Finance Act 2017

2017 CHAPTER 10

U.K.

An Act to grant certain duties, to alter other duties, and to amend the law relating to the national debt and the public revenue, and to make further provision in connection with finance. [27th April 2017]

Most Gracious Sovereign

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

PART 1 U.K.

DIRECT AND INDIRECT TAXES

Income tax charge and rates

1 Income tax charge for tax year 2017-18 U.K.

Income tax is charged for the tax year 2017-18.

2 Main rates of income tax for tax year 2017-18 U.K.

For the tax year 2017-18 the main rates of income tax are as follows—

(a) the basic rate is 20%;

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(b) the higher rate is 40%;
(c) the additional rate is 45%.

3 Default and savings rates of income tax for tax year 2017-18 U.K.

(1) For the tax year 2017-18 the default rates of income tax are as follows—
(a) the default basic rate is 20%;
(b) the default higher rate is 40%;
(c) the default additional rate is 45%.

(2) For the tax year 2017-18 the savings rates of income tax are as follows—
(a) the savings basic rate is 20%;
(b) the savings higher rate is 40%;
(c) the savings additional rate is 45%.

4 Starting rate limit for savings for tax year 2017-18 U.K.

(1) For the amount specified in section 12(3) of ITA 2007 (starting rate for savings) substitute " £5000 ".

(2) The amendment made by subsection (1) has effect in relation to the tax year 2017-18 and subsequent tax years.

(3) Section 21 of ITA 2007 (indexation), so far as relating to the starting rate limit for savings, does not apply in relation to the tax year 2017-18 (but this section does not override that section for subsequent tax years).

Corporation tax charge

5 Corporation tax charge for financial year 2018 U.K.

Corporation tax is charged for the financial year 2018.

Income tax: general

6 Workers' services provided to public sector through intermediaries U.K.

Schedule 1 makes provision about workers' services provided to the public sector through intermediaries.

7 Optional remuneration arrangements U.K.

Schedule 2 makes provision about optional remuneration arrangements.

8 Taxable benefits: asset made available without transfer U.K.

(1) ITEPA 2003 is amended as follows.

(2) In section 205 (cost of taxable benefit subject to the residual charge: asset made available without transfer)—
(a) in subsection (1), for paragraph (a) substitute—

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"(a) the benefit consists in an asset being made available for private use, and",

(b) after subsection (1) insert—

"(1A) In this section and section 205A, "private use" means private use by the employee or a member of the employee's family or household.

(1B) For the purposes of subsection (1) and sections 205A and 205B, an asset made available in a tax year for use by the employee or a member of the employee's family or household is to be treated as made available throughout the year for private use unless—

(a) at all times in the year when it is available for use by the employee or a member of the employee's family or household, the terms under which it is made available prohibit private use, and

(b) no private use is made of it in the year.

(1C) The cost of the taxable benefit is—

(a) the annual cost of the benefit determined in accordance with subsection (2), less

(b) any amount required to be deducted by section 205A (deduction for periods when asset unavailable for private use).

(1D) In certain cases, the cost of the taxable benefit is calculated under this section in accordance with section 205B (reduction of cost of taxable benefit where asset is shared).", and

(c) in subsection (2), in the words before paragraph (a), for "cost of the taxable" substitute " annual cost of the ".

(3) After section 205 insert—

"**205A Deduction for periods when asset unavailable for private use**

(1) A deduction is to be made under section 205(1C)(b) if the asset mentioned in section 205(1) has been unavailable for private use on any day during the tax year concerned.

(2) For the purposes of this section an asset is "unavailable" for private use on any day if—

(a) that day falls before the day on which the asset is first available to the employee,

(b) that day falls after the day on which the asset is last available to the employee,

(c) for more than 12 hours during that day the asset—

(i) is not in a condition fit for use,

(ii) is undergoing repair or maintenance,

(iii) could not lawfully be used,

(iv) is in the possession of a person who has a lien over it and who is not the employer, not a person connected with the employer, not the employee, not a member of the employee's family and not a member of the employee's household, or

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(v) is used in a way that is neither use by, nor use at the direction of, the employee or a member of the employee's family or household, or

(d) on that day the employee—

(i) uses the asset in the performance of the duties of the employment, and

(ii) does not use the asset otherwise than in the performance of the duties of the employment.

(3) The amount of the deduction is given by—

$$\frac{U}{Y} \times A$$

where—

U is the number of days, in the tax year concerned, on which the asset is unavailable for private use,

Y is the number of days in that year, and

A is the annual cost of the benefit of the asset determined under section 205(2).

(4) The reference in subsection (2)(a) to the time when the asset is first available to the employee is to the earliest time when the asset is made available, by reason of the employment and without any transfer of the property in it, for private use.

(5) The reference in subsection (2)(b) to the time when the asset is last available to the employee is to the last time when the asset is made available, by reason of the employment and without any transfer of the property in it, for private use.

205B Reduction of cost of taxable benefit where asset is shared

(1) This section applies where the cost of an employment-related benefit ("the taxable benefit") is to be determined under section 205.

(2) If, for the whole or part of the tax year concerned, the same asset is available for more than one employee's private use at the same time, the total of the amounts which are the cost of the taxable benefit for each of those employees is to be limited to the annual cost of the benefit of the asset determined in accordance with section 205(2).

(3) The cost of the taxable benefit for each employee is determined by taking the amount given by section 205(1C) and then reducing that amount on a just and reasonable basis.

(4) For the purposes of this section, an asset is available for an employee's private use if it is available for private use by the employee or a member of the employee's family or household."

(4) In section 365 (deductions where employment-related benefit provided)—

(a) in subsection (1)—

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

(ii) after that paragraph insert—

"(aa) the cost of the benefit was determined under section 204 or 206, and",

(b) in subsection (3), for "sections 204 to 206" substitute " section 204 or 206 ", and

(c) in the heading, for "employment-related benefit" substitute " certain employment-related benefits ".

(5) The amendments made by this section have effect for the tax year 2017-18 and subsequent tax years.

9 Overseas pensions U.K.

Schedule 3 makes provision about—

(a) registered pension schemes established outside the United Kingdom, and

(b) payments made in respect of overseas pension entitlement.

10 Pensions: offshore transfers U.K.

Schedule 4 contains provision about charging income tax—

(a) where payments are made in respect of overseas pensions, and

(b) on transfers to qualifying recognised overseas pension schemes.

11 Deduction of income tax at source U.K.

Schedule 5 makes provision about deduction of income tax at source.

Employee shareholder shares

12 Employee shareholder shares: amount treated as earnings U.K.

(1) In section 226A of ITEPA 2003 (amount treated as earnings)—

(a) in subsection (2), for "calculated in accordance with subsection (3)" substitute " equal to the market value of the shares ";

(b) omit subsection (3);

(c) in subsection (6), omit "and sections 226B to 226D";

(d) in subsection (7), after "subsection (1)" insert " (but not subsection (2)) ".

(2) Omit sections 226B to 226D of ITEPA 2003 (deemed payment).

(3) In consequence of subsection (2), in ITEPA 2003 omit the following—

(a) section 479(3A);

(b) section 531(3A);

(c) section 532(4A).

(4) In consequence of subsection (2), in CTA 2009 omit the following—

(a) in section 1005, the definition of "employee shareholder share";

(b) section 1009(6);

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(c) in section 1010(1), "and, in the case of employee shareholder shares, section 1038B";
(d) in section 1011(4)(b), "(but see also section 1038B of this Act)";
(e) in sections 1018(1) and 1019(1), "and, in the case of employee shareholder shares, section 1038B";
(f) sections 1022(5), 1026(5), 1027(5), 1033(5) and 1034(5);
(g) section 1038B;
(h) sections 1292(6ZA) and 1293(5A);
(i) in Schedule 4, the entry relating to "employee shareholder share".

(5) The amendments made by this section have effect in relation to shares acquired in consideration of an employee shareholder agreement entered into on or after the relevant day.

(6) The relevant day is 1 December 2016, subject to subsection (7).

(7) Where the individual entering into an employee shareholder agreement receives the advice referred to in section 205A(6)(a) of the Employment Rights Act 1996—
(a) on 23 November 2016, but
(b) before 1.30 pm on that day,
the relevant day is 2 December 2016.

13 Employee shareholder shares: abolition of CGT exemption U.K.

(1) TCGA 1992 is amended as follows.

(2) In section 58 (spouses and civil partners)—
(a) in subsection (2)—
(i) at the end of paragraph (a) insert " or ";
(ii) omit paragraph (c) and the preceding "or";
(b) omit subsections (3) to (5).

(3) In section 149AA (restricted and convertible employment-related securities and employee shareholder shares), for subsection (6A) substitute—

"(6A) For the purposes of this section—

shares are "acquired" by an employee if the employee becomes beneficially entitled to them (and they are acquired at the time when the employee becomes so entitled);

"employee shareholder share" means a share acquired in consideration of an employee shareholder agreement and held by the employee;

"employee shareholder agreement" means an agreement by virtue of which an employee is an employee shareholder (see section 205A(1)(a) to (d) of the Employment Rights Act 1996);

"employee" and "employer company", in relation to an employee shareholder agreement, mean the individual and the company which enter into the agreement."

(4) Omit sections 236B to 236F (exemption for employee shareholder shares).

(5) In section 236G (relinquishment of employment rights is not disposal of an asset), in subsection (1), for "employee shareholder agreement" substitute " agreement by

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virtue of which the individual is an employee shareholder (see section 205A(1)(a) to (d) of the Employment Rights Act 1996) ".

(6) The amendments made by this section have effect in relation to shares acquired in consideration of an employee shareholder agreement entered into on or after the relevant day.

(7) The relevant day is 1 December 2016, subject to subsection (8).

(8) Where the individual entering into an employee shareholder agreement receives the advice referred to in section 205A(6)(a) of the Employment Rights Act 1996—

(a) on 23 November 2016, but

(b) before 1.30 pm on that day,

the relevant day is 2 December 2016.

14 Employee shareholder shares: purchase by company U.K.

(1) In ITTOIA 2005, omit section 385A (no charge to income tax on purchase by company of exempt employee shareholder shares).

(2) The amendment made by this section has effect in relation to the purchase from an individual of shares which were acquired in consideration of an employee shareholder agreement entered into on or after the relevant day.

(3) The relevant day is 1 December 2016, subject to subsection (4).

(4) Where the individual entering into an employee shareholder agreement receives the advice referred to in section 205A(6)(a) of the Employment Rights Act 1996—

(a) on 23 November 2016, but

(b) before 1.30 pm on that day,

the relevant day is 2 December 2016.

Disguised remuneration

15 Employment income provided through third parties U.K.

Schedule 6 makes provision about employment income provided through third parties.

Indirect taxes

16 VAT: zero-rating of adapted motor vehicles etc U.K.

Schedule 7 contains amendments of Schedule 8 to VATA 1994 (zero-rating).

17 Insurance premium tax: standard rate U.K.

(1) In section 51(2)(b) of FA 1994 (standard rate of insurance premium tax), for "10 per cent" substitute " 12 per cent ".

(2) Subject to subsection (3), the amendment made by subsection (1) has effect in relation to a premium falling to be regarded for the purposes of Part 3 of FA 1994 as received under a taxable insurance contract by an insurer on or after 1 June 2017.

(3) That amendment does not have effect in relation to a premium falling within subsection (4), unless the premium falls to be regarded for the purposes of Part 3 of FA 1994 as received under a taxable insurance contract by an insurer on or after 1 June 2018.

(4) A premium falls within this subsection if it is in respect of a risk for which the period of cover begins before 1 June 2017.

(5) In the application of sections 66A and 66B of FA 1994 (anti-forestalling provision) in relation to the increase in insurance premium tax made by this section, the announcement relating to that increase is to be taken to have been made on 8 March 2017 (and "the change date" is to be taken to be 1 June 2017).

