned in section 86(1)(b), and
- (b) an amount equal to the total of royalties or other sums which are paid by the foreign company during that period in connection with that trade in circumstances where the payment avoids the application of section 906 of ITA 2007 (duty to deduct tax).

(5A) For the purposes of subsection (5)(b) a payment of a royalty or other sum avoids the application of section 906 of ITA 2007 if—

- (a) that section does not apply in relation to the payment, but
- (b) that section would have applied in relation to the payment had the avoided PE been a permanent establishment in the United Kingdom through which the foreign company carried on the trade mentioned in section 86(1)(b).]

[^{F32}(5B) In calculating the notional PE profits no account is to be taken of any adjustment within subsection (5C).

(5C) An adjustment is within this subsection if—

- (a) it is an adjustment required to be made under Part 4 of TIOPA 2010 to the results of any provision made or imposed between the foreign company and the avoided PE,
- (b) it is taken into account in an assessment to corporation tax included in a company tax return of the avoided PE, and
- (c) the time when it is first taken into account as mentioned in paragraph (b) is after the end of the review period.]

(6) “The material provision” has the same meaning as in section 86.

(7) “The relevant alternative provision” means the alternative provision which it is just and reasonable to assume would have been made or imposed as between the foreign company and one or more companies connected with that company, instead of the material provision, had tax (including any non-UK tax) on income not been a relevant consideration for any person at any time.

(8) For the purposes of subsection (7), making or imposing no provision is to be treated as making or imposing an alternative provision to the material provision.

(9) “The actual provision condition” is met if—

- (a) the material provision results in expenses of the foreign company for which ^{F33}... a deduction for allowable expenses would be allowed in computing what would have been the notional PE profits for the accounting period, and
- (b) the relevant alternative provision—
 - (i) would also have resulted in allowable expenses of the foreign company of the same type and for the same purposes (whether or not payable to the same person) as so much of the expenses mentioned in paragraph (a) as results in the effective tax mismatch outcome mentioned in section 86(2)(c), but

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(ii) would not have resulted in relevant taxable income of a connected company for that company's corresponding accounting period.

[^{F34}(9A) For the purposes of subsection (9)(a) ignore any adjustment that would be required to be made to the results of the material provision under Part 4 of TIOPA 2010 in calculating what would have been the notional PE profits for the accounting period.]

- (10) “Relevant taxable income” of a company for a period is—
- (a) income of the company, for the period, which would have resulted from the relevant alternative provision and in relation to which the company would have been within the charge to corporation tax had that period been an accounting period of the company, less
 - (b) the total amount of expenses which it is just and reasonable to assume would have been incurred in earning that income and would have been allowable expenses of the company for that period.
- (11) “Connected company” means a company which is or, if the relevant alternative provision had been made, would have been connected with the foreign company.
- (12) “The mismatch condition” has the same meaning as in section 86.

Textual Amendments

- F31** S. 88(5)(5A) substituted for s. 88(5) (with effect in accordance with s. 43(7) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 43\(3\)](#) (with s. 43(8))
- F32** S. 88(5B)(5C) inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 6\(2\)](#)
- F33** Words in s. 88(9)(a) omitted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), Sch. 6 para. 6\(3\)](#)
- F34** S. 88(9A) inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 6\(4\)](#)

89 Section 86: calculation of profits where only tax avoidance condition is met

- (1) This section applies where—
- (a) section 86 applies for an accounting period, and
 - (b) the mismatch condition is not met.
- (2) The taxable diverted profits that arise to the foreign company in the accounting period by reason of that section applying are an amount equal to the notional PE profits for that period.

90 Section 86: mismatch condition is met: calculation of profits by reference to the actual provision

- (1) This section applies where—
- (a) section 86 applies for an accounting period,
 - (b) the mismatch condition is met, and
 - (c) the actual provision condition is met.

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- (2) The taxable diverted profits that arise to the foreign company in the accounting period, in relation to the material provision in question, are an amount equal to the notional PE profits for that period.

91 Section 86: mismatch condition is met: calculation of profits by reference to the relevant alternative provision

- (1) This section applies where —
- (a) section 86 applies for an accounting period,
 - (b) the mismatch condition is met, and
 - (c) the actual provision condition is not met.
- (2) The taxable diverted profits that arise to the foreign company in the accounting period, in relation to the material provision in question, are determined in accordance with subsections (3) to (5).
- (3) Subsection (4) applies if the actual provision condition would have been met but for the fact that the relevant alternative provision would have resulted in relevant taxable income of a company for that company's corresponding accounting period.
- (4) The taxable diverted profits that arise to the foreign company in the accounting period are an amount equal to the sum of—
- (a) the notional PE profits for the accounting period, and
 - (b) the total amount of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision.
- (5) If subsection (4) does not apply, the taxable diverted profits that arise to the foreign company in the accounting period are the sum of—
- (a) what would have been the notional PE profits of the foreign company for that period had the relevant alternative provision been made or imposed instead of the material provision, and
 - (b) the total amount of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision.

Duty to notify if within scope

92 Duty to notify if potentially within scope of tax

- (1) Where a company meets the requirements in subsection (3) or (4) in relation to an accounting period of the company, the company must notify an officer of Revenue and Customs to that effect.

This is subject to subsections (7) and (8).

- (2) A notification under subsection (1) must be made—
- (a) in writing, and
 - (b) within the period of 3 months beginning at the end of the accounting period to which it relates (“the notification period”).

See also subsection (9) for provision about the content of notifications.

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- (3) A company meets the requirements of this subsection if—
- (a) section 80 or 81 applies in relation to the company for the accounting period, and
 - (b) in that period, the financial benefit of the tax reduction is significant relative to the non-tax benefits of the material provision.
- (4) A company meets the requirements of this subsection if—
- (a) section 86 applies in relation to the company for the accounting period, and
 - (b) where that section applies by reason of the mismatch condition being met, in that period the financial benefit of the tax reduction is significant relative to the non-tax benefits of the material provision.
- (5) For the purposes of subsections (3) and (4), this Part has effect subject to the following modifications—
- (a) in section 80, ignore subsection (1)(f),
 - (b) in section 86, for subsection (1)(e) substitute—
 - “(e) the foreign company is not, as a result of the avoided PE's activity, within the charge to corporation tax by reason of the foreign company carrying on a trade in the United Kingdom,”,
 - (c) in subsection (2) of that section, ignore paragraph (e), and
 - (d) in subsection (3) of that section, for “the main purpose or one of the main purposes of which is to avoid or reduce a charge to corporation tax” substitute “that result in the reduction of a charge to corporation tax in consequence of which there is an overall reduction in the amount of tax (including foreign tax) that would otherwise have been payable in respect of the activity mentioned in subsection (1)(c) ”.
- (6) In subsections (3)(b) and (4)(b), “non-tax benefits” means financial benefits other than—
- (a) the financial benefit of the tax reduction, and
 - (b) any financial benefits which derive (directly or indirectly) from any reduction, elimination or delay of any liability of any person to pay any tax (including any non-UK tax).
- (7) The duty under subsection (1) does not apply in relation to an accounting period of the company (“the current period”)—
- (a) if, at the end of the notification period, it is reasonable (ignoring the possibility of future adjustments being made in accordance with Part 4 of TIOPA 2010 (transfer pricing)) for the company to conclude that no charge to diverted profits tax will arise to the company for the current period,
 - (b) if, before the end of the notification period, an officer of Revenue and Customs has confirmed that the company does not have to notify an officer in relation to the current period because—
 - (i) the company, or a company which is connected with it, has provided HMRC with sufficient information to enable a designated HMRC officer to determine whether or not to give a preliminary notice under section 93 to the first mentioned company in respect of the accounting period, and

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- (ii) HMRC has examined that information (whether in the course of an enquiry made into a return or otherwise and whether in relation to diverted profits tax or otherwise),
- (c) if, at the end of the notification period, it is reasonable for the company to conclude that sub-paragraphs (i) and (ii) of paragraph (b) apply, or
- (d) if—
 - (i) the immediately preceding accounting period of the company is a period in respect of which notification was given under subsection (1), or not required to be given by virtue of paragraph (b) or (c) or this paragraph, and
 - (ii) at the end of the notification period for the current period, it is reasonable for the company to conclude that there has been no change in circumstances which is material to whether a charge to diverted profits tax may be imposed for the current period.
- (8) The Commissioners for Her Majesty's Revenue and Customs may also direct that the duty under subsection (1) does not apply in relation to an accounting period in other circumstances specified in the direction.
- (9) A notification under subsection (1) must—
 - (a) state whether the obligation to notify arises by reason of section 80, 81 or 86 (as modified by subsection (5)) applying in relation to the company for the accounting period;
 - (b) if it states that section 86 applies, state the name of the avoided PE;
 - (c) if it states that section 80 or 81 applies, contain a description of the material provision in question and the parties between whom it has been made or imposed;
 - (d) if it states that section 86 applies—
 - (i) state whether or not the mismatch condition is met, and
 - (ii) if it is met, contain a description of the material provision in question and the parties between whom it has been made or imposed.