(6) This section is to be read with section 66C of FA 1994 (premiums relating to more than one period of cover).

18 Insurance premium tax: anti-forestalling provision U.K.

(1) FA 1994 is amended as follows.

(2) After section 66 insert—

"**66A Rate increases: deemed date of receipt of certain premiums**

(1) This section applies where a Minister of the Crown announces a proposed increase in the rate at which tax is to be charged on a premium if it is received by the insurer on or after a date specified in the announcement ("the change date").

(2) This section applies whether or not the announcement includes an announcement of a proposed exception from the increase (for example, for premiums in respect of risks for which the period of cover begins before the change date).

(3) Subsection (4) applies where—

(a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement and before the change date, and

(b) the period of cover for the risk begins on or after the change date.

(4) For the purposes of this Part the premium is to be taken to be received on the change date.

(5) Subsection (6) applies where—

(a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement and before the change date,

(b) the period of cover for the risk—

(i) begins before the change date, and

(ii) ends on or after the first anniversary of the change date ("the first anniversary"), and

(c) the premium, or any part of it, is attributable to such of the period of cover as falls on or after the first anniversary.

(6) For the purposes of this Part—

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(a) so much of the premium as is attributable to such of the period of cover as falls on or after the first anniversary is to be taken to be received on the change date, and

(b) so much as is so attributable is to be taken to be a separate premium.

(7) In determining whether the condition in subsection (3)(a) or (5)(a) is met, regulations under section 68(3) or (7) apply as they would apart from this section.

(8) But where subsection (4) or (6) applies—

(a) that subsection has effect despite anything in section 68 or regulations under that section, and

(b) any regulations under section 68 have effect as if the entry made in the accounts of the insurer showing the premium as due to the insurer had been made as at the change date.

(9) A premium treated by subsection (6) as received on the change date is not to be taken to fall within any exception, from an increase announced by the announcement, for premiums in respect of risks for which the period of cover begins before the change date.

(10) Any attribution under this section is to be made on such basis as is just and reasonable.

(11) In this section—

"increase", in relation to the rate of tax, includes the imposition of a charge to tax by adding to the descriptions of contract which are taxable insurance contracts;

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975.

66B Section 66A: exceptions and apportionments

(1) Section 66A(3) and (4) do not apply in relation to a premium if the risk to which that premium relates belongs to a class of risk as regards which the normal practice is for a premium to be received by or on behalf of the insurer before the date when cover begins.

(2) Section 66A(5) and (6) do not apply in relation to a premium if the risk to which that premium relates belongs to a class of risk as regards which the normal practice is for cover to be provided for a period of more than twelve months.

(3) If a contract relates to more than one risk, then in the application of section 66A(3) and (4) or 66A(5) and (6)—

(a) the reference in section 66A(3)(b) or (5)(b) to the risk is to be read as a reference to any given risk,

(b) so much of the premium as is attributable to any given risk is to be taken for the purposes of section 66A(3) and (4) or 66A(5) and (6) to be a separate premium relating to that risk,

(c) those provisions then apply separately in the case of each given risk and the separate premium relating to it, and

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(d) any further attribution required by section 66A(5) and (6) is to be made accordingly,

and subsections (1) and (2) and section 66A(9) apply accordingly.

(4) Any attribution under this section is to be made on such basis as is just and reasonable.

66C Rate changes: premiums relating to more than one period of cover

(1) This section applies if any Act—

(a) makes an amendment of section 51(2)(a) or (b) which alters the higher rate or standard rate ("the relevant rate"),

(b) provides for the amendment to have effect in relation to a premium falling to be regarded for the purposes of this Part as received under a taxable insurance contract by an insurer on or after a particular date ("the change date"), and

(c) makes provision that excepts from that amendment a premium which is in respect of a risk for which the period of cover begins before the change date.

(2) Subsection (3) applies if a premium which is liable to tax at the relevant rate, and which falls to be regarded for the purposes of this Part as received under a taxable insurance contract by an insurer on or after the change date, is—

(a) partly in respect of a risk for which the period of cover begins before the change date, and

(b) partly in respect of a risk for which the period of cover begins on or after that date.

(3) So much of the premium as is attributable to the risk for which the period of cover begins on or after the change date is to be treated for the purposes of this Part and the provision mentioned in subsection (1)(c) as a separate premium.

(4) Where a premium is in respect of a relevant rate matter and also a matter that is not a relevant rate matter—

(a) for the purposes of the provision mentioned in subsection (1)(c), the premium is to be treated as in respect of a risk for which the period of cover begins before the change date if the part of it attributable to the relevant rate matter is in respect of such a risk, and

(b) the reference in subsection (2) to a premium which is liable to tax at the relevant rate is to be read as a reference to so much of the premium as is attributable to the relevant rate matter (and subsection (3) is to be read accordingly).

(5) If premiums of any description are excluded from the exception mentioned in subsection (1)(c), nothing in subsections (2) to (4) applies to a premium of that description.

(6) Nothing in subsection (4) applies to an excepted premium (within the meaning given by section 69A).

(7) Any attribution under this section is to be made on such basis as is just and reasonable.

(8) In this section a "relevant rate matter" means—

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(a) where the relevant rate is the standard rate, a standard rate matter as defined by section 69(12)(c);

(b) where the relevant rate is the higher rate, a higher rate matter as defined by section 69(12)(d).

(9) In subsection (1) the reference to any Act includes a resolution which has statutory effect under the Provisional Collection of Taxes Act 1968."

(3) Omit—

(a) section 67 (spent transitional provision), and

(b) sections 67A to 67C (which are superseded by sections 66A and 66B inserted by subsection (2)).

(4) The amendments made by subsections (2) and (3)(b) have effect on and after 8 March 2017.

(5) Despite the repeal by subsection (3) of sections 67A and 67C of FA 1994, those sections continue to have effect so far as they apply to premiums received on or after 23 November 2016 and before 8 March 2017.

19 Air passenger duty: rates from 1 April 2017 U.K.

(1) In section 30 of FA 1994 (air passenger duty: rates of duty), in subsection (4A) (long haul rates of duty)—

(a) in paragraph (a), for "£73" substitute " £75 ";

(b) in paragraph (b), for "£146" substitute " £150 ".

(2) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2017.

20 Vehicle excise duty: rates U.K.

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

(2) In paragraph 1 (general rate of duty)—

(a) in sub-paragraph (2) (vehicle not covered elsewhere in Schedule with engine cylinder capacity exceeding 1,549cc), for "£235" substitute " £245 ", and

(b) in sub-paragraph (2A) (vehicle not covered elsewhere in Schedule with engine cylinder capacity not exceeding 1,549cc), for "£145" substitute " £150 ".

(3) In paragraph 1B (graduated rates of duty for light passenger vehicles)—

(a) in the words before paragraph (a), for "tables" substitute " table ",

(b) in paragraph (a), at the end insert " and ",

(c) in paragraph (b), at the end omit ", and",

(d) omit paragraph (c),

(e) for Tables 1 and 2 substitute—

"CO_2 emissions figure		*Rate*	
(1)	***(2)***	***(3)***	***(4)***
Exceeding g/km	***Not exceeding g/km***	***Reduced rate £***	***Standard rate £***

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100	110	10	20
110	120	20	30
120	130	105	115
130	140	125	135
140	150	140	150
150	165	180	190
165	175	210	220
175	185	230	240
185	200	270	280
200	225	295	305
225	255	510	520
255		525	535”, and

(f) in the sentence immediately following Table 2—

(i) at the beginning, for “Table 2” substitute “ The table ”, and

(ii) for paragraphs (a) and (b) substitute—

“(a) in column (3), in the last two rows, “295” were substituted for “510” and “ 525 ”, and

(b) in column (4), in the last two rows, “305” were substituted for “520” and “ 535 ”.”

(4) In paragraph 1J (VED rates for light goods vehicles), in paragraph (a), for “£230” substitute “ £240 ”.

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

(a) in paragraph (a), for “£17” substitute “ £18 ”,

(b) in paragraph (b), for “£39” substitute “ £41 ”,

(c) in paragraph (c), for “£60” substitute “ £62 ”, and

(d) in paragraph (d), for “£82” substitute “ £85 ”.

(6) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2017.

21 Alcoholic liquor duties: rates U.K.

(1) ALDA 1979 is amended as follows.

(2) In section 5 (rate of duty on spirits), for “£27.66” substitute “ £28.74 ”.

(3) In section 36(1AA) (rates of general beer duty)—

(a) in paragraph (za) (rate of duty on lower strength beer), for “£8.10” substitute “ £8.42 ”, and

(b) in paragraph (a) (standard rate of duty on beer), for “£18.37” substitute “ £19.08 ”.

(4) In section 37(4) (rate of high strength beer duty), for “£5.48” substitute “ £5.69 ”.

(5) In section 62(1A) (rates of duty on cider)—

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(a) in paragraph (a) (rate of duty per hectolitre on sparkling cider of a strength exceeding 5.5%), for "£268.99" substitute " £279.46 ",

(b) in paragraph (b) (rate of duty per hectolitre on cider of a strength exceeding 7.5% which is not sparkling cider), for "£58.75" substitute " £61.04 ", and

(c) in paragraph (c) (rate of duty per hectolitre in any other case), for "£38.87" substitute " £40.38 ".

(6) For the table in Schedule 1 substitute—

"Table of rates of duty on wine and made-wine

PART 1 **U.K.**

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

Description of wine or made-wine	***Rates of duty per hectolitre £***
Wine or made-wine of a strength not exceeding 4%	88.93
Wine or made-wine of a strength exceeding 4% but not exceeding 5.5%	122.30
Wine or made-wine of a strength exceeding 5.5% but not exceeding 15% and not being sparkling	288.65
Sparkling wine or sparkling made-wine of a strength exceeding 5.5% but less than 8.5%	279.46
Sparkling wine or sparkling made-wine of a strength of 8.5% or of a strength exceeding 8.5% but not exceeding 15%	369.72
Wine or made-wine of a strength exceeding 15% but not exceeding 22%	384.82

PART 2 **U.K.**

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22%

Description of wine or made-wine	***Rates of duty per litre of alcohol in wine or made-wine £***
Wine or made-wine of a strength exceeding 22%	28.74".

(7) The amendments made by this section are treated as having come into force on 13 March 2017.

22 Tobacco products duty: rates **U.K.**

(1) TPDA 1979 is amended as follows.

(2) For the table in Schedule 1 substitute—

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"TABLE

1. Cigarettes	An amount equal to 16.5% of the retail price plus £207.99 per thousand cigarettes.
2. Cigars	£259.44 per kilogram
3. Hand-rolling tobacco	£209.77 per kilogram
4. Other smoking tobacco and chewing tobacco	£114.06 per kilogram".

(3) The amendment made by this section is treated as having come into force at 6pm on 8 March 2017.

23 Tobacco products duty: minimum excise duty U.K.

(1) TPDA 1979 is amended as follows.

(2) In section 6(5)(a) (alteration of rates of duty), for "the amount" substitute " each amount ".

(3) For the first row in the table in Schedule 1 (as substituted by section 22) substitute—

""1. Cigarettes	An amount equal to the higher of— (a) 16.5% of the retail price plus £207.99 per thousand cigarettes, or (b) £268.63 per thousand cigarettes."

(4) The amendments made by this section are treated as having come into force on 20 May 2017.

Avoidance

24 Promoters of tax avoidance schemes: threshold conditions etc U.K.

(1) In Part 2 of Schedule 34 to FA 2014 (meeting the threshold conditions: bodies corporate and partnerships), in paragraph 13A (interpretation), for sub-paragraphs (6) to (8) substitute—

"(6) Two or more persons together control a body corporate if together they have the power to secure that the affairs of the body corporate are conducted in accordance with their wishes in any way specified in sub-paragraph (5)(a) to (c).

(7) A person controls a partnership if the person is a member of the partnership and—

(a) has the right to a share of more than half the assets, or more than half the income, of the partnership, or

(b) directs, or is on a day-to-day level in control of, the management of the business of the partnership.

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(8) Two or more persons together control a partnership if they are members of the partnership and together they—

(a) have the right to a share of more than half the assets, or of more than half the income, of the partnership, or

(b) direct, or are on a day-to-day level in control of, the management of the business of the partnership.

(9) Paragraph 19(2) to (5) of Schedule 36 (connected persons etc) applies to a person referred to in sub-paragraph (7) or (8) as if references to "P" were to that person.

(10) A person has significant influence over a body corporate or partnership if the person—

(a) does not control the body corporate or partnership, but

(b) is able to, or actually does, exercise significant influence over it (whether or not as the result of a legal entitlement).

(11) Two or more persons together have significant influence over a body corporate or partnership if together those persons—

(a) do not control the body corporate or partnership, but

(b) are able to, or actually do, exercise significant influence over it (whether or not as the result of a legal entitlement).

(12) References to a person being a promoter are to the person carrying on business as a promoter."

(2) In Part 2 of Schedule 34 to FA 2014, for paragraphs 13B to 13D substitute—

"**Relevant bodies controlled etc by other persons treated as meeting a threshold condition**

13B (1) A relevant body is treated as meeting a threshold condition at the relevant time if any of Conditions A to C is met.

(2) Condition A is that—

(a) a person met the threshold condition at a time when the person was a promoter, and

(b) the person controls or has significant influence over the relevant body at the relevant time.

(3) Condition B is that—

(a) a person met the threshold condition at a time when the person controlled or had significant influence over the relevant body,

(b) the relevant body was a promoter at that time, and

(c) the person controls or has significant influence over the relevant body at the relevant time.

(4) Condition C is that—

(a) two or more persons together controlled or had significant influence over the relevant body at a time when one of those persons met the threshold condition,

(b) the relevant body was a promoter at that time, and

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(c) those persons together control or have significant influence over the relevant body at the relevant time.

(5) Where the person referred to in sub-paragraph (2)(a) or (3)(a) or (4)(a) as meeting a threshold condition is an individual, sub-paragraph (1) only applies if the threshold condition is a relevant threshold condition.

(6) For the purposes of sub-paragraph (2) it does not matter whether the relevant body existed at the time referred to in sub-paragraph (2)(a).

Persons who control etc a relevant body treated as meeting a threshold condition

13C (1) If at a time when a person controlled or had significant influence over a relevant body—

(a) the relevant body met a threshold condition, and

(b) the relevant body, or another relevant body which the person controlled or had significant influence over, was a promoter,

the person is treated as meeting the threshold condition at the relevant time.

(2) It does not matter whether any relevant body referred to sub-paragraph (1) exists at the relevant time.

Relevant bodies controlled etc by the same person treated as meeting a threshold condition

13D (1) If—

(a) a person controlled or had significant influence over a relevant body at a time when it met a threshold condition, and

(b) at that time that body, or another relevant body which the person controlled or had significant influence over, was a promoter,

any relevant body which the person controls or has significant influence over at the relevant time is treated as meeting the threshold condition at the relevant time.

(2) If—

(a) two or more persons together controlled or had significant influence over a relevant body at a time when it met a threshold condition, and

(b) at that time that body, or another relevant body which those persons together controlled or had significant influence over, was a promoter,

any relevant body which those persons together control or have significant influence over at the relevant time is treated as meeting the threshold condition at the relevant time.

(3) It does not matter whether—

(a) a relevant body referred to in sub-paragraph (1)(a) or (b) or (2)(a) or (b) exists at the relevant time, or

(b) a relevant body existing at the relevant time existed at the time referred to in sub-paragraph (1)(a) or (2)(a).”

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(3) In Part 4 of Schedule 34A to FA 2014 (meeting section 237A conditions: bodies corporate and partnerships), for paragraphs 20 to 22 substitute—

"**Relevant bodies controlled etc by other persons treated as meeting section 237A condition**

20 (1) A relevant body is treated as meeting a section 237A condition at the section 237A(2) relevant time if any of Conditions A to C is met.

(2) Condition A is that—

(a) a person met the section 237A condition at a time when the person was a promoter, and

(b) the person controls or has significant influence over the relevant body at the section 237A(2) relevant time.

(3) Condition B is that—

(a) a person met the section 237A condition at a time when the person controlled or had significant influence over the relevant body,

(b) the relevant body was a promoter at that time, and

(c) the person controls or has significant influence over the relevant body at the section 237A(2) relevant time.

(4) Condition C is that—

(a) two or more persons together controlled or had significant influence over the relevant body at a time when one of those persons met the section 237A condition,

(b) the relevant body was a promoter at that time, and

(c) those persons together control or have significant influence over the relevant body at the section 237A(2) relevant time.

(5) Sub-paragraph (1) does not apply where the person referred to in sub-paragraph (2)(a), (3)(a), or (4)(a) as meeting a section 237A condition is an individual.

(6) For the purposes of sub-paragraph (2) it does not matter whether the relevant body existed at the time referred to in sub-paragraph (2)(a).

Persons who control etc a relevant body treated as meeting a section 237A condition

21 (1) If at a time when a person controlled or had significant influence over a relevant body—

(a) the relevant body met a section 237A condition, and

(b) the relevant body, or another relevant body which the person controlled or had significant influence over, was a promoter,

the person is treated as meeting the section 237A condition at the section 237A(2) relevant time.

(2) It does not matter whether any relevant body referred to sub-paragraph (1) exists at the section 237A(2) relevant time.

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Relevant bodies controlled etc by the same person treated as meeting a section 237A condition

22 (1) If—

(a) a person controlled or had significant influence over a relevant body at a time when it met a section 237A condition, and

(b) at that time that body, or another relevant body which the person controlled or had significant influence over, was a promoter,

any relevant body which the person controls or has significant influence over at the section 237A(2) relevant time is treated as meeting the section 237A condition at the section 237A(2) relevant time.

(2) If—

(a) two or more persons together controlled or had significant influence over a relevant body at a time when it met a section 237A condition, and

(b) at that time that body, or another relevant body which those persons together controlled or had significant influence over, was a promoter,

any relevant body which those persons together control or have significant influence over at the section 237A(2) relevant time is treated as meeting the section 237A condition at the section 237A(2) relevant time.

(3) It does not matter whether—

(a) a relevant body referred to in sub-paragraph (1)(a) or (b) or (2)(a) or (b) exists at the section 237A(2) relevant time, or

(b) a relevant body existing at the section 237A(2) relevant time existed at the time referred to in sub-paragraph (1)(a) or (2)(a).”

(4) In Part 4 of Schedule 34A to FA 2014, in paragraph 23 (interpretation)—

(a) in sub-paragraph (1), for the definition of “control” substitute—

““control” and “significant influence” have the same meanings as in Part 4 of Schedule 34 (see paragraph 13A(5) to (11));

references to a person being a promoter are to the person carrying on business as a promoter;”;

(b) in sub-paragraph (2), for “20(1)(a), 21(1)(a) and 22(1)(a)” substitute “ 20 to 22 ”.

(5) The amendments made by subsections (1) and (2) have effect for the purposes of determining whether a person meets a threshold condition in a period of three years ending on or after 8 March 2017.

(6) The amendments made by subsections (3) and (4) have effect for the purposes of determining whether a person meets a section 237A condition in a period of three years ending on or after 8 March 2017.

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PART 2 U.K.

SOFT DRINKS INDUSTRY LEVY

Introductory

25 Soft drinks industry levy U.K.

(1) A tax called "soft drinks industry levy" is to be charged in accordance with this Part.

(2) The Commissioners are responsible for the collection and management of soft drinks industry levy.

Commencement Information
I1 S. 25 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

26 "Soft drink" and "package" U.K.

(1) "Soft drink" means—

(a) a beverage of an alcoholic strength not exceeding 1.2%;

(b) a liquid which, when prepared in a specified manner, constitutes a beverage within paragraph (a);

[[F1](c) a liquid flavouring (a "flavour concentrate") which, when processed in a specified manner in a dispensing machine, constitutes a beverage within that paragraph.**]**

(2) A liquid is prepared in a specified manner if it is—

(a) diluted with water,

(b) combined with crushed ice, or processed so as to create crushed ice,

(c) combined with carbon dioxide, or

(d) prepared by way of a process that involves any combination of the processes mentioned in paragraphs (a) to (c).

[[F2](2A) A flavour concentrate is processed in a specified manner if—

(a) it is combined with added sugar ingredients, with or without—

(i) artificial sweeteners, or

(ii) one or more other flavour concentrates; and

(b) the flavour concentrate (or combination) is prepared in a specified manner.

(2B) A "dispensing machine" is a machine designed to—

(a) combine, process or prepare ingredients so as to produce a beverage, and

(b) supply the beverage directly to a consumer.

(2C) In subsection (2A)(a), "added sugar ingredients" means anything within paragraph (a) or (b) of section 29(2).**]**

(3) A person "packages" a soft drink if the person cans, bottles or otherwise packages the soft drink in a form in which—

(a) in the case of a soft drink within subsection (1)(a), it is suitable to be consumed without further preparation, [F3]...

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(b) in the case of a soft drink within subsection (1)(b), it is suitable to be consumed when prepared in a specified manner (and without any other preparation), **[**F4and

(c) in the case of a soft drink within subsection (1)(c)—

(i) it is suitable to be consumed when processed in a specified manner in a dispensing machine (and without any other processing or preparation), and

(ii) it is ready for use in a dispensing machine;**]**

and "packaged" is to be construed accordingly.

Textual Amendments

F1 S. 26(1)(c) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 2(2)**, 8

F2 S. 26(2A)-(2C) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 2(3)**, 8

F3 Word in s. 26(3)(a) omitted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by virtue of Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 2(4)(a)**, 8

F4 S. 26(3)(c) and word inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 2(4)(b)**, 8

Commencement Information

I2 S. 26 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

27 Meaning of "prepared drink" U.K.

(1) In this Part a reference to "prepared drink" is a reference to—

(a) a soft drink within subsection (1)(a) of section 26;

(b) a beverage that would result from preparing a liquid within subsection (1)(b) of that section—

(i) in a specified manner (see section 26(2)), and

(ii) in accordance with the relevant dilution ratio;

[F5(c) a beverage that would result from—

(i) processing a flavour concentrate within subsection (1)(c) of that section in a specified manner in a dispensing machine, and

(ii) in accordance with the relevant dispensing instructions.**]**

(2) The "relevant dilution ratio" means—

(a) the dilution ratio stated on, or calculated by reference to information stated on, the packaging of the soft drink;

(b) where **[**F6subsection (3)(a)**]** or (4) applies, the dilution ratio determined by the Commissioners.

[F7(2A) The "relevant dispensing instructions" means—

(a) the instructions for use of the flavour concentrate provided with, or for the purposes of use with, the concentrate or a dispensing machine with which it is designed to be used;

(b) where subsection (3)(b) or (4A) applies, the dispensing instructions determined by the Commissioners.**]**

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[F8(3) This subsection applies where—

(a) in a case within subsection (1)(b), the packaging of the soft drink states neither the dilution ratio nor information by reference to which the dilution ratio can be calculated;

(b) in a case within subsection (1)(c), no dispensing instructions are provided with, or for the purposes of use with, the flavour concentrate or with any dispensing machine with which it is designed to be used.**]**

(4) This subsection applies where—

(a) the dilution ratio, or information by reference to which the dilution ratio can be calculated, is stated on the packaging of the soft drink, and

(b) it is reasonable to assume that the main purpose, or one of the main purposes, of stating that particular dilution ratio or information is avoiding or reducing liability for soft drinks industry levy.