Process for imposing charge

93 Preliminary notice

- (1) If a designated HMRC officer has reason to believe that—
 - (a) one or more of sections 80, 81 and 86 applies or apply in relation to a company for an accounting period, and
 - (b) as a result, taxable diverted profits arise to the company in the accounting period,
 the officer must give the company a notice (a “preliminary notice”) in respect of that period.
- (2) See sections 96 and 97 for provision about the calculation of taxable diverted profits for the purposes of a preliminary notice.
- (3) A preliminary notice must—
 - (a) state the accounting period of the company to which the notice applies;

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- (b) set out the basis on which the officer has reason to believe that one or more of sections 80, 81 and 86 applies or apply in relation to the company for that accounting period;
 - (c) explain the basis on which the proposed charge is calculated, including—
 - (i) how the taxable diverted profits to which the proposed charge would relate have been determined,
 - (ii) where relevant, details of the relevant alternative provision (see section 82(5) or 88(7)) by reference to which those profits have been determined, and
 - (iii) how the amount of interest comprised in that charge in accordance with section 79(2)(b) would be calculated,
 - (d) state who would be liable to pay the diverted profits tax;
 - (e) explain how interest is applied in accordance with section 101 of FA 2009 (late payment interest on sums due to HMRC) if the diverted profits tax is not paid, the period for which interest is charged and the rate at which it is charged.
- (4) Where the designated HMRC officer has insufficient information to determine or identify any of the matters set out in subsection (3), it is sufficient if the preliminary notice sets out those matters determined to the best of the officer's information and belief.
- (5) Subject to subsection (6) [^{F35}—
- (a) a preliminary notice may not be issued in respect of an accounting period on the basis that section 80 or 81 applies more than six months after the last day on which an amendment of the company tax return for the accounting period could be made, and
 - (b) a preliminary notice may not be issued in respect of an accounting period on the basis that section 86 applies more than 24 months after the end of that accounting period.]
- [^{F36}(5A) For the purposes of subsection (5)(a) no account is to be taken of any exception to paragraph 15(4) of Schedule 18 to FA 1998 (period for amending a company tax return).]
- (6) Where—
- (a) notification under section 92 has not been received by an officer of Revenue and Customs in respect of an accounting period of a company within the period specified in subsection (2)(b) of that section, and
 - (b) a designated HMRC officer believes, in relation to that accounting period, that an amount of diverted profits tax that ought to have been charged under this Part has not been charged,
- a designated HMRC officer may issue to the company a preliminary notice in respect of that tax within the period of 4 years after the end of the accounting period.
- (7) Where a preliminary notice is issued to a company, the officer must give a copy of the notice—
- (a) if the notice is issued on the basis that section 81 applies, to UKPE, and
 - (b) if the notice is issued on the basis that section 86 applies, to the avoided PE.

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Textual Amendments

- F35** Words in s. 93(5) substituted (with effect in accordance with Sch. 6 para. 9(4) of the amending Act) by Finance Act 2019 (c. 1), **Sch. 6 para. 9(2)**
- F36** S. 93(5A) inserted (with effect in accordance with Sch. 6 para. 9(4) of the amending Act) by Finance Act 2019 (c. 1), **Sch. 6 para. 9(3)**

94 Representations

- (1) This section applies where a designated HMRC officer gives a preliminary notice, in respect of an accounting period, to a company under section 93 (and that notice is not withdrawn).
- (2) The company has 30 days beginning with the day the notice is issued to send written representations to the officer in respect of the notice.
- (3) Representations made in accordance with subsection (2) are to be considered by the officer only if they are made on the following grounds—
 - (a) that there is an arithmetical error in the calculation of the amount of the diverted profits tax or the taxable diverted profits or an error in a figure on which an assumption in the notice is based;
 - (b) that the small or medium-sized enterprise requirement is not met;
 - (c) that in a case where the preliminary notice states that section 80 or 81 applies—
 - (i) the participation condition is not met,
 - (ii) the 80% payment test is met, or
 - (iii) the effective tax mismatch outcome is an excepted loan relationship outcome;
 - (d) that in a case where the preliminary notice states that section 86 applies—
 - (i) section 87 (exception for companies with limited UK-related sales or expenses) operates to prevent section 86 from applying for the accounting period, or
 - (ii) the avoided PE is “excepted” within the meaning of section 86(5);
 - (e) that in a case where the preliminary notice states that section 86 applies and that the mismatch condition (within the meaning of section 86(2)) is met, the condition is not met because—
 - (i) the participation condition is not met,
 - (ii) the 80% payment test is met, or
 - (iii) the effective tax mismatch outcome is an excepted loan relationship outcome (within the meaning of section 109(2)).
- (4) But, unless they are representations under subsection (3)(a) in respect of arithmetical errors, nothing in subsection (3) requires the officer to consider any representations if, and to the extent that, they relate to—
 - (a) any provision of Part 4 of TIOPA 2010 (transfer pricing), or
 - (b) the attribution of profits of a company to a permanent establishment in the United Kingdom through which the company carries on a trade (including any notional attribution made for the purposes of section 89, 90 or 91).
- (5) “The small or medium-sized enterprise requirement” is—

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- (a) where the notice was issued on the basis that section 80 or 81 applies, the requirement in section 80(1)(g), and
 - (b) where the notice was issued on the basis that section 86 applies to the company, the requirement in subsection (1)(h) or (2)(f) of that section.
- (6) “The participation condition” means—
- (a) where the notice was issued on the basis that section 80 or 81 applies, the condition in section 80(1)(c), and
 - (b) where the notice was issued on the basis that section 86 applies to the company, the condition in subsection (2)(b) of that section.
- (7) “The 80% payment test” means the requirement in section 107(3)(d).

95 Charging notice

- (1) This section applies where a designated HMRC officer has given a company a preliminary notice under section 93 in relation to an accounting period.
- (2) Having considered any representations in accordance with section 94, the officer must determine whether to—
- (a) issue a notice under this section (a “charging notice”) to the company for that accounting period, or
 - (b) notify the company that no charging notice will be issued for that accounting period pursuant to that preliminary notice,
- and must take that action before the end of the period of 30 days immediately following the period of 30 days mentioned in section 94(2).
- (3) A notification under subsection (2)(b) does not prevent a charging notice being issued for the same accounting period pursuant to any other preliminary notice the person may be given in respect of that period.
- (4) See sections 96 and 97 for provision about the calculation of taxable diverted profits for the purposes of a charging notice.
- (5) A charging notice must—
- (a) state the amount of the charge to diverted profits tax imposed by the notice;
 - (b) set out the basis on which the officer considers that section 80, 81 or 86 applies;
 - (c) state the accounting period of the company to which the notice applies;
 - (d) set out an explanation of the basis on which the charge is calculated, including—
 - (i) how the taxable diverted profits to which the charge relates have been determined,
 - (ii) where relevant, details of the relevant alternative provision (see section 82(5) or 88(7)) by reference to which those profits have been determined, and
 - (iii) how the amount of interest comprised in the charge under section 79(2)(b) has been calculated;
 - (e) state who is liable to pay the diverted profits tax;
 - (f) state when the tax is due and payable;

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- (g) explain how interest is applied in accordance with section 101 of FA 2009 (late payment interest on sums due to HMRC) if the diverted profits tax is not paid, the period for which interest is charged and the rate at which it is charged.
- (6) Where a charging notice is issued to a company, the officer must give a copy of the notice—
- (a) if the notice is issued by reason of section 81 applying, to UKPE, and
 - (b) if the notice is issued by reason of section 86 applying, to the avoided PE.

96 Section 80 or 81 cases: estimating profits for preliminary and charging notices

- (1) Where taxable diverted profits arising to a company in an accounting period fall to be determined under section 84 or 85, for the purposes of issuing a preliminary notice under section 93 or a charging notice under section 95 the taxable diverted profits to be specified in the notice, in relation to the material provision in question, are determined in accordance with this section.
- (2) The taxable diverted profits are such amount (if any) as the designated HMRC officer issuing the notice determines, on the basis of the best estimate that can reasonably be made at that time, to be the amount calculated in accordance with sections 84 or 85 (as the case may be).

But this is subject to subsections (4) to (6).

- (3) For the purposes of this section, “the inflated expenses condition” is met if—
- (a) the material provision results in expenses of the company for which a deduction has been taken into account by the company in computing—
 - (i) in a case where section 80 applies, its liability for corporation tax for the accounting period, and
 - (ii) in a case where section 81 applies, its chargeable profits attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE,
 - (b) the expenses result, or a part of the expenses results, in the effective tax mismatch outcome mentioned in section 80(1)(d), and
 - (c) in consequence of paragraphs (a) and (b), the designated HMRC officer issuing the notice considers that the relevant expenses might be greater than they would have been if they had resulted from provision made or imposed as between independent persons dealing at arm's length.
- (4) Subsection (5) applies where the designated HMRC officer issuing the notice considers that—
- (a) the inflated expenses condition is met, and
 - (b) it is reasonable to assume that section 84 or 85(4) applies.
- (5) Where this subsection applies, the best estimate made by the officer in accordance with subsection (2) is to be made on the assumption that—
- (a) so much of the deduction mentioned in subsection (3)(a) as relates to the relevant expenses is reduced by 30%, and
 - (b) in relation to the relevant expenses, Part 4 of TIOPA 2010 (transfer pricing) is ignored.
- (6) But—
- (a) if the deduction for the expenses taken into account by the company in computing its liability for corporation tax takes account of an adjustment

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- required by Part 4 of TIOPA 2010 (transfer pricing) which is reflected in the company's company tax return prior to the issue of the charging notice, and
- (b) as a result that deduction is less than it would otherwise have been, the reduction required by subsection (5)(a) is reduced (but not below nil) to take account of that adjustment.
- (7) For the purposes of this section, sections 83(3) and 84(2)(c) have effect as if (in each case) the words “before the end of the review period” were omitted.
- (8) The Treasury may by regulations, made by statutory instrument, substitute a different percentage for the percentage for the time being specified in subsection (5)(a).
- (9) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section—
- “the material provision” has the same meaning as in section 80;
 - “the relevant expenses” means so much of the expenses mentioned in subsection (3)(a) as result in the effective tax mismatch outcome as mentioned in subsection (3)(b).

97 Section 86 cases: estimating profits for preliminary and charging notices

- (1) Where taxable diverted profits arising to the foreign company in an accounting period fall to be determined under section 89, 90 or 91, for the purposes of issuing a preliminary notice under section 93 or a charging notice under section 95 the taxable diverted profits to be specified in the notice are determined instead in accordance with this section.
- (2) The taxable diverted profits are such amount as the designated HMRC officer issuing the notice determines, on the basis of the best estimate that can reasonably be made at that time, to be the amount calculated in accordance with section 89, 90 or 91 (as the case may be).
- But this is subject to subsections (4) and (5).
- (3) For the purposes of subsection (4), “the inflated expenses condition” is met if—
- (a) the mismatch condition is met,
 - (b) the material provision results in expenses of the foreign company for which (ignoring Part 4 of TIOPA 2010 (transfer pricing)) a deduction for allowable expenses would be allowed in computing the notional PE profits of the foreign company for the accounting period,
 - (c) the expenses result, or a part of the expenses results, in the effective tax mismatch outcome mentioned in section 86(2)(c), and
 - (d) in consequence of paragraphs (a) to (c), the designated HMRC officer issuing the notice considers that the relevant expenses might be greater than they would have been if they had resulted from provision made or imposed as between independent persons dealing at arm's length.
- (4) Subsection (5) applies where the designated HMRC officer issuing the notice considers that—
- (a) the inflated expenses condition is met, and
 - (b) it is reasonable to assume that section 90 or 91(4) applies.

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- (5) Where this subsection applies, the best estimate made by the officer in accordance with subsection (2) is to be made on the assumption that—
 - (a) so much of the deduction mentioned in subsection (3)(b) as relates to the relevant expenses is reduced by 30%, and
 - (b) in relation to the relevant expenses, Part 4 of TIOPA 2010 (transfer pricing) is ignored.
- (6) The Treasury may by regulations, made by statutory instrument, substitute a different percentage for the percentage for the time being specified in subsection (5)(a).
- (7) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons.
- (8) In this section—
 - (a) “the relevant expenses” means so much of the expenses mentioned in subsection (3)(b) as result in the effective tax mismatch outcome as mentioned in section 86(2)(c), and
 - (b) “the foreign company”, “the material provision” and “the mismatch condition” have the same meaning as in section 86.

Payment and recovery of tax

98 Payment of tax

- (1) This section applies where a charging notice is issued to a company.
- (2) Diverted profits tax charged by the notice must be paid within 30 days after the day the notice is issued.
- (3) The company is liable to pay the tax.
- (4) The payment of the tax may not be postponed on any grounds, and so the diverted profits tax charged by the charging notice remains due and payable despite any review being conducted under section 101 or any appeal in respect of the notice.
- (5) In Schedule 16—
 - (a) Part 1 contains provision treating a liability of a non-UK resident company to pay diverted profits tax as if it were also a liability of its UK representative;
 - (b) Part 2 contains provision enabling unpaid diverted profits tax due from a non-UK resident company to be recovered from a related company.

99 Diverted profits tax ignored for tax purposes

- (1) In calculating income, profits or losses for any tax purpose—
 - (a) no deduction, or other relief, is allowed in respect of diverted profits tax, and
 - (b) no account is to be taken of any amount which is paid (directly or indirectly) by a person for the purposes of meeting or reimbursing the cost of diverted profits tax.
- (2) An amount paid as mentioned in subsection (1)(b) is not to be regarded for the purposes of the Corporation Tax Acts as a distribution (within the meaning of CTA 2010).

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100 [F37] Credits for tax on the same profits]

- (1) Subsection (2) applies where a company has paid—
- (a) corporation tax, or
 - (b) a tax under the law of a territory outside the United Kingdom which corresponds to corporation tax,
- which is calculated by reference to profits of the company (“the taxed profits”).
- (2) Such credit as is just and reasonable is allowed in respect of that tax against any liability which either—
- (a) that company has to diverted profits tax in respect of the taxed profits, or
 - (b) another company has to diverted profits tax in respect of taxable diverted profits arising to that other company which are calculated by reference to amounts which also constitute all or part of the taxed profits.

[F38(2A) Subsection (2)(b) does not allow a credit against a liability to diverted profits tax if or to the extent that the liability arises by virtue of section 88(5)(b) (payments of royalties etc).]

- (3) Subsection (4) applies where a company has paid—
- (a) the CFC charge within the meaning of Part 9A of TIOPA 2010 (controlled foreign companies) (see section 371VA), or
 - (b) a tax under the law of a territory outside the United Kingdom (by whatever name known) which is similar to the CFC charge,
- which is calculated by reference to profits of another company (“the CFC profits”).
- (4) Such credit as is just and reasonable is allowed in respect of that charge or tax against any liability which a company has to diverted profits tax in respect of taxable diverted profits arising to that other company which are calculated by reference to amounts which also constitute all or part of the CFC profits.

[F39(4A) Subsection (4B) applies where—

- (a) a company’s notional PE profits for an accounting period include an amount under section 88(5)(b) determined by reference to a royalty or other sum,
- (b) the company’s liability to diverted profits tax for the accounting period is determined by reference to taxable diverted profits calculated under section 91(4) or (5), and
- (c) those taxable diverted profits include an amount of relevant taxable income referred to in section 91(4)(b) or (5)(b) determined by reference to the same royalty or other sum.

(4B) A credit equal to the company’s liability to diverted profits tax for that accounting period which arises by virtue of section 88(5)(b) in respect of the royalty or other sum, to the extent that it is included in relevant taxable income for the purposes of section 91(4)(b) or (5)(b), is allowed against the company’s total liability to diverted profits tax for that period.