[F9(4A) This subsection applies where—

(a) dispensing instructions are provided, and

(b) it is reasonable to assume that the main purpose, or one of the main purposes, of providing those particular dispensing instructions is avoiding or reducing liability for soft drinks industry levy.**]**

(5) The Commissioners may by or under regulations make provision about the criteria for—

(a) determining a dilution ratio for the purposes of subsection (2)(b);

[F10(aa) determining dispensing instructions for the purposes of subsection (2A)(b);**]**

[F11(b) determining whether the main purpose, or one of the main purposes, of—

(i) stating a particular dilution ratio or information, or

(ii) providing particular dispensing instructions;

is avoiding or reducing liability for soft drinks industry levy.**]**

Textual Amendments

F5 S. 27(1)(c) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 3(2)**, 8

F6 Words in s. 27(2)(b) substituted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 3(3)**, 8

F7 S. 27(2A) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 3(4)**, 8

F8 S. 27(3) substituted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 3(5)**, 8

F9 S. 27(4A) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 3(6)**, 8

F10 S. 27(5)(aa) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 3(7)(a)**, 8

F11 S. 27(5)(b) substituted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 3(7)(b)**, 8

Commencement Information

I3 S. 27 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I4 S. 27 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

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Chargeable soft drinks

28 Meaning of "chargeable soft drink" U.K.

"Chargeable soft drink" means a packaged soft drink that—

(a) meets the sugar content condition (see section 29), and

(b) is not an exempt soft drink (see section 30).

Commencement Information

I5 S. 28 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

29 Sugar content condition U.K.

(1) A packaged soft drink meets the sugar content condition if [F12]...—

[F13](a) either—

(i) it is a soft drink within section 26(1)(c), or

(ii) it contains added sugar ingredients;] and

(b) [F14]it contains] at least 5 grams of sugars (whether or not as a result of containing added sugar ingredients) per 100 millilitres of prepared drink.

(2) A packaged soft drink contains "added sugar ingredients" if any of the following are combined with other ingredients at any stage in the production of the soft drink—

(a) calorific mono-saccharides or di-saccharides;

(b) a substance containing calorific mono-saccharides or di-saccharides.

(3) But a packaged soft drink does not contain "added sugar ingredients" only by reason of containing fruit juice, vegetable juice or milk (or any combination of them).

(4) The Commissioners may by regulations make provision about what is, or is not, to be treated for the purposes of this Part as fruit juice, vegetable juice or milk.

(5) Where regulations under subsection (4) contain a reference to an EU instrument or any provision of an EU instrument, the regulations may provide that the reference is to be construed as a reference to that instrument or that provision as amended from time to time.

Textual Amendments

F12 Words in s. 29(1) omitted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by virtue of Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 4(a)**, 8

F13 S. 29(1)(a) substituted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 4(b)**, 8

F14 Words in s. 29(1)(b) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 4(c)**, 8

Commencement Information

I6 S. 29 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I7 S. 29 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

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30 Exempt soft drinks U.K.

(1) The following are "exempt soft drinks"—

(a) milk-based drinks,

(b) milk substitute drinks,

(c) alcohol substitute drinks, [F15]...

(d) soft drinks of a specified description which are for use for medicinal or other specified purposes **[**[F16], and

(e) soft drinks within section 26(1)(c) (flavour concentrates) that meet such conditions as may be specified.**]**

(2) "Milk-based drink" means a soft drink which contains at least 75 millilitres of milk per 100 millilitres of prepared drink.

(3) "Milk substitute drink" means a soft drink which—

(a) contains at least the specified quantities of calcium, and

(b) meets such other conditions as may be specified.

(4) "Alcohol substitute drink" means a soft drink which—

(a) is similar to a particular kind of alcoholic beverage, and

(b) meets such other conditions as may be specified.

(5) "Alcoholic beverage" means a beverage which is of an alcoholic strength exceeding 1.2%.

(6) The Commissioners may by regulations make further provision about the criteria for determining what is, or is not, to be treated as an exempt soft drink.

(7) Where regulations made under, or for the purposes of, this section contain a reference to an EU instrument or any provision of an EU instrument, the regulations may provide that the reference is to be construed as a reference to that instrument or that provision as amended from time to time.

Textual Amendments

F15 Word in s. 30(1) omitted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by virtue of Finance (No. 2) Act 2023 (c. 30), Sch. 21 paras. 5(a), **8**

F16 S. 30(1)(e) and word inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), Sch. 21 paras. 5(b), **8**

Commencement Information

I8 S. 30 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I9 S. 30 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

Charging of the soft drinks industry levy

31 Charge to soft drinks industry levy U.K.

(1) The charge to soft drinks industry levy arises on a chargeable event which occurs on or after 6 April 2018.

(2) Subsection (1) is subject to section 37 (small producer exemption).

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Commencement Information

I10 S. 31 in force at 6.4.2018 in relation to chargeable events occurring in relation to chargeable soft drinks packaged in, or imported into, the United Kingdom on or after that date by S.I. 2018/464, **art. 2(a)**

32 Chargeable events: soft drinks packaged in the UK U.K.

(1) This section applies where chargeable soft drinks are packaged by a person on premises in the United Kingdom (the "packaging premises").

(2) A chargeable event occurs on the removal of the chargeable soft drinks from the packaging premises.

(3) But—

(a) if, on removal from the packaging premises, the secondary warehousing condition is met in relation to the chargeable soft drinks, a chargeable event occurs at the time that the secondary warehousing condition ceases to be met in relation to those soft drinks (and not at the time mentioned in subsection (2));

(b) if the chargeable soft drinks are made available for sale or free of charge before a chargeable event in relation to the soft drinks occurs under subsection (2) or paragraph (a), a chargeable event occurs at the time the soft drinks are made available (and not at the time mentioned in subsection (2) or paragraph (a)).

(4) For the purposes of this section and section 33, the secondary warehousing condition is met, at any time, in relation to chargeable soft drinks if the chargeable soft drinks are, at that time—

(a) in storage in a compliant warehouse, or

(b) being transported—

(i) from the packaging premises to a compliant warehouse, or

(ii) between compliant warehouses,

in compliance with such conditions and requirements as may be imposed by regulations under section 34.

(5) References in this section and in section 33 to a "compliant warehouse" are references to premises—

(a) that are, or are to be, used for the storage of chargeable soft drinks, and

(b) in respect of which the conditions and requirements specified in regulations under section 34(a) are met.

Commencement Information

I11 S. 32 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

33 Chargeable events: soft drinks imported into the UK U.K.

(1) This section applies where chargeable soft drinks are imported into the United Kingdom.

(2) A chargeable event occurs, in relation to imported chargeable soft drinks, on first receipt of the soft drinks by a relevant person (the "first recipient").

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(3) But subsection (2) is subject to subsections (7) to (9).

(4) The "first receipt" of imported chargeable soft drinks is the first occasion on which the soft drinks are delivered to a place in the United Kingdom which is a relevant person's place of business (including where the chargeable soft drinks are delivered from a place outside the United Kingdom which is another place of business of the relevant person).

(5) "Relevant person" means a person who carries on a business involving the sale of chargeable soft drinks.

(6) The reference in subsection (5) to the sale of chargeable soft drinks includes a reference to—

(a) sale by wholesale,

(b) sale by retail, and

(c) sale for consumption on or in the vicinity of premises on which the drinks are sold.

(7) Subsection (8) applies if, on first receipt of the imported chargeable soft drinks, the place of business to which the soft drinks are delivered is a compliant warehouse.

(8) Subject to subsection (9), a chargeable event occurs at the time that the secondary warehousing condition ceases to be met in relation to the imported chargeable soft drinks (and not at the time mentioned in subsection (2)).

(9) If the chargeable soft drinks are made available for sale or free of charge by a relevant person (the "first seller") before a chargeable event in relation to the soft drinks occurs under subsection (2) or (8), a chargeable event occurs at the time the chargeable soft drinks are made available (and not at the time mentioned in subsection (2) or (8)).

[F17(10) This section is subject to section 58A (Isle of Man: import and export of chargeable soft drinks).**]**

Textual Amendments

F17 S. 33(10) inserted (1.4.2019) by Finance Act 2019 (c. 1), **s. 68(4)**(6)

Commencement Information

I12 S. 33 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

34 Secondary warehousing regulations U.K.

The Commissioners may by regulations make provision, for the purposes of sections 32 and 33—

(a) specifying conditions and requirements in respect of premises on which chargeable soft drinks may be stored before the occurrence of a chargeable event (see section 32(5)(b));

(b) specifying other conditions and requirements as to the storage of chargeable soft drinks for the purposes of the secondary warehousing condition (see section 32(4));

(c) specifying conditions and requirements as to the transportation of chargeable soft drinks for the purposes of the secondary warehousing condition;

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(d) imposing obligations on specified persons to provide information in connection with the storage or transportation of chargeable soft drinks.

Commencement Information

I13 S. 34 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I14 S. 34 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

35 Liability to pay the levy U.K.

(1) Where the charge to soft drinks industry levy arises on a chargeable event within section 32(2) or (3), the person who packages the chargeable soft drinks is liable to pay the amount charged.

(2) Where the charge to soft drinks industry levy arises on a chargeable event within section 33(2) or (8), the relevant person who is the first recipient is liable to pay the amount charged.

(3) Where the charge to soft drinks industry levy arises on a chargeable event within section 33(9), the relevant person who is the first seller is liable to pay the amount charged.

Commencement Information

I15 S. 35 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

36 Levy rates U.K.

(1) Soft drinks industry levy is charged—

(a) in the case of chargeable soft drinks that meet the higher sugar threshold, at the rate of £0.24 per litre of prepared drink;

(b) in the case of chargeable soft drinks that do not meet the higher sugar threshold, at the rate of £0.18 per litre of prepared drink.

(2) A chargeable soft drink meets the higher sugar threshold if it contains at least 8 grams of sugars (whether or not as a result of containing added sugar ingredients) per 100 millilitres of prepared drink.

Commencement Information

I16 S. 36 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

[F18 36A Determining levy rate for flavour concentrates U.K.

(1) This section applies where—

(a) two or more flavour concentrates are formulated so as to be combined with one another in a dispensing machine (see section 26(2A)(a)(ii)), and

(b) each of those flavour concentrates is a chargeable soft drink.

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(2) The references in section 36(1) to a litre of prepared drink are treated, in relation to each of the flavour concentrates, as references to the relevant proportion of a litre of prepared drink.

(3) Subject to subsection (4), the "relevant proportion" is—

$$1N$$

where N is the number of flavour concentrates that are designed to be combined.

(4) The Commissioners may by regulations make provision for determining the relevant proportion (otherwise than in accordance with subsection (3)) in cases where the flavour concentrates mentioned in subsection (1)(a) are formulated so as to be combined in a dispensing machine—

(a) in unequal proportions, or

(b) in different combinations for different beverages.**]**

Textual Amendments

F18 S. 36A inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), Sch. 21 paras. 6, **8**

Exemption etc

37 Small producer exemption U.K.

(1) No charge to soft drinks industry levy arises—

(a) on a chargeable event within section 32 in relation to chargeable soft drinks produced by a person who is, on the relevant day, a qualifying small producer;

(b) on a chargeable event within section 33 in relation to chargeable soft drinks produced by a person who is, on the relevant day, a small producer.

(2) Chargeable soft drinks are "produced" by a person if they are packaged (by or on behalf of the person) for marketing under—

(a) the person's name or business name, or

(b) another name which is used in accordance with a licence granted to the person.

(3) For the purposes of this section and section 38, the "relevant day", in relation to chargeable soft drinks, is the day on which the charge to soft drinks industry levy on the chargeable soft drinks would (apart from this section) arise.

(4) "Small producer" has the meaning given by section 38.

(5) A person is a "qualifying small producer" if the person is a small producer who is either—

(a) registered under section 45 (voluntary registration: small producers), or

(b) ineligible for registration under that section because the person does not meet the condition in section 45(2)(c) (voluntary registration eligibility conditions: packaging by a person other than the producer).