(4C) Subsection (4D) applies where—

- (a) by reason of the payment of a royalty or other sum a company’s liability to diverted profits tax for an accounting period includes liability arising by virtue of section 88(5)(b),
- (b) the royalty or other sum is paid to a person who is resident in a country or territory outside the United Kingdom, and

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- (c) under any [^{F40}double taxation arrangements (as defined by section 2(4) of TIOPA 2010)] relief would have been due to that person had the avoided PE been a permanent establishment in the United Kingdom through which the company carried on the trade mentioned in section 86(1)(b).
- (4D) Such credit as is just and reasonable having regard to the amount of the relief referred to in subsection (4C)(c) is allowed against the company's liability to diverted profits tax.

^{F41}(4E)]

- (5) But nothing in this section allows a credit, against a liability to diverted profits tax, for an amount of tax or charge which was paid after the end of—
- (a) the review period in respect of the charging notice which imposed the charge to diverted profits tax, or
 - (b) where the charge to diverted profits tax was imposed by a supplementary charging notice, the review period within which that notice was issued.
- (6) For the purposes of subsection (1), any withholding tax paid on payments made to a person is (unless it is refunded) to be treated—
- (a) as tax within paragraph (a) or (b) of that subsection, and
 - (b) as paid by that person (and not the person making the payment).
- (7) For the purposes of subsection (6), an amount of withholding tax paid on payments made to a person is refunded if and to the extent that—
- (a) any repayment of tax, or any payment in respect of a credit for tax, is made to any person, and
 - (b) that repayment or payment is directly or indirectly in respect of the whole or part of the amount of that withholding tax.

Textual Amendments

- F37** S. 100 heading substituted (with effect in accordance with s. 43(7) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 43\(4\)](#)
- F38** S. 100(2A) inserted (with effect in accordance with s. 43(7) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 43\(5\)](#)
- F39** S. 100(4A)-(4E) inserted (with effect in accordance with s. 43(7) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 43\(6\)](#)
- F40** Words in s. 100(4C)(c) substituted (with effect in accordance with s. 34(8) of the amending Act) by [Finance Act 2021 \(c. 26\), s. 34\(5\)\(a\)](#)
- F41** S. 100(4E) omitted (with effect in accordance with s. 34(8) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), s. 34\(5\)\(b\)](#)

[^{F42}100A] Relief from corporation tax

- (1) This section applies where a charging notice or supplementary charging notice is issued to a company for an accounting period and any of the following events occurs—
- (a) the period of 30 days mentioned in subsection (2) of section 102 ends without notice of an appeal against the notice being given in accordance with that subsection,
 - (b) an appeal against the notice is finally determined otherwise than by the notice being cancelled, or

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- (c) an appeal against the notice is withdrawn.
- (2) The company is not chargeable to corporation tax for the accounting period in respect of any amount within subsection (3).
- (3) An amount is within this subsection if—
 - (a) the company failed before the end of the review period to take the amount into account in an assessment to corporation tax included in the company tax return for the accounting period, and
 - (b) that failure gave rise to, or to any of, the taxable diverted profits in respect of which the notice imposes a charge to diverted profits tax.]

Textual Amendments

F42 S. 100A inserted (with effect in accordance with Sch. 6 para. 10(2) of the amending Act) by Finance Act 2019 (c. 1), Sch. 6 para. 10(1)

Review and appeals

101 HMRC review of charging notice

- (1) Where a charging notice is issued to a company for an accounting period, a designated HMRC officer, within the review period—
 - (a) must carry out a review of the amount of diverted profits tax charged on the company for the accounting period, and
 - (b) may carry out more than one such review.
- (2) Subject to subsection (13), “the review period” means the period of [^{F43}15 months] beginning immediately after the period of 30 days mentioned in section 98(2).
- (3) Subsection (4) applies if—
 - (a) the company has paid (in full) the amount of diverted profits tax charged by the charging notice, and
 - (b) the officer is satisfied that the total amount of diverted profits tax charged on the company for that period is excessive having regard to sections 83, 84, 85, 89, 90 and 91 (calculation of taxable diverted profits).
- (4) The officer may, during the review period, issue to the company an amending notice which amends the charging notice so as to—
 - (a) reduce the amount of taxable diverted profits to which the notice relates, and
 - (b) accordingly, reduce the charge to diverted profits tax imposed on the company in respect of the accounting period.
- (5) More than one amending notice may be issued to the company in respect of the charging notice.
- (6) Where an amending notice is issued, any tax overpaid must be repaid.
- (7) Subsection (8) applies if a designated HMRC officer is satisfied that the total amount of diverted profits tax charged on the company for the accounting period is insufficient having regard to sections 83, 84, 85, 89, 90 and 91 (calculation of taxable diverted profits).

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- (8) The officer may, during the review period, issue a notice (a “supplementary charging notice”) to the company imposing an additional charge to diverted profits tax on the company in respect of the accounting period on taxable diverted profits which—
- (a) arise to the company for that period, and
 - (b) are not already the subject of a charge to diverted profits tax.
- (9) Only one supplementary charging notice may be issued to the company in respect of a charging notice.
- (10) No supplementary charging notice may be issued during the last 30 days of the review period.
- (11) Subsections (3) to (6) (amending notices) apply in relation to a supplementary charging notice as they apply to the charging notice.
- (12) Section 95(5) (content of charging notice) and section 98 (payment of tax) apply in relation to a supplementary charging notice as they apply in relation to a charging notice.
- (13) If either of the following events occurs before the end of the period of [^{F44}15 months] referred to in subsection (2), the review period ends at the time of that event.
- The events are—
- (a) that following the issuing of a supplementary charging notice, the company notifies HMRC that it is terminating the review period;
 - (b) that a designated HMRC officer and the company agree (in writing) that the review period is to terminate.
- (14) When determining on a review whether the total amount of taxable diverted profits charged on the company for an accounting period is excessive or insufficient—
- (a) the designated HMRC officer must not take any account of section 96 or (as the case may be) section 97 (which apply only for the purposes of the officer estimating the taxable diverted profits for the purposes of issuing a preliminary notice or charging notice), and
 - (b) nothing in section 94 applies to restrict the representations which the officer may consider.
- (15) Where a supplementary charging notice or an amending notice is issued to a company, the officer must give a copy of the notice—
- (a) if the charging notice was issued by reason of section 81 applying, to UKPE, and
 - (b) if the charging notice was issued by reason of section 86 applying, to the avoided PE.

Textual Amendments

F43 Words in s. 101(2) substituted (with effect in accordance with Sch. 6 para. 11(2) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 6 para. 11\(1\)\(a\)](#)

F44 Words in s. 101(13) substituted (with effect in accordance with Sch. 6 para. 11(2) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 6 para. 11\(1\)\(b\)](#)

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[^{F45}101A Amendment of CT return during review period: section 80 or 81 case

- (1) This section applies where a charging notice is issued to a company by reason of section 80 or 81 applying in relation to it for an accounting period.
- (2) At any time during ^{F46}... the review period [^{F47}except the last 30 days of that period], the company may amend its company tax return for the accounting period so as to reduce the taxable diverted profits arising to it in the accounting period.
- [^{F48}(3) Paragraph 31(3) of Schedule 18 to FA 1998 (amendment not to take effect during enquiry) does not apply in relation to an amendment made under subsection (2).]

Textual Amendments

- F45** Ss. 101A, 101B inserted (12.2.2019) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 12](#)
- F46** Words in s. 101A(2) omitted (with effect in accordance with s. 28(5) of the amending Act) by virtue of [Finance Act 2022 \(c. 3\), s. 28\(2\)\(a\)\(i\)](#)
- F47** Words in s. 101A(2) inserted (with effect in accordance with s. 28(5) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 28\(2\)\(a\)\(ii\)](#)
- F48** S. 101A(3) inserted (with effect in accordance with s. 28(5) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 28\(2\)\(b\)](#)

101B Amendment of CT return during review period: section 86 case

- (1) This section applies where a charging notice is issued to a company (“the foreign company”) by reason of section 86 applying in relation to it for an accounting period.
- (2) At any time during ^{F49}... the review period [^{F50}except the last 30 days of that period], the avoided PE may amend a company tax return made by it so as to reduce the taxable diverted profits arising to the foreign company in the accounting period.]
- [^{F51}(3) Paragraph 31(3) of Schedule 18 to FA 1998 (amendment not to take effect during enquiry) does not apply in relation to an amendment made under subsection (2).]

Textual Amendments

- F45** Ss. 101A, 101B inserted (12.2.2019) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 12](#)
- F49** Words in s. 101B(2) omitted (with effect in accordance with s. 28(5) of the amending Act) by virtue of [Finance Act 2022 \(c. 3\), s. 28\(3\)\(a\)\(i\)](#)
- F50** Words in s. 101B(2) inserted (with effect in accordance with s. 28(5) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 28\(3\)\(a\)\(ii\)](#)
- F51** S. 101B(3) inserted (with effect in accordance with s. 28(5) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 28\(3\)\(b\)](#)

[^{F52}101C Closure notices: rules during review period

- (1) This section applies where—
 - (a) a charging notice is issued to a company for an accounting period, and
 - (b) the review period for that charging notice has not ended.
- (2) In relation to a relevant enquiry—

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- (a) a final closure notice may not be given under paragraph 32 of Schedule 18 to FA 1998, and
 - (b) a partial closure notice may not be given under that paragraph in relation to any matter which is, or could be, relevant to the charging notice mentioned in subsection (1)(a).
- (3) Accordingly, a relevant tribunal direction has no effect until the review period has ended.
- (4) In subsection (2), “relevant enquiry” means—
- (a) an enquiry into the company tax return for the accounting period mentioned in subsection (1)(a);
 - (b) where the charging notice mentioned in subsection (1)(a) is issued to a company (“the foreign company”) for an accounting period by reason of section 86 applying in relation to it for that accounting period, an enquiry into any company tax return for the avoided PE (within the meaning of section 86) that may be amended by virtue of section 101B(2) so as to reduce the taxable diverted profits arising to the foreign company in that accounting period.
- (5) In subsection (3) “relevant tribunal direction” means a direction given—
- (a) under paragraph 33 of Schedule 18 to FA 1998,
 - (b) in relation to a closure notice that may not be given by virtue of subsection (2), and
 - (c) during the review period mentioned in subsection (1)(b).]

Textual Amendments

F52 S. 101C inserted (with effect in accordance with s. 28(5) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 28\(4\)](#)

102 Appeal against charging notice or supplementary charging notice

- (1) A company to which a charging notice or a supplementary charging notice is issued may appeal against the notice.
- (2) Notice of an appeal must be given to HMRC, in writing, within 30 days after the end of the review period (see section 101(2) and (13)).
- (3) The notice of appeal must specify the grounds of appeal.
- (4) For the purposes of an appeal, sections 96 and 97 (which apply only for the purposes of the officer estimating the taxable diverted profits for the purposes of issuing a preliminary notice or charging notice) are to be ignored when determining whether the taxable diverted profits in respect of which a charge is imposed have been correctly calculated.
- (5) On an appeal under this section the Tribunal may—
 - (a) confirm the charging notice or supplementary charging notice to which the appeal relates,
 - (b) amend that charging notice or supplementary charging notice, or
 - (c) cancel that charging notice or supplementary charging notice.

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- (6) For the purposes of Part 5 of TMA 1970 (appeals etc), an appeal under this section is to be treated as if it were an appeal under the Taxes Acts (within the meaning of that Act), and for that purpose references in that Part to an assessment include a charging notice or supplementary charging notice under this Part.
- (7) Subsection (6) is subject to section 98(4) (no postponement of payment of tax pending appeal etc).

Administration of tax

103 Responsibility for collection and management

The Commissioners for Her Majesty's Revenue and Customs are responsible for the collection and management of diverted profits tax.

104 Penalties etc

- (1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended as follows.
- (2) In the Table at the end of paragraph 1, after item 6ZA insert—

“6ZB	Diverted profits tax	Amount of diverted profits tax payable under Part 3 of FA 2015	The date when, in accordance with section 98(2) of FA 2015, the amount must be paid”
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- (3) In paragraph 3 (amount of penalty: occasional amounts and amounts in respect of periods of 6 months or more), after sub-paragraph (1)(a) insert—
- “(aa) a payment of tax falling within item 6ZB in the Table.”.
- (4) Schedule 41 to FA 2008 (penalties: failure to notify etc) is amended as follows.
- (5) In the Table in paragraph 1, after the entry for corporation tax insert—

“Diverted profits tax	Obligation under section 92 of FA 2015 (duty to notify if within scope of diverted profits tax).”
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- (6) In paragraph 7 (meaning of “potential lost revenue”), after sub-paragraph (4) insert—
- “(4A) In the case of a relevant obligation relating to diverted profits tax, the potential lost revenue is the amount of diverted profits tax for which P would be liable at the end of the period of 6 months beginning immediately after the accounting period assuming—
- (a) a charge to diverted profits tax had been imposed on P on the taxable diverted profits arising to P for the accounting period, and
 - (b) that tax was required to be paid before the end of that period of 6 months.”

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105 Information and inspection powers etc

- (1) In Schedule 23 to FA 2011 (data-gathering powers), in paragraph 45(1) (taxes to which powers apply), after paragraph (c) insert—
 - “(ca) diverted profits tax.”
- (2) In Schedule 36 to FA 2008 (information and inspection powers), in paragraph 63(1) (taxes to which powers apply), after paragraph (c) insert—
 - “(ca) diverted profits tax.”

Interpretation

106 “The participation condition”

- (1) This section applies for the purposes of sections 80 and 86(2).
- (2) In this section “the first party” and “the second party” mean—
 - (a) where this section applies for the purposes of section 80, C and P (within the meaning of section 80) respectively, and
 - (b) where this section applies for the purposes of section 86(2), the foreign company and A (within the meaning of section 86) respectively.
- (3) The participation condition is met in relation to the first party and the second party (“the relevant parties”) if—
 - (a) condition A is met in relation to the material provision so far as the material provision is provision relating to financing arrangements, and
 - (b) condition B is met in relation to the material provision so far as the material provision is not provision relating to financing arrangements.
- (4) Condition A is that, at the time of the making or imposition of the material provision or within the period of 6 months beginning with the day on which the material provision was made or imposed—
 - (a) one of the relevant parties was directly or indirectly participating in the management, control or capital of the other, or
 - (b) the same person or persons was or were directly or indirectly participating in the management, control or capital of each of the relevant parties.
- (5) Condition B is that, at the time of the making or imposition of the material provision—
 - (a) one of the relevant parties was directly or indirectly participating in the management, control or capital of the other, or
 - (b) the same person or persons was or were directly or indirectly participating in the management, control or capital of each of the relevant parties.
- (6) In this section “financing arrangements” means arrangements made for providing or guaranteeing, or otherwise in connection with, any debt, capital or other form of finance.
- (7) For the purposes of this section—
 - (a) section 157(2) of TIOPA 2010 (“direct participation”) applies, and
 - (b) sections 158 to 163 of that Act (“indirect participation” in management, control or capital of a person) apply as if in those sections—
 - (i) references to section 148(2) of that Act included references to subsection (4) of this section,

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- (ii) references to paragraph (a) or (b) of section 148(2) of that Act included (respectively) references to paragraph (a) or (b) of subsection (4) of this section,
- (iii) references to section 148(3) of that Act included references to subsection (5) of this section, and
- (iv) references to paragraph (a) or (b) of section 148(3) of that Act included (respectively) references to paragraph (a) or (b) of subsection (5) of this section.