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Commencement Information

I17 S. 37 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

38 Meaning of "small producer" U.K.

(1) A person ("the producer") who produces chargeable soft drinks is a "small producer" on the relevant day if Conditions A and B are met.

(2) Condition A is met if the aggregate of—

(a) the amount of the producer's chargeable soft drinks within section 26(1)(a) in respect of which a relevant event has occurred during the relevant 12 month period, and

(b) the amount of prepared drink that would result from the producer's chargeable soft drinks within section 26(1)(b) in respect of which a relevant event has occurred during the relevant 12 month period,

does not exceed the small producer threshold.

(3) Condition B is met if there are reasonable grounds for believing that the aggregate of—

(a) the amount of the producer's chargeable soft drinks within section 26(1)(a) in respect of which a relevant event will occur during the relevant 30 day period, and

(b) the amount of prepared drink that would result from the producer's chargeable soft drinks within section 26(1)(b) in respect of which a relevant event will occur during the relevant 30 day period,

will not exceed the small producer threshold.

(4) A "relevant event" occurs in respect of chargeable soft drinks on the removal of the chargeable soft drinks from the premises on which they are packaged.

(5) But—

(a) if, on removal from the premises on which the chargeable soft drinks are packaged, the secondary warehousing condition is met in relation to the soft drinks, a "relevant event" occurs in relation to those soft drinks at the time that the secondary warehousing condition ceases to be met in relation to them (and not at the time mentioned in subsection (4));

(b) if the chargeable soft drinks are made available for sale or free of charge before a relevant event in relation to the soft drinks occurs under subsection (4) or paragraph (a), a "relevant event" occurs at the time they are made available (and not at the time mentioned in subsection (4) or paragraph (a)).

(6) For the purposes of subsections (2) and (3)—

(a) the "relevant 12 month period" is the period of 12 months ending with the end of the month that immediately precedes the month in which the relevant day falls, and

(b) the "relevant 30 day period" is the period of 30 days beginning with the relevant day.

(7) The "small producer threshold" is 1 million litres.

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(8) References in this section to "the producer's chargeable soft drinks" are references to chargeable soft drinks produced by the producer or a person connected with the producer.

Commencement Information

I18 S. 38 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

39 Tax credits U.K.

(1) The Commissioners may by regulations make provision in relation to cases where, after a charge to soft drinks industry levy has arisen in relation to chargeable soft drinks—

(a) the soft drinks are exported from the United Kingdom;

(b) the soft drinks are lost or destroyed;

[F19(c) in the case of soft drinks within section 26(1)(c), the flavour concentrate—

(i) has not been combined with added sugar ingredients (but has been prepared in a specified manner), or

(ii) has been processed in a specified manner so as to result in a beverage that contains less than 5 grams of sugars per 100 millilitres of prepared drink.**]**

(2) The provision that may be made is provision—

(a) for the liable person to be entitled to a tax credit in respect of any soft drinks industry levy charged on the soft drinks that are **[**F20that fall within subsection (1)(a), (b) or (c) (as the case may be)**]**;

(b) for the tax credit to be brought into account when the person is accounting for soft drinks industry levy due from the person for the prescribed accounting period or periods.

(3) Regulations under this section may include provision—

(a) for any entitlement to a tax credit to be conditional on the making of a claim by the liable person, and specifying the period within which and the manner in which a claim may be made;

(b) for any entitlement to bring a tax credit into account to be conditional on compliance with prescribed requirements;

(c) specifying circumstances in which, and criteria for determining the period for which, a liable person is not entitled to a tax credit;

(d) requiring a claim for a tax credit to be evidenced and quantified by reference to prescribed records and other documents;

(e) requiring a person claiming any entitlement to a tax credit to keep, for the prescribed period and in the prescribed form and manner, those records and documents and a record of prescribed information relating to the claim;

(f) for the withdrawal of a tax credit where any requirement of the regulations is not complied with;

(g) about adjustments of liability for soft drinks industry levy in connection with entitlement or withdrawal of entitlement to a tax credit in prescribed circumstances;

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(h) about the treatment of a tax credit where the liable person ceases to carry on a business involving the package or sale of chargeable soft drinks.

(4) Regulations under paragraph (a) of subsection (1) may include provision for the sale or provision of chargeable soft drinks on passenger transport operating between the United Kingdom and a place outside of the United Kingdom to be treated as "export from the United Kingdom" for the purposes of regulations under that paragraph.

(5) Regulations under paragraph (b) of subsection (1) may include provision about the circumstances in which chargeable soft drinks are to be treated as lost or destroyed for the purposes of regulations under that paragraph.

[[F21](5A) This section is subject to section 58A (Isle of Man: import and export of chargeable soft drinks).**]**

(6) In this section—

"liable person" means the person who is liable under section 35 to pay the charge to soft drinks industry levy referred to in subsection (1);

"prescribed" means specified in, or determined in accordance with, regulations under this section.

Textual Amendments

F19 S. 39(1)(c) inserted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 7(2)**, 8

F20 Words in s. 39(2)(a) substituted (in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after 1.4.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 21 paras. 7(3)**, 8

F21 S. 39(5A) inserted (1.4.2019) by Finance Act 2019 (c. 1), **s. 68(5)**(6)

Commencement Information

I19 S. 39 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I20 S. 39 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

Registration

40 The register U.K.

(1) The Commissioners must establish and maintain a register for the purposes of this Part.

(2) In this Part, "the register" means the register under subsection (1) and references to registration are to registration in it.

(3) The register may contain such information as the Commissioners think is required for the purposes of the collection and management of soft drinks industry levy.

Commencement Information

I21 S. 40 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

41 Liability to register: packagers U.K.

(1) A person becomes liable to be registered—

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(a) at the end of any month, if the person has packaged any chargeable soft drinks in respect of which a chargeable event within section 32 has occurred during that month;

(b) on any day, if there are reasonable grounds for believing that, during the period of 30 days beginning with that day, a chargeable event within section 32 will occur in respect of chargeable soft drinks packaged by the person.

(2) But subsection (1) does not apply to a person if—

(a) the chargeable soft drinks packaged by the person are also produced by the person, and

(b) the person is not liable to be registered under section 42 (liability to register: producers).

(3) Subsection (1) does not apply in relation to a person who is already registrable.

(4) In this section and in sections 42 and 43 references to "a person who is already registrable" are references to a person who—

(a) is registered under this section, section 42 or section 43,

(b) is subject to a relevant notification requirement, or

(c) would, if the person had complied with a relevant notification requirement, be registered under this section, section 42 or section 43.

(5) In subsection (4)(c) "relevant notification requirement" means a requirement under section 44(1) to notify the Commissioners of a liability to register—

(a) arising on a previous occasion, and

(b) in respect of which the notification period has expired.

(6) In this section "notification period" has the meaning given by section 44(2).

Commencement Information

I22 S. 41(1) in force at 6.4.2018 in relation to a person who packages chargeable soft drinks in the United Kingdom on or after that date by S.I. 2018/464, **art. 2(b)**

I23 S. 41(2)-(6) in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

42 Liability to register: producers U.K.

(1) A person ("the producer") who produces chargeable soft drinks becomes liable to be registered—

(a) at the end of any month, if the qualifying amount of the producer's chargeable soft drinks in respect of which a chargeable event within section 32 has occurred during the immediately preceding period of 12 months exceeds the small producer threshold;

(b) on any day, if there are reasonable grounds for believing that the qualifying amount of the producer's chargeable soft drinks in respect of which a chargeable event within section 32 will occur during the period of 30 days beginning with that day will exceed the small producer threshold.

(2) The "qualifying amount" of chargeable soft drinks in respect of which a chargeable event occurs is the aggregate of—

(a) the amount of the chargeable soft drinks within section 26(1)(a) in respect of which the chargeable event occurs, and

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(b) the amount of prepared drink that would result from the chargeable soft drinks within section 26(1)(b) in respect of which the chargeable event occurs.

(3) Subsection (1) does not apply in relation to a person who is already registrable.

(4) References in this section to "the producer's chargeable soft drinks" are references to chargeable soft drinks produced by the producer or a person connected with the producer.

Commencement Information

I24 S. 42(1)(2) in force at 6.4.2018 in relation to a person who produces chargeable soft drinks that are packaged in the United Kingdom on or after that date by S.I. 2018/464, **art. 2(c)**

I25 S. 42(3)(4) in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

43 Liability to register: imported chargeable soft drinks U.K.

(1) A person becomes liable to be registered—

(a) at the end of any month if, during that month, a chargeable event within section 33 has occurred—

(i) on the first receipt, or on the making available, of chargeable soft drinks by the person, or

(ii) on the secondary warehousing condition ceasing to be met in relation to chargeable soft drinks in respect of which the person is the first recipient;

(b) on any day, if there are reasonable grounds for believing that, during the period of 30 days beginning with that day, a chargeable event within section 33 will occur—

(i) on the first receipt, or on the making available, of chargeable soft drinks by the person, or

(ii) on the secondary warehousing condition ceasing to be met in relation to chargeable soft drinks in respect of which the person is the first recipient.

(2) Subsection (1) does not apply in relation to a person who is already registrable.

Commencement Information

I26 S. 43(1) in force at 6.4.2018 in relation to a person who is a first recipient or first seller of chargeable soft drinks that are imported into the United Kingdom on or after that date by S.I. 2018/464, **art. 2(d)**

I27 S. 43(2) in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

44 Notification of liability and registration U.K.

(1) A person who becomes liable to be registered under section 41, 42 or 43 must notify the Commissioners of the liability before the end of the notification period.

(2) The "notification period" is the period of 30 days beginning with the day on which the liability arises.

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(3) Where the Commissioners are satisfied that a person is liable to be registered (whether or not the person has notified liability under subsection (1)), the Commissioners must register the person with effect from the day on which the liability to register arises.

Commencement Information
I28 S. 44 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

45 Voluntary registration: small producers U.K.

(1) The Commissioners must register a person who—
(a) meets the voluntary registration eligibility conditions, and
(b) applies to the Commissioners for registration under this section.

(2) The voluntary registration eligibility conditions are met by a person (P) if—
(a) P produces chargeable soft drinks,
(b) P is not liable to be registered under section 42 (liability to register: producers), and
(c) some or all of the chargeable soft drinks produced by P are packaged on premises in the United Kingdom by a person other than P.

(3) A person who is registered under section 41 or 43 may also be registered under this section.

Commencement Information
I29 S. 45 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

46 Cancellation of registration under section 41, 42 or 43 U.K.

(1) A registration under section 41, 42 or 43 may be cancelled only in accordance with this section.

(2) For the purposes of this section, a person meets the "liability condition" at a particular time if—
(a) at the end of the preceding month, the condition in section 41(1)(a), 42(1)(a) or 43(1)(a) is met in relation to the person, or
(b) at that time, the condition in section 41(1)(b), 42(1)(b) or 43(1)(b) is met in relation to the person.

(3) The Commissioners must cancel a person's registration under section 41, 42 or 43 if—
(a) the person requests the cancellation, and
(b) the person satisfies the Commissioners that the person does not, at the time of the request, meet the liability condition.

(4) A cancellation under subsection (3) is to be made with effect from—
(a) the day on which the request is made, or
(b) such later day as may be agreed between the Commissioners and the person.

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(5) The Commissioners may cancel a person's registration under section 41, 42 or 43 if they are satisfied that the person does not meet the liability condition.

(6) A cancellation under subsection (5) is to be made with effect from—

(a) the day on which the person ceased to meet the liability condition, or

(b) such later day as may be agreed between the Commissioners and the person.

(7) But the Commissioners must not cancel a registration under subsection (3) or (5) with effect from any time unless—

(a) they are satisfied that it is not a time when the person would meet the liability condition, and

(b) it is reasonable to believe that the person will not become liable to be registered under section 41(1)(a) or 43(1)(a) during the period of 12 months beginning with that time.