107 “Effective tax mismatch outcome”

- (1) This section applies for the purposes of sections 80 and 86(2).
- (2) In this section “the first party” and “the second party” mean—
 - (a) where this section applies for the purposes of section 80, C and P (within the meaning of section 80) respectively, and
 - (b) where this section applies for the purposes of section 86(2), the foreign company and A (within the meaning of section 86) respectively.
- (3) The material provision results in an effective tax mismatch outcome as between the first party and the second party for an accounting period of the first party if—
 - (a) in that accounting period, in relation to a relevant tax, it results in one or both of—
 - (i) expenses of the first party for which a deduction has been taken into account in computing the amount of the relevant tax payable by the first party, or
 - (ii) a reduction in the income of the first party which would otherwise have been taken into account in computing the amount of a relevant tax payable by the first party,
 - (b) the resulting reduction in the amount of the relevant tax which is payable by the first party exceeds the resulting increase in relevant taxes payable by the second party for the corresponding accounting period of the second party,
 - (c) the results described in paragraphs (a) and (b) are not exempted by subsection (6), and
 - (d) the second party does not meet the 80% payment test.
- (4) In this Part, references to “the tax reduction” are to the amount of the excess mentioned in subsection (3)(b).
- (5) It does not matter whether the tax reduction results from the application of different rates of tax, the operation of a relief, the exclusion of any amount from a charge to tax, or otherwise.
- (6) The results described in subsection (3)(a) and (b) are exempted if they arise solely by reason of—
 - (a) contributions paid by an employer under a registered pension scheme, or overseas pension scheme, in respect of any individual,
 - (b) a payment to a charity,
 - (c) a payment to a person who, on the ground of sovereign immunity, cannot be liable for any relevant tax, or
 - (d) a payment to an offshore fund or authorised investment fund—

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- (i) which meets the genuine diversity of ownership condition (whether or not a clearance has been given to that effect), or
 - (ii) at least 75% of the investors in which are, throughout the accounting period, registered pension schemes, overseas pension schemes, charities or persons who cannot be liable for any relevant tax on the ground of sovereign immunity.
- (7) “The 80% payment test” is met by the second party if the resulting increase in relevant taxes payable by the second party as mentioned in subsection (3)(b) is at least 80% of the amount of the resulting reduction in the amount of the relevant tax payable by the first party as mentioned in subsection (3)(b).
- (8) In this section—
- “authorised investment fund” means—
 - (a) an open-ended investment company within the meaning of section 613 of CTA 2010, or
 - (b) an authorised unit trust within the meaning of section 616 of that Act;
 “employer” has the same meaning as in Part 4 of FA 2004 (see section 279(1) of that Act);
 - “genuine diversity of ownership condition” means—
 - (a) in the case of an offshore fund, the genuine diversity of ownership condition in regulation 75 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), and
 - (b) in the case of an authorised investment fund, the genuine diversity of ownership condition in regulation 9A of the Authorised Investment Fund (Tax) Regulations 2006 (S.I. 2006/964);
 - “offshore fund” has the same meaning as in section 354 of TIOPA 2010 (see section 355 of that Act);
 - “overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act);
 - “registered pension scheme” has the same meaning as in that Part (see section 150(2) of that Act);
 - “relevant tax” means—
 - (a) corporation tax on income,
 - (aa) [^{F53} a sum chargeable under section 269DA of CTA 2010 (surcharge on banking companies) as if it were an amount of corporation tax,]
 - (b) a sum chargeable under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades) as if it were an amount of corporation tax,
 - (c) income tax, or
 - (d) any non-UK tax on income.
- (9) See section 108 for further provision about the determination of the tax reduction and the 80% payment test.

Textual Amendments

F53 Words in s. 107(8) inserted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 13**

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108 Provision supplementing section 107

- (1) For the purposes of section 107(3)(b) and (7), the resulting reduction in the first party's liability to a relevant tax for an accounting period is—

$$A \times TR$$

where—

A is the sum of—

- (a) if there are expenses within section 107(3)(a)(i), the lower of the amount of the expenses and the amount of the deduction mentioned in that provision, and
- (b) any reduction in income mentioned in section 107(3)(a)(ii), and

TR is the rate at which, assuming the first party has profits equal to A chargeable to the relevant tax for the accounting period, those profits would be chargeable to that tax.

- (2) For the purposes of section 107(3)(b) and (7), the resulting increase in relevant taxes payable by the second party for the corresponding accounting period is any increase in the total amount of relevant taxes that would fall to be paid by the second party (and not refunded) assuming that—
- (a) the second party's income for that period, in consequence of the material provision were an amount equal to A,
 - (b) account were taken of any deduction or relief (other than any qualifying deduction or qualifying loss relief) taken into account by the second party in determining its actual liability to any relevant tax in consequence of the material provision, and
 - (c) all further reasonable steps were taken—
 - (i) under the law of any part of the United Kingdom or any country or territory outside the United Kingdom, and
 - (ii) under double taxation arrangements made in relation to any country or territory,to minimise the amount of tax which would fall to be paid by the second party in the country or territory in question (other than steps to secure the benefit of any qualifying deduction or qualifying loss relief).
- (3) The steps mentioned in subsection (2)(c) include—
- (a) claiming, or otherwise securing the benefit of, reliefs, deductions, reductions or allowances, and
 - (b) making elections for tax purposes.
- (4) For the purposes of this section, any withholding tax which falls to be paid on payments made to the second party is (unless it is refunded) to be treated as tax which falls to be paid by the second party (and not the person making the payment).
- (5) For the purposes of this section, an amount of tax payable by the second party is refunded if and to the extent that—
- (a) any repayment of tax, or any payment in respect of a credit for tax, is made to any person, and

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- (b) that repayment or payment is directly or indirectly in respect of the whole or part of the amount of tax payable by the second party,
but an amount refunded is to be ignored if and to the extent that it results from qualifying loss relief obtained by the second party.
- (6) Where the second party is a partnership, in section 107 and this section—
- (a) references to the second party's liability to any tax (however expressed) include a reference to the liabilities of all members of the partnership to the tax,
 - (b) references to any tax being payable by the second party (however expressed) include a reference to tax being payable by any member of the partnership, and
 - (c) references to loss relief obtained by the second party include a reference to loss relief obtained by any member of the partnership,
- and subsection (4) applies to any member of the partnership as it applies to the second party.
- (7) In this section—
- “the first party” and “the second party” have the same meaning as in section 107;
- “qualifying deduction” means a deduction which—
- (a) is made in respect of actual expenditure of the second party,
 - (b) does not arise directly from the making or imposition of the material provision,
 - (c) is of a kind for which the first party would have obtained a deduction in calculating its liability to any relevant tax had it incurred the expenditure in respect of which the deduction is given, and
 - (d) does not exceed the amount of the deduction that the first party would have so obtained;
- “qualifying loss relief” means—
- (a) any means by which a loss might be used for corporation tax purposes to reduce the amount in respect of which the second party is liable to tax, and
 - (b) in the case of a non-UK resident company, any corresponding means by which a loss corresponding to a relevant CT loss might be used for the purposes of a non-UK tax corresponding to corporation tax to reduce the amount in respect of which the second party is liable to tax,
- (and in paragraph (b) “relevant CT loss” means a loss which might be used as mentioned in paragraph (a));
- “relevant tax” has the same meaning as in section 107.

109 “Excepted loan relationship outcome”

- (1) This section applies for the purposes of sections 80 and 86(2).
- (2) The effective tax mismatch outcome is an “excepted loan relationship outcome” if the result described in section 107(3)(a) arises wholly from—
 - (a) anything that, if a company within the charge to corporation tax were party to it, would produce debits or credits under Part 5 of CTA 2009 (loan relationships and deemed loan relationships) (“a loan relationship”), or

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- (b) a loan relationship and a relevant contract (within the meaning of Part 7 of that Act (derivative contracts)) taken together, where the relevant contract is entered into entirely as a hedge of risk in connection with the loan relationship.

110 “The insufficient economic substance condition”

- (1) This section applies for the purposes of sections 80 and 86(2).
- (2) In this section “the first party” and “the second party” mean—
 - (a) where this section applies for the purposes of section 80, C and P (within the meaning of section 80) respectively, and
 - (b) where this section applies for the purposes of section 86(2), the foreign company and A (within the meaning of section 86) respectively.
- (3) The insufficient economic substance condition is met if one or more of subsections (4), (5) and (6) apply.

- (4) This subsection applies where—
 - (a) the effective tax mismatch outcome is referable to a single transaction, and
 - (b) it is reasonable to assume that the transaction was designed to secure the tax reduction,

unless, at the time of the making or imposition of the material provision, it was reasonable to assume that, for the first party and the second party (taken together) and taking account of all accounting periods for which the transaction was to have effect, the non-tax benefits referable to the transaction would exceed the financial benefit of the tax reduction.

- (5) This subsection applies where—
 - (a) the effective tax mismatch outcome is referable to any one or more of the transactions in a series of transactions, and
 - (b) it is reasonable to assume that the transaction was, or the transactions were, designed to secure the tax reduction,

unless, at the time of the making or imposition of the material provision, it was reasonable to assume that, for the first party and the second party (taken together) and taking account of all accounting periods for which the transaction or series was to have effect, the non-tax benefits referable to the transaction or transactions would exceed the financial benefits of the tax reduction.

- (6) This subsection applies where—
 - (a) a person is a party to the transaction, or to any one or more of the transactions in the series of transactions, to which section 80(1)(b) or section 86(2)(a) refers, and
 - (b) it is reasonable to assume that the person's involvement in the transaction or transactions was designed to secure the tax reduction,

unless one or both of the conditions in subsection (7) is or are met.

- (7) Those conditions are—
 - (a) that, at the time of the making or imposition of the material provision, it was reasonable to assume that, for the first party and the second party (taken together) and taking account of all accounting periods for which the transaction or series was to have effect, the non-tax benefits referable to the contribution made to the transaction or series by that person, in terms of

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- the functions or activities that that person's staff perform, would exceed the financial benefit of the tax reduction;
- (b) that, in the accounting period—
- (i) the income attributable to the ongoing functions or activities of that person's staff in terms of their contribution to the transaction or transactions (ignoring functions or activities relating to the holding, maintaining or protecting of any asset from which income attributable to the transaction or transactions derives), exceeds
 - (ii) the other income attributable to the transaction or transactions.
- (8) For the purposes of subsection (7) a person's staff include—
- (a) any director or other officer of the person,
 - (b) if the person is a partnership, any individual who is a member of the partnership, and
 - (c) externally provided workers in relation to the person.
- (9) For the purposes of subsections (4)(b), (5)(b) and (6)(b)—
- (a) when determining whether it is reasonable to assume—
 - (i) that a transaction was, or transactions were, designed to secure the tax reduction, or
 - (ii) that a person's involvement in a transaction or transactions was designed to secure the tax reduction,
 regard must be had to all the circumstances, including any liability for any additional tax that arises directly or indirectly as a consequence of the transaction or transactions, and
 - (b) a transaction or transactions, or a person's involvement in a transaction or transactions, may be designed to secure the tax reduction despite it or them also being designed to secure any commercial or other objective.
- (10) In this section—
- “externally provided worker” has the meaning given by section 1128 of CTA 2009, but as if in that section for “company” (in each place) there were substituted “person”;
- “non-tax benefits” means financial benefits other than—
- (a) the financial benefit of the tax reduction, and
 - (b) any other financial benefits which derive (directly or indirectly) from the reduction, elimination, or delay of any liability of any person to pay any tax;
- “tax” includes non-UK tax.

111 “Transaction” and “series of transactions”

- (1) In this Part “transaction” includes arrangements, understandings and mutual practices (whether or not they are, or are intended to be, legally enforceable).
- (2) References in this Part to a series of transactions include references to a number of transactions each entered into (whether or not one after the other) in pursuance of, or in relation to, the same arrangement.
- (3) A series of transactions is not prevented by reason only of one or more of the matters mentioned in subsection (4) from being regarded for the purposes of this Part as a series

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of transactions by means of which provision has been made or imposed as between any two persons.

- (4) Those matters are—
- (a) that there is no transaction in the series to which both those persons are parties,
 - (b) that the parties to any arrangement in pursuance of which the transactions in the series are entered into do not include one or both of those persons, and
 - (c) that there is one or more transactions in the series to which neither of those persons is a party.
- (5) In this section “arrangement” means any scheme or arrangement of any kind (whether or not it is, or is intended to be, legally enforceable).

[^{F54}111A Adjustment required to be made to the material provision

A reference in section 82 or 88 to an adjustment required to be made under Part 4 of TIOPA 2010 (transfer pricing) to the results of any provision includes a reference to an adjustment required to be made under any other enactment to the results of the provision if and to the extent that, but for that other enactment, the adjustment would have been required to be made under that Part.]

Textual Amendments

F54 S. 111A inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 6 para. 7](#)

112 Treatment of a person who is a member of a partnership

- (1) This section applies where a person is a member of a partnership.
- (2) Any references in this Part to the expenses, income or revenue of, or a reduction in the income of, the person includes a reference to the person's share of (as the case may be) the expenses, income or revenue of, or a reduction in the income of, the partnership.
- (3) For this purpose “the person's share” of an amount is determined by apportioning the amount between the partners on a just and reasonable basis.

113 “Accounting period” and “corresponding accounting period”

- (1) In this Part references to an accounting period of a company are to an accounting period of the company for the purposes of corporation tax.
- (2) Subsection (3) applies where—
 - (a) a non-UK resident company (“FC”) is not within the charge to corporation tax,
 - (b) a person, whether or not UK resident, is carrying on activity in the United Kingdom in connection with supplies of services, goods or other property made by FC in the course of a trade carried on by FC, and
 - (c) it is reasonable to assume that any of the activity of that person or FC (or both) is designed so as to ensure that FC does not, as a result of that person's activity, carry on that trade in the United Kingdom for the purposes of corporation tax (whether or not it is also designed to secure any commercial or other objective).

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- (3) For the purposes of this Part, FC is assumed to have such accounting periods for the purposes of corporation tax as it would have had if it had carried on a trade in the United Kingdom through a permanent establishment in the United Kingdom by reason of the activity of the person mentioned in subsection (2)(b).
- (4) For the purposes of subsection (2)—
- (a) the reference in that subsection to activity of the person includes any limitation which has been imposed or agreed in respect of that activity;
 - (b) where FC is a member of a partnership—
 - (i) a trade carried on by the partnership is to be regarded as a trade carried on by FC, and
 - (ii) supplies made by the partnership in the course of that trade are to be regarded as supplies made by FC in the course of that trade.
- (5) Where the designated HMRC officer has insufficient information to identify, in accordance with subsection (3), the accounting periods of FC, for the purposes of this Part the officer is to determine those accounting periods to the best of the officer's information and belief.
- (6) Where a company (“C1”) does not have an actual accounting period which coincides with the accounting period of another company (“the relevant accounting period”) (whether by reason of having no accounting periods or otherwise), in this Part—
- (a) references to the corresponding accounting period of C1 in relation to the relevant accounting period are to the notional accounting period of C1 that would coincide with the relevant accounting period, and
 - (b) such apportionments as are just and reasonable are to be made to determine the income or tax liability of C1 for that corresponding accounting period.

Modifications etc. (not altering text)

C2 S. 113(1)-(5) modified (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 3 para. 17\(3\)](#)

114 Other defined terms in Part 3

- (1) In this Part—
- “allowable expenses” means expenses of a kind in respect of which a deduction would be allowed for corporation tax purposes;
 - “the avoided PE” has the same meaning as in section 86;
 - “company” has the same meaning as in the Corporation Tax Acts (see section 1121 of CTA 2010);
 - “connected” is to be read in accordance with sections 1122 and 1123 of CTA 2010;
 - “designated HMRC officer” means an officer of Revenue and Customs who has been designated by the Commissioners for Her Majesty's Revenue and Customs for the purposes of diverted profits tax;
 - “HMRC” means Her Majesty's Revenue and Customs;
 - “non-UK resident” has the same meaning as in the Corporation Tax Acts (see section 1119 of CTA 2010);
 - “non-UK tax” has the meaning given by section 187 of CTA 2010;
 - “the notional PE profits” has the meaning given by section 88(5);

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“partnership” includes—

- (a) a limited liability partnership to which section 1273 of CTA 2009 applies, and
- (b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,

and “member” of a partnership is to be read accordingly;

“permanent establishment”, in relation to a company, has the meaning given by Chapter 2 of Part 24 of CTA 2010 (and accordingly section 1141(1) of that Act has effect, for the purposes of this Part, as if the reference to the Corporation Tax Acts included a reference to this Part);

“small or medium-sized enterprise” means a small enterprise, or a medium-sized enterprise, within the meaning of section 172 of TIOPA 2010;

“the review period” has the meaning given by section 101;

“the tax reduction” has the meaning given by section 107(4);

“UK resident” has the same meaning as in the Corporation Tax Acts (see section 1119 of CTA 2010);

“UKPE” has the same meaning as in section 81.

- (2) For the purposes of this Part a tax may correspond to corporation tax even though—
 - (a) it is chargeable under the law of a province, state or other part of a country, or
 - (b) it is levied by or on behalf of a municipality or other local body.

[^{F55}114A Application of section 124 of TIOPA 2010 in relation to diverted profits tax

A solution or mutual agreement mentioned in subsection (1)(b) of section 124 of TIOPA 2010 (giving effect to solutions to cases and mutual agreements resolving cases) may include provision related to diverted profits tax (and, accordingly, the duty in subsection (2) of that section includes a duty to make any such adjustment as is appropriate in relation to diverted profits tax.)]