(8) The Commissioners may cancel a person's registration under section 41, 42 or 43 if they are satisfied that the person did not meet the liability condition on the day on which the person was registered, and has not at any subsequent time met the liability condition.

(9) A cancellation under subsection (8) is to be made with effect from the day on which the person was registered.

Commencement Information

I30 S. 46 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

47 Cancellation of voluntary registration U.K.

(1) The Commissioners may cancel a person's registration under section 45 if they are satisfied that the person does not meet the voluntary registration eligibility conditions (see subsection (2) of that section).

(2) A cancellation under subsection (1) is to be made with effect from the day on which the person ceased to meet the voluntary registration eligibility conditions.

(3) The Commissioners must cancel a person's registration under section 45 if the person requests the cancellation.

(4) A cancellation under subsection (3) is to be made with effect from—

(a) the day on which the request is made, or

(b) such later day as may be agreed between the Commissioners and the person.

Commencement Information

I31 S. 47 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

48 Correction of the register U.K.

(1) The Commissioners may by regulations make provision about the correction of entries in the register.

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(2) Regulations under subsection (1) may make provision for requiring persons who are, or are liable to be, registered to notify the Commissioners of changes in circumstances which are relevant to the register.

Commencement Information

I32 S. 48 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I33 S. 48 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

49 Applications, notifications etc U.K.

The Commissioners may by or under regulations make provision—

(a) about the form and manner in which a notification under section 44 (notification of liability to register) is to be given;

(b) about the information to be contained in or provided with a notification under that section;

(c) about the form and manner of an application under section 45 (voluntary registration: small producers);

(d) requiring applications, notifications and other communications with the Commissioners in connection with registration to be made electronically.

Commencement Information

I34 S. 49 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I35 S. 49 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

Offences

50 Fraudulent evasion U.K.

(1) A person commits an offence if the person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by that person or any other person) of soft drinks industry levy.

(2) The references in subsection (1) to the evasion of soft drinks industry levy include references to obtaining, in circumstances where there is no entitlement to it—

(a) a tax credit under regulations under section 39;

(b) a repayment of soft drinks industry levy under Schedule 8.

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

(a) on summary conviction in England and Wales—

(i) to imprisonment for a term not exceeding **[**F22the general limit in a magistrates' court**]**, or

(ii) to a fine not exceeding £20,000 or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or

(iii) to both;

(b) on summary conviction in Scotland—

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(i) to imprisonment for a term not exceeding 12 months, or

(ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or

(iii) to both;

(c) on summary conviction in Northern Ireland—

(i) to imprisonment for a term not exceeding 6 months, or

(ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or

(iii) to both;

(d) on conviction on indictment—

(i) to imprisonment for a term not exceeding 7 years,

(ii) to a fine, or

(iii) to both.

(4) For the purposes of subsection (3), the amounts of soft drinks industry levy that were, or were intended to be, evaded are to be taken as including—

(a) the amount of any tax credit under regulations under section 39, and

(b) the amount of any repayment of soft drinks industry levy under Schedule 8,

which was, or was intended to be, obtained in circumstances where there was no entitlement to it.

(5) In determining for the purposes of subsection (3) the amounts of soft drinks industry levy that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to levy of a person would be, or would have been, reduced by the amount of any tax credit or repayment of soft drinks industry levy to which the person was, or would have been, entitled.

(6) In relation to an offence committed before **[**F23 2 May 2022**]** the reference in subsection (3)(a)(i) to **[**F24 the general limit in a magistrates' court**]** is to be read as a reference to 6 months.

Textual Amendments

F22 Words in s. 50(3)(a)(i) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**

F23 Words in s. 50(6) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), **Sch. Pt. 1**

F24 Words in s. 50(6) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**

Commencement Information

I36 S. 50 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

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51 Failure to notify registration liability U.K.

(1) A person who fails to comply with section 44(1) (obligation to notify the Commissioners of liability to be registered) commits an offence.

(2) In proceedings against a person (P) for an offence under subsection (1), it is a defence for P to prove that P had a reasonable excuse for the failure to comply.

(3) For the purposes of subsection (2)—

(a) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure;

(b) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

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

(a) on summary conviction in England and Wales—

(i) to imprisonment for a term not exceeding **[**F25the general limit in a magistrates' court**]**, or

(ii) to a fine not exceeding £20,000 or (if greater) 3 times the amount of the potential lost revenue, or

(iii) to both;

(b) on summary conviction in Scotland—

(i) to imprisonment for a term not exceeding 12 months, or

(ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the amount of the potential lost revenue, or

(iii) to both;

(c) on summary conviction in Northern Ireland—

(i) to imprisonment for a term not exceeding 6 months, or

(ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the amount of the potential lost revenue, or

(iii) to both;

(d) on conviction on indictment—

(i) to imprisonment for a term not exceeding 3 years,

(ii) to a fine, or

(iii) to both.

(5) For the purposes of subsection (4), the "potential lost revenue" is the amount of soft drinks industry levy (if any) for which the person who committed the offence is liable for the period—

(a) beginning with the date with effect from which the person is liable to be registered under this Part, and

(b) ending with the date on which the Commissioners received notification of, or otherwise were satisfied as to, the person's liability to be registered under this Part.

(6) In calculating potential lost revenue for the purposes of subsection (4), no account is to be taken of the fact that a potential loss of revenue from the person is or may be balanced by a potential over-payment by another person.

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(7) In relation to an offence committed before **[**F26 2 May 2022**]** the reference in subsection (4)(a)(i) to **[**F27 the general limit in a magistrates' court**]** is to be read as a reference to 6 months.

Textual Amendments

F25 Words in s. 51(4)(a)(i) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**

F26 Words in s. 51(7) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), **Sch. Pt. 1**

F27 Words in s. 51(7) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**

Commencement Information

I37 S. 51 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Administration and enforcement

52 Payment, collection and recovery U.K.

(1) The Commissioners may by regulations make provision about the payment, collection and recovery of soft drinks industry levy.

(2) Regulations under subsection (1) may—

(a) require persons who are or are liable to be registered under this Part to keep accounts for the purposes of the levy in the specified form and manner;

(b) require persons who are or are liable to be registered under this Part to make returns for the purposes of the levy;

(c) make provision for determining the periods ("accounting periods") by reference to which payments of the levy are to be made;

(d) make provision about the times at which payments of the levy are to be made and methods of payment;

(e) require the amounts payable by reference to accounting periods to be calculated by or under the regulations;

(f) make provision for the correction of errors made in accounting for the levy.

(3) Provision may be made by or under regulations under subsection (2)(b) about—

(a) the periods by reference to which returns are to be made,

(b) the information to be included in returns,

(c) timing, and

(d) the form of, and method of, making returns.

(4) Schedule 8 contains provision about recovery and overpayments.

Commencement Information

I38 S. 52 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

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I39 S. 52 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

53 Records U.K.

(1) The Commissioners may by regulations require persons—

(a) to keep, for purposes connected with soft drinks industry levy, records of specified matters, and

(b) to preserve records for a specified period.

(2) A duty under regulations under this section to preserve records may be discharged—

(a) by preserving them in any form and by any means, or

(b) by preserving the information contained in them in any form and by any means, subject to any specified conditions or exceptions.

(3) The Commissioners may direct a person who is, or is liable to be, registered under this Part—

(a) to keep such records as are specified in the direction;

(b) to preserve those records for a specified period.

(4) The period specified in a direction under subsection (3)(b) may not exceed 6 years.

(5) The Commissioners may not give a direction under subsection (3) unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying chargeable soft drinks in respect of which soft drinks industry levy might not be paid.

(6) A direction under subsection (3)—

(a) must be given in writing,

(b) must specify the consequences under Schedule 9 of failure to comply with a requirement imposed under subsection (3), and

(c) may be revoked or replaced by a further direction.

(7) Schedule 9 makes provision about penalties for failure to comply with requirements imposed by regulations or directions under this section.

Commencement Information

I40 S. 53 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I41 S. 53 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

54 Power to make further provision about enforcement U.K.

(1) The Commissioners may by regulations make further provision about enforcement of soft drinks industry levy, including provision conferring powers of entry, search or seizure.

(2) Regulations under this section may include provision—

(a) conferring powers to enter and inspect premises that are used, or are reasonably believed to be used, in connection with the production, packaging, sale, import or export of chargeable soft drinks;

(b) conferring powers to stop, board and search ships, aircraft and other vehicles entering, leaving or situated on premises referred to in paragraph (a);

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(c) conferring powers to inspect and take copies of business documents on premises referred to in paragraph (a);

(d) conferring powers to examine and take samples of soft drinks found on premises referred to in paragraph (a);

(e) for the detention and seizure of chargeable soft drinks in respect of which a specified requirement of this Part has been contravened;

(f) requiring a person to provide such facilities as are reasonably necessary for an officer of Revenue and Customs to carry out an examination or search or exercise other powers conferred by the regulations;

(g) about reviews of, and appeals against, decisions made for the purposes of the regulations.

(3) Regulations under this section may, in particular, make provision by applying any provision of the Customs and Excise Management Act 1979.

Commencement Information

I42 S. 54 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I43 S. 54 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

55 Appeals etc U.K.

Schedule 10 makes provision about appeals and reviews.

Commencement Information

I44 S. 55 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

56 Supplementary amendments U.K.

Schedule 11 contains supplementary amendments relating to administration and enforcement of soft drinks industry levy.

Commencement Information

I45 S. 56 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Miscellaneous

57 Regulations: death, incapacity or insolvency of person carrying on a business U.K.

(1) The Commissioners may by regulations make provision for the purposes of soft drinks industry levy in relation to cases where a person carries on a business of—

(a) an individual who has died or become incapacitated;

(b) a person (whether or not an individual) who is subject to an insolvency procedure (as defined in the regulations).

(2) Regulations under this section may include—

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(a) provision requiring the person who is carrying on the business (P) to notify the Commissioners that P is carrying on the business and of the event that led to P carrying it on;

(b) provision allowing P to be treated for a limited time as if P and the person who has died, become incapacitated or is subject to an insolvency procedure were the same person;

(c) such other provision as the Commissioners think fit for securing continuity in the application of this Part in cases to which the regulations apply.

Commencement Information

I46 S. 57 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I47 S. 57 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

58 Provisional collection of soft drinks industry levy U.K.

In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions), in subsection (1), after "aggregates levy," insert " soft drinks industry levy, ".

Commencement Information

I48 S. 58 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

[F28 58A Isle of Man: import and export of chargeable soft drinks U.K.

(1) Subsections (2) and (3) apply if—

(a) chargeable soft drinks are imported into the United Kingdom from the Isle of Man, and

(b) a charge to soft drinks industry levy (the "corresponding charge") arises in relation to the soft drinks under the law of the Isle of Man.

(2) If the corresponding charge arises at a rate equal to, or greater than, the UK rate, the soft drinks are not to be treated as being imported into the United Kingdom for the purposes of section 33 (chargeable events: imported soft drinks).

(3) If the corresponding charge arises at a rate lower than the UK rate, the amount of soft drinks industry levy charged under this Part in relation to the soft drinks is to be reduced by an amount equal to the corresponding charge.

(4) In this section "the UK rate", in relation to chargeable soft drinks, is the rate of soft drinks industry levy that would (apart from this section) be chargeable in relation to the soft drinks under this Part.

(5) For the purposes of section 39(1)(a) (tax credits: exported soft drinks) or regulations made under that provision, chargeable soft drinks are not to be treated as being exported from the United Kingdom if the soft drinks are exported to the Isle of Man.]

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Textual Amendments

F28 S. 58A inserted (1.4.2019) by Finance Act 2019 (c. 1), **s. 68(3)**(6)

General

59 Interpretation of Part 2 U.K.

(1) In this Part—

"accounting period" is to be construed in accordance with section 52(2)(c);

"chargeable soft drink" has the meaning given by section 28;

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

"compliant warehouse" is to be construed in accordance with section 32(5);

"first recipient" and "first receipt", in relation to imported chargeable soft drinks, have the meaning given by section 33(2) and (4);

"first seller", in relation to imported chargeable soft drinks, has the meaning given by section 33(9);

"HMRC" means Her Majesty's Revenue and Customs;

"package" and "packaged" are to be construed in accordance with section 26(3);

"person who is already registrable" has the meaning given by section 41(4);

"prepared drink" has the meaning given by section 27(1);

"produce", in relation to chargeable soft drinks, is to be construed in accordance with section 37(2);

"relevant person" has the meaning given by section 33(5);

"secondary warehousing condition" has the meaning given by section 32(4);

"small producer" has the meaning given by section 38;

"small producer threshold" has the meaning given by section 38(7);

"soft drink" has the meaning given by section 26(1);

"sugars" means anything that is required to be described as "sugars" for the purposes of a designated food labelling obligation (see subsection (3)).

(2) In sections 30, 34, 52, 53(1) and (2) and 54 and in paragraph 11 of Schedule 8, "specified" means specified in regulations made by the Commissioners for the purposes of this Part.

(3) In the definition of "sugars" in subsection (1), "designated food labelling obligation" means an obligation that—

(a) relates to the provision of nutritional information on the packaging of food or drinks,

(b) is imposed by an enactment, an EU instrument or subordinate legislation, and

(c) is designated by regulations made by the Commissioners for the purposes of this Part.

(4) Section 1122 of CTA 2010 (meaning of connected person) applies for the purposes of this Part.

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(5) For the purposes of this Part, a person "packages" chargeable soft drinks if—

(a) the person packages soft drinks, and

(b) the packaged soft drinks are chargeable soft drinks.

Commencement Information

I49 S. 59 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I50 S. 59 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

60 Regulations U.K.

(1) Regulations under this Part—

(a) may make different provision for different purposes;

(b) may include incidental, consequential, supplementary or transitional provision.

(2) Regulations under this Part are to be made by statutory instrument.

(3) A statutory instrument containing regulations under section 54 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) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.

(5) But subsection (4) does not apply to a statutory instrument containing only regulations under section 61 (commencement of this Part).

Commencement Information

I51 S. 60 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I52 S. 60 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

61 Commencement U.K.

(1) Subject to subsection (2), this Part comes into force on such day as the Commissioners may by regulations appoint.

(2) The amendment made by paragraph 3 of Schedule 11 comes into force in accordance with provision made by the Treasury by regulations.

(3) Regulations under this section may appoint different days for different purposes.

Commencement Information

I53 S. 61 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I54 S. 61 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

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PART 3 U.K.

FINAL

62 Interpretation U.K.

In this Act the following abbreviations are references to the following Acts.

ALDA 1979	Alcoholic Liquor Duties Act 1979
CAA 2001	Capital Allowances Act 2001
CTA 2009	Corporation Tax Act 2009
CTA 2010	Corporation Tax Act 2010
FA, followed by a year	Finance Act of that year
ICTA	Income and Corporation Taxes Act 1988
IHTA 1984	Inheritance Tax Act 1984
ITA 2007	Income Tax Act 2007
ITEPA 2003	Income Tax (Earnings and Pensions) Act 2003
ITTOIA 2005	Income Tax (Trading and Other Income) Act 2005
TCGA 1992	Taxation of Chargeable Gains Act 1992
TMA 1970	Taxes Management Act 1970
TPDA 1979	Tobacco Products Duty Act 1979
VATA 1994	Value Added Tax Act 1994
VERA 1994	Vehicle Excise and Registration Act 1994

63 Short title U.K.

This Act may be cited as the Finance Act 2017.

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SCHEDULES

SCHEDULE 1 U.K.

Section 6

WORKERS' SERVICES PROVIDED TO PUBLIC SECTOR THROUGH INTERMEDIARIES

PART 1 U.K.

PRELIMINARY AMENDMENTS

1 ITEPA 2003 is amended as follows.

2 In section 48 (scope of Chapter 8 of Part 2: workers' services provided through intermediaries)—

(a) in subsection (1), after "through an intermediary" insert " , but not where the services are provided to a public authority ", and

(b) after subsection (2) insert—

"(3) In this Chapter "public authority" has the same meaning as in Chapter 10 of this Part (see section 61L)."

3 In section 49(1) (engagements to which Chapter applies), after paragraph (a) insert—

"(aa) the client is not a public authority,".

4 In section 52(2)(b) and (c) (conditions of liability under Chapter 8 where intermediary is a partnership), for "this Chapter" substitute " one or other of this Chapter and Chapter 10 ".

5 In section 61(1) (interpretation of Chapter 8), before the definition of "engagement to which this Chapter applies" insert—

""engagement to which Chapter 10 applies" has the meaning given by section 61M(5);".

6 In section 61A (scope of Chapter 9 of Part 2: workers' services provided by managed service companies), after subsection (2) insert—

"(3) See also section 61D(4A) (disapplication of this Chapter if Chapter 10 applies)."

7 In section 61D (deemed earnings where worker's services provided by managed service company), after subsection (4) insert—

"(4A) This section does not apply where the provision of the relevant services gives rise (directly or indirectly) to an engagement to which Chapter 10 applies, and for this purpose it does not matter whether the client is also "the client" for the purposes of section 61M(1)."

8 In section 61J(1) (interpretation of Chapter 9), before the definition of "managed service company" insert—

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""engagement to which Chapter 10 applies" has the meaning given by section 61M(5),".

PART 2 U.K.

NEW CHAPTER 10 OF PART 2 OF ITEPA 2003

9 In Part 2 of ITEPA 2003 (employment income: charge to tax), after Chapter 9 insert—

"CHAPTER 10 U.K.

WORKERS' SERVICES PROVIDED TO PUBLIC SECTOR THROUGH INTERMEDIARIES

Scope of this Chapter

61K (1) This Chapter has effect with respect to the provision of services to a public authority through an intermediary.

(2) Nothing in this Chapter—

(a) affects the operation of Chapter 7 of this Part (agency workers), or

(b) applies to payments or transfers to which section 966(3) or (4) of ITA 2007 applies (visiting performers: duty to deduct and account for sums representing income tax).

Meaning of "public authority"

61L (1) In this Chapter "public authority" means—

(a) a public authority as defined by the Freedom of Information Act 2000,

(b) a Scottish public authority as defined by the Freedom of Information (Scotland) Act 2002 (asp 13),

(c) the Corporate Officer of the House of Commons,

(d) the Corporate Officer of the House of Lords,

(e) the National Assembly for Wales Commission, or

(f) the Northern Ireland Assembly Commission.

(2) An authority within paragraph (a) or (b) of subsection (1) is a public authority for the purposes of this Chapter in relation to all its activities even if provisions of the Act mentioned in that paragraph do not apply to all information held by the authority.

(3) Subsection (1) is subject to subsection (4).

(4) A primary-healthcare provider is a public authority for the purposes of this Chapter only if the primary-healthcare provider—

(a) has a registered patient list for the purposes of relevant medical-services regulations,

(b) is within paragraph 43A in Part 3 of Schedule 1 to the Freedom of Information Act 2000 (providers of primary healthcare services in

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England and Wales) by reason of being a person providing primary dental services,

(c) is within paragraph 51 in that Part of that Schedule (providers of healthcare services in Northern Ireland) by reason of being a person providing general dental services, or

(d) is within paragraph 33 in Part 4 of Schedule 1 to the Freedom of Information (Scotland) Act 2002 (providers of healthcare services in Scotland) by reason of being a person providing general dental services.

(5) In this section—

"primary-healthcare provider" means an authority that is within subsection (1)(a) or (b) only because it is within a relevant paragraph,

"relevant paragraph" means—

(a) any of paragraphs 43A to 45A and 51 in Part 3 of Schedule 1 to the Freedom of Information Act 2000, or

(b) any of paragraphs 33 to 35 in Part 4 of Schedule 1 to the Freedom of Information (Scotland) Act 2002, and

"relevant medical-services regulations" means any of the following—

(a) the Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) Regulations 2004 (S.I. 2004/906),

(b) the Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) (Wales) Regulations 2004 (S.I. 2004/1017),

(c) the Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) (Scotland) Regulations 2004 (S.S.I. 2004/162), and

(d) the Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) Regulations (Northern Ireland) 2004 (S.R. (N.I.) 2004 No. 477).

(6) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend this section in consequence of—

(a) any amendment or revocation of any regulations for the time being referred to in this section,

(b) any amendment in Part 3 of Schedule 1 to the Freedom of Information Act 2000, or

(c) any amendment in Part 4 of Schedule 1 to the Freedom of Information (Scotland) Act 2002.

Engagements to which Chapter applies

61M(1) Sections 61N to 61R apply where—

(a) an individual ("the worker") personally performs, or is under an obligation personally to perform, services for another person ("the client"),

(b) the client is a public authority,

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(c) the services are provided not under a contract directly between the client and the worker but under arrangements involving a third party ("the intermediary"), and

(d) the circumstances are such that—

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

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

(2) The reference in subsection (1)(c) to a "third party" includes a partnership or unincorporated association of which the worker is a member.

(3) The circumstances referred to in subsection (1)(d) include the terms on which the services are provided, having regard to the terms of the contracts forming part of the arrangements under which the services are provided.

(4) Holding office as statutory auditor of the client does not count as holding office under the client for the purposes of subsection (1)(d), and here "statutory auditor" means a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (see section 1210 of that Act).

(5) In this Chapter "engagement to which this Chapter applies" means any such provision of services as is mentioned in subsection (1).

Worker treated as receiving earnings from employment

61N (1) If one of Conditions A to C is met, identify the chain of two or more persons where—

(a) the highest person in the chain is the client,

(b) the lowest person in the chain is the intermediary, and

(c) each person in the chain above the lowest makes a chain payment to the person immediately below them in the chain.

(See section 61U for cases where one of Conditions A to C is treated as being met.)

(2) In this section and sections 61O to 61S—

"chain payment" means a payment, or money's worth or any other benefit, that can reasonably be taken to be for the worker's services to the client,

"make"—

(a) in relation to a chain payment that is money's worth, means transfer, and

(b) in relation to a chain payment that is a benefit other than a payment or money's worth, means provide, and

"the fee-payer" means the person in the chain immediately above the lowest.

(3) The fee-payer is treated as making to the worker, and the worker is treated as receiving, a payment which is to be treated as earnings from an employment

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("the deemed direct payment"), but this is subject to subsections (5) to (7) and sections 61T and 61V.

(4) The deemed direct payment is treated as made at the same time as the chain payment made by the fee-payer.

(5) Subsections (6) and (7) apply, subject to sections 61T and 61V, if the fee-payer—

(a) is not the client, and

(b) is not a qualifying person.

(6) If there is no person in the chain below the highest and above the lowest who is a qualifying person, subsections (3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the client.

(7) Otherwise, subsections (3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the person in the chain who—

(a) is above the lowest,

(b) is a qualifying person, and

(c) is lower in the chain than any other person in the chain who—

(i) is above the lowest, and

(ii) is a qualifying person.

(8) In subsections (5) to (7) a "qualifying person" is a person who—

(a) is resident in the United Kingdom or has a place of business in the United Kingdom,

(b) is not a person who is controlled by—

(i) the worker, alone or with one or more associates of the worker, or

(ii) an associate of the worker, with or without other associates of the worker, and

(c) if a company, is not one in which—

(i) the worker, alone or with one or more associates of the worker, or

(ii) an associate of the worker, with or without other associates of the worker,

has a material interest (within the meaning given by section 51(4) and (5)).

(9) Condition A is that—

(a) the intermediary is a company, and

(b) the conditions in section 61O are met in relation to the intermediary.