Textual Amendments

F55 S. 114A inserted (with application in accordance with s. 27(3) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 27\(1\)](#)

Final provisions

115 Application of other enactments to diverted profits tax

- (1) In section 206(3) of FA 2013 (taxes to which the general anti-abuse rule applies), after paragraph (d) insert—
 - “(da) diverted profits tax.”.
- (2) In paragraph 7 of Schedule 6 to FA 2010 (enactments to which definition of “charity” in Part 1 of that Schedule applies) omit the “and” after paragraph (h) and after paragraph (i) insert “, and”
 - (j) diverted profits tax.”

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- (3) In section 1139 of CTA 2010 (definition of “tax advantage” for the purposes of provisions of the Corporation Tax Acts which apply this section), in subsection (2), omit the “or” at the end of paragraph (da) and after paragraph (e) insert “, or
 (f) the avoidance or reduction of a charge to diverted profits tax.”
- (4) In section 178 of FA 1989 (setting rates of interest), in subsection (2), omit the “and” before paragraph (u) and after that paragraph insert “, and
 (v) section 79 of FA 2015.”
- (5) In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions affecting income tax, purchase tax or customs or excise duties), in subsection (1), after “the bank levy,” insert “ diverted profits tax, ”.

116 Commencement and transitional provision

- (1) This Part has effect in relation to accounting periods beginning on or after 1 April 2015.
- (2) For the purposes of this Part, if an accounting period of a company begins before and ends on or after 1 April 2015 (“the straddling period”)—
 - (a) so much of that accounting period as falls before 1 April 2015 and so much of it as falls on or after that date are treated as separate accounting periods, and
 - (b) where it is necessary to apportion amounts for the straddling period to the different parts of that period, that apportionment is to be made on a just and reasonable basis.
- (3) For the purposes of any accounting period which ends on or before 31 March 2016, section 92 has effect as if in subsection (2)(b) of that section the reference to 3 months were a reference to 6 months.
- (4) This Part does not apply in relation to any profits arising to a Lloyd's corporate member which are—
 - (a) mentioned in section 220(2) of FA 1994 (Lloyd's underwriters: accounting period in which certain profits or losses arise), and
 - (b) declared in the calendar year 2015 or a later calendar year,
 to the extent that those profits are referable, on a just and reasonable basis, to times before 1 April 2015.
- (5) In subsection (4) “Lloyd's corporate member” means a body corporate which is a member of Lloyd's and is or has been an underwriting member.

PART 4

OTHER PROVISIONS

Anti-avoidance

117 Disclosure of tax avoidance schemes

Schedule 17 contains amendments relating to the disclosure of tax avoidance schemes.

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118 Accelerated payments and group relief

Schedule 18 contains provision about the relationship between accelerated payments and group relief.

119 Promoters of tax avoidance schemes

Schedule 19 contains provision about promoters of tax avoidance schemes.

120 Penalties in connection with offshore matters and offshore transfers

- (1) Schedule 20 contains provisions amending—
- (a) Schedule 24 to FA 2007 (penalties for errors),
 - (b) Schedule 41 to FA 2008 (penalties for failure to notify),^{F56}...
 - (c) Schedule 55 to FA 2009 (penalties for failure to make returns etc)^{F57}, and
 - (d) Schedule 43C to FA 2013 (as amended by FA 2016).]
- (2) That Schedule comes into force on such day as the Treasury may by order appoint.
- (3) An order under subsection (2)—
- (a) may commence a provision generally or only for specified purposes, and
 - (b) may appoint different days for different provisions or for different purposes.
- (4) The power to make an order under this section is exercisable by statutory instrument.

Textual Amendments

F56 Word in s. 120(1) omitted (with effect in accordance with s. 158(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), s. 158(13)

F57 S. 120(1)(d) and preceding word inserted (with effect in accordance with s. 158(15) of the amending Act) by Finance Act 2016 (c. 24), s. 158(13)

Modifications etc. (not altering text)

C3 S. 120(2) modified (10.6.2021) by Finance Act 2021 (c. 26), Sch. 28 para. 16

121 Penalties in connection with offshore asset moves

Schedule 21 contains provision for imposing an additional penalty in cases where—

- (a) a person is liable for a penalty for a failure to comply with an obligation or provide a document, or for providing an inaccurate document, relating to income tax, capital gains tax or inheritance tax, and
- (b) there is a related transfer of, or change in the ownership arrangements for, an asset situated or held outside the United Kingdom.

Other tax-related matters

^{F58}**122 Country-by-country reporting**

.....

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Textual Amendments

F58 S. 122 repealed (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), s. 349(11)(b)

123 Status for tax purposes of certain bodies

In the enactments to which Part 1 of Schedule 6 to FA 2010 applies, any reference to a charity includes—

- (a) the Commonwealth War Graves Commission, and
- (b) the Imperial War Graves Endowment Fund Trustees.

Government stock

124 Redemption of undated government stocks

- (1) The Treasury may redeem at par any stock—
 - (a) which is described in Schedule 1 to the National Debt Act 1870, or
 - (b) to which that Act applies by virtue of section 1(5) of the National Debt (Conversion of Stock) Act 1884 or section 2(5) of the National Debt (Conversion) Act 1888.
- (2) The Treasury must give at least 3 months' notice in the London Gazette of their intention to redeem any stock under this section.
- (3) The sums required to redeem the stock are charged on the National Loans Fund, with recourse to the Consolidated Fund (and section 22(2) of the National Loans Act 1968 applies for the purposes of this section as if this section were contained in that Act).
- (4) The following do not apply in relation to a redemption under this section—
 - (a) in section 5 of the National Debt Act 1870, the words from “All the annuities” to the end,
 - (b) section 1(2) and (3) of the National Debt (Conversion of Stock) Act 1884, and
 - (c) section 2(2) of the National Debt (Conversion) Act 1888.
- (5) The following are repealed—
 - (a) section 19 of the Revenue, Friendly Societies, and National Debt Act 1882,
 - (b) the National Debt (Conversion of Stock) Act 1884, and
 - (c) the National Debt (Conversion) Act 1888.
- (6) Subsection (5) comes into force on such day as the Treasury may by regulations made by statutory instrument appoint (and the regulations may appoint different days for different paragraphs of that subsection).
- (7) The other provisions of this section come into force on the day on which this Act is passed.

Commencement Information

I6 S. 124 partly in force; s. 124(1)-(4)(6)(7) in force at Royal Assent; see s. 124(6)(7)

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PART 5

FINAL PROVISIONS

125 Commencement orders and regulations

- (1) In section 287(4) of TCGA 1992 (exceptions from negative resolution procedure), for paragraph (b) substitute—
 - “(b) if the order or regulations provide for any provision of an enactment relating to the taxation of chargeable gains to come into force or have effect in accordance with the order or regulations.”
- (2) In section 1014(6) of ITA 2007 (exceptions from negative resolution procedure), for paragraph (b) substitute—
 - “(b) if the order or regulations provide for any provision of the Income Tax Acts to come into force or have effect in accordance with the order or regulations.”
- (3) In section 1171(6) of CTA 2010 (exceptions from negative resolution procedure), for paragraph (b) substitute—
 - “(b) if the order or regulations provide for any provision of the Corporation Tax Acts to come into force or have effect in accordance with the order or regulations.”
- (4) The amendments made by this section have effect only in relation to powers conferred after this Act is passed.

126 Interpretation

- (1) In this Act—
 - “ALDA 1979” means the Alcoholic Liquor Duties Act 1979,
 - “CAA 2001” means the Capital Allowances Act 2001,
 - “CTA 2009” means the Corporation Tax Act 2009,
 - “CTA 2010” means the Corporation Tax 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.

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127 Short title

This Act may be cited as the Finance Act 2015.

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 21 para. 2(c) word omitted by [2021 c. 26 Sch. 27 para. 44\(3\)\(a\)](#)
- Sch. 21 para. 1(2)(b) words inserted by [2021 c. 26 Sch. 27 para. 44\(2\)](#)
- Sch. 21 para. 5(4) words inserted by [2021 c. 26 Sch. 27 para. 44\(4\)\(a\)\(i\)](#)
- Sch. 21 para. 5(4) words substituted by [2021 c. 26 Sch. 27 para. 44\(4\)\(a\)\(ii\)](#)

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):

- Sch. 21 para. 2(e) and word inserted by [2021 c. 26 Sch. 27 para. 44\(3\)\(b\)](#)
- Sch. 21 para. 5(6) inserted by [2021 c. 26 Sch. 27 para. 44\(4\)\(b\)](#)