(10) Condition B is that—

(a) the intermediary is a partnership,

(b) the worker is a member of the partnership,

(c) the provision of the services is by the worker as a member of the partnership, and

(d) the condition in section 61P is met in relation to the intermediary.

(11) Condition C is that the intermediary is an individual.

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(12) Where a payment, money's worth or any other benefit can reasonably be taken to be for both—

(a) the worker's services to the client, and

(b) anything else,

then, for the purposes of this Chapter, so much of it as can, on a just and reasonable apportionment, be taken to be for the worker's services is to be treated as (and the rest is to be treated as not being) a payment, or money's worth or another benefit, that can reasonably be taken to be for the worker's services.

Conditions where intermediary is a company

61O (1) The conditions mentioned in section 61N(9)(b) are that—

(a) the intermediary is not an associated company of the client that falls within subsection (2), and

(b) the worker has a material interest in the intermediary.

(2) An associated company of the client falls within this subsection if it is such a company by reason of the intermediary and the client being under the control—

(a) of the worker, or

(b) of the worker and other persons.

(3) The worker is treated as having a material interest in the intermediary if—

(a) the worker, alone or with one or more associates of the worker, or

(b) an associate of the worker, with or without other associates of the worker,

has a material interest in the intermediary.

(4) For this purpose "material interest" has the meaning given by section 51(4) and (5).

(5) In this section "associated company" has the meaning given by section 449 of CTA 2010.

Conditions where intermediary is a partnership

61P (1) The condition mentioned in section 61N(10)(d) is—

(a) that the worker, alone or with one or more relatives, is entitled to 60% or more of the profits of the partnership, or

(b) that most of the profits of the partnership derive from the provision of services under engagements to which one or other of this Chapter and Chapter 8 applies—

(i) to a single client, or

(ii) to a single client together with associates of that client, or

(c) that under the profit sharing arrangements the income of any of the partners is based on the amount of income generated by that partner by the provision of services under engagements to which one or other of this Chapter and Chapter 8 applies.

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(2) In subsection (1)(a) "relative" means spouse or civil partner, parent or child or remoter relation in the direct line, or brother or sister.

(3) Section 61(4) and (5) apply for the purposes of this section as they apply for the purposes of Chapter 8.

Calculation of deemed direct payment

61Q(1) The amount of the deemed direct payment is the amount resulting from the following steps—

Step 1 Identify the amount or value of the chain payment made by the person who is treated as making the deemed direct payment, and deduct from that amount so much of it (if any) as is in respect of value added tax.

Step 2 Deduct, from the amount resulting from Step 1, so much of that amount as represents the direct cost to the intermediary of materials used, or to be used, in the performance of the services.

Step 3 Deduct, at the option of the person treated as making the deemed direct payment, from the amount resulting from Step 2, so much of that amount as represents expenses met by the intermediary that would have been deductible from the taxable earnings from the employment if—

(a) the worker had been employed by the client, and

(b) the expenses had been met by the worker out of those earnings.

Step 4 If the amount resulting from the preceding Steps is nil or negative, there is no deemed direct payment. Otherwise, that amount is the amount of the deemed direct payment.

(2) For the purposes of Step 1 of subsection (1), any part of the amount or value of the chain payment which is employment income of the worker by virtue of section 863G(4) of ITTOIA 2005 (salaried members of limited liability partnerships: anti-avoidance) is to be ignored.

(3) In subsection (1), the reference to the amount or value of the chain payment means the amount or value of that payment before the deduction (if any) permitted under section 61S.

(4) If the actual amount or value of the chain payment mentioned in Step 1 of subsection (1) is such that its recipient bears the cost of amounts due under PAYE regulations or contributions regulations in respect of the deemed direct payment, that Step applies as if the amount or value of that chain payment were what it would be if the burden of that cost were not being passed on through the setting of the level of the payment.

(5) In Step 3 of subsection (1), the reference to expenses met by the intermediary includes—

(a) expenses met by the worker and reimbursed by the intermediary, and

(b) where the intermediary is a partnership and the worker is a member of the partnership, expenses met by the worker for and on behalf of the partnership.

(6) In subsection (4) "contributions regulations" means regulations under the Contributions and Benefits Act providing for primary Class 1 contributions to be paid in a similar manner to income tax in relation to which PAYE

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regulations have effect (see, in particular, paragraph 6(1) of Schedule 1 to the Act); and here "primary Class 1 contribution" means a primary Class 1 contribution within the meaning of Part 1 of the Contributions and Benefits Act.

Application of Income Tax Acts in relation to deemed employment

61R (1) The Income Tax Acts (in particular, Part 11 and PAYE regulations) apply in relation to the deemed direct payment as follows.

(2) They apply as if—

(a) the worker were employed by the person treated as making the deemed direct payment, and

(b) the services were performed, or to be performed, by the worker in the course of performing the duties of that employment.

(3) The deemed direct payment is treated in particular—

(a) as taxable earnings from the employment for the purpose of securing that any deductions under Chapters 2 to 6 of Part 5 do not exceed the deemed direct payment, and

(b) as taxable earnings from the employment for the purposes of section 232.

(4) The worker is not chargeable to tax in respect of the deemed direct payment if, or to the extent that, by reason of any combination of the factors mentioned in subsection (5), the worker would not be chargeable to tax if—

(a) the client employed the worker,

(b) the worker performed the services in the course of that employment, and

(c) the deemed direct payment were a payment by the client of earnings from that employment.

(5) The factors are—

(a) the worker being resident or domiciled outside the United Kingdom or meeting the requirement of section 26A,

(b) the client being resident outside, or not resident in, the United Kingdom, and

(c) the services being provided outside the United Kingdom.

(6) Where the intermediary is a partnership or unincorporated association, the deemed direct payment is treated as received by the worker in the worker's personal capacity and not as income of the partnership or association.

(7) Where—

(a) the client is the person treated as making the deemed direct payment,

(b) the worker is resident in the United Kingdom,

(c) the services are provided in the United Kingdom,

(d) the client is not resident in the United Kingdom, and

(e) the client does not have a place of business in the United Kingdom,

the client is treated as resident in the United Kingdom.

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Deductions from chain payments

61S (1) This section applies if, as a result of section 61R, a person who is treated as making a deemed direct payment is required under PAYE Regulations to pay an amount to the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") in respect of the payment.

(But see subsection (4)).

(2) The person may deduct from the underlying chain payment an amount which is equal to the amount payable to the Commissioners, but where the amount or value of the underlying chain payment is treated by section 61Q(4) as increased by the cost of any amount due under PAYE Regulations, the amount that may be deducted is limited to the difference (if any) between the amount payable to the Commissioners and the amount of that increase.

(3) Where a person in the chain other than the intermediary receives a chain payment from which an amount has been deducted in reliance on subsection (2) or this subsection, that person may deduct the same amount from the chain payment made by them.

(4) This section does not apply in a case to which 61V(2) applies (services-provider treated as making deemed direct payment).

(5) In subsection (2) "the underlying chain payment" means the chain payment whose amount is used at Step 1 of section 61Q(1) as the starting point for calculating the amount of the deemed direct payment.

Information to be provided by clients and consequences of failure

61T (1) If the conditions in section 61M(1)(a) to (c) are met in any case, and a person as part of the arrangements mentioned in section 61M(1)(c) enters into a contract with the client, the client must inform that person (in the contract or otherwise) of which one of the following is applicable—

(a) the client has concluded that the condition in section 61M(1)(d) is met in the case;

(b) the client has concluded that the condition in section 61M(1)(d) is not met in the case.

(2) If the contract is entered into on or after 6 April 2017, the duty under subsection (1) must be complied with—

(a) on or before the time of entry into the contract, or

(b) if the services begin to be performed at a later time, before that later time.

(3) If the contract is entered into before 6 April 2017, the duty under subsection (1) must be complied with on or before the date of the first payment made under the contract on or after 6 April 2017.

(4) If the information which subsection (1) requires the client to give to a person has been given (whether in the contract, as required by subsection (2) or (3) or otherwise), the client must, on a written request by the person, provide the person with a written response to any questions raised by the person about the client's reasons for reaching the conclusion identified in the information.

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(5) A response required by subsection (4) must be provided before the end of 31 days beginning with the day the request for it is received by the client.

(6) If—

(a) the client fails to comply with the duty under subsection (1) within the time allowed by subsection (2) or (3),

(b) the client fails to provide a response required by subsection (4) within the time allowed by subsection (5), or

(c) the client complies with the duty under subsection (1) but fails to take reasonable care in coming to its conclusion as to whether the condition in section 61M(1)(d) is met in the case,

section 61N(3) and (4) have effect in the case as if for any reference to the fee-payer there were substituted a reference to the client, but this is subject to section 61V.

Information to be provided by worker and consequences of failure

61U(1) In the case of an engagement to which this Chapter applies, the worker must inform the potential deemed employer of which one of the following is applicable—

(a) that one of conditions A to C in section 61N is met in the case;

(b) that none of conditions A to C in section 61N is met in the case.

(2) If the worker has not complied with subsection (1) then, for the purposes of section 61N(1), one of conditions A to C in section 61N is to be treated as met.

(3) In this section "the potential deemed employer" is the person who, if one of conditions A to C in section 61N were met, would be treated as making a deemed direct payment to the worker under section 61N(3).

Consequences of providing fraudulent information

61V(1) Subsection (2) applies if in any case—

(a) a person ("the deemed employer") would, but for this section, be treated by section 61N(3) as making a payment to another person ("the services-provider"), and

(b) the fraudulent documentation condition is met.

(2) Section 61N(3) has effect in the case as if the reference to the fee-payer were a reference to the services-provider, but—

(a) section 61N(4) continues to have effect as if the reference to the fee-payer were a reference to the deemed employer, and

(b) Step 1 of section 61Q(1) continues to have effect as referring to the chain payment made by the deemed employer.

(3) Subsection (2) has effect even though that involves the services-provider being treated as both employer and employee in relation to the deemed employment under section 61N(3).

(4) "The fraudulent documentation condition" is that a relevant person provided any person with a fraudulent document intended to constitute evidence—

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(a) that the case is not an engagement to which this Chapter applies, or
(b) that none of conditions A to C in section 61N is met in the case.

(5) A "relevant person" is—
(a) the services-provider;
(b) a person connected with the services-provider;
(c) if the intermediary in the case is a company, an office-holder in that company.

Prevention of double charge to tax and allowance of certain deductions

61W(1) Subsection (2) applies where—
(a) a person ("the payee") receives a payment or benefit ("the end-of-line remuneration") from another person ("the paying intermediary"),
(b) the end-of-line remuneration can reasonably be taken to represent remuneration for services of the payee to a public authority,
(c) a payment ("the deemed payment") has been treated by section 61N(3) as made to the payee,
(d) the underlying chain payment can reasonably be taken to be for the same services of the payee to that public authority, and
(e) the recipient of the underlying chain payment has (whether by deduction from that payment or otherwise) borne the cost of any amounts due, under PAYE regulations and contributions regulations in respect of the deemed payment, from the person treated by section 61N(3) as making the deemed payment.

(2) For income tax purposes, the paying intermediary and the payee may treat the amount of the end-of-line remuneration as reduced (but not below nil) by any one or more of the following—
(a) the amount (see section 61Q) of the deemed payment;
(b) the amount of any capital allowances in respect of expenditure incurred by the paying intermediary that could have been deducted from employment income under section 262 of CAA 2001 if the payee had been employed by the public authority and had incurred the expenditure;
(c) the amount of any contributions made, in the same tax year as the end-of-line remuneration, for the benefit of the payee by the paying intermediary to a registered pension scheme that if made by an employer for the benefit of an employee would not be chargeable to income tax as income of the employee.

(3) Subsection (2)(c)does not apply to—
(a) excess contributions paid and later repaid,
(b) contributions set under subsection (2) against another payment by the paying intermediary, or
(c) contributions deductible at Step 5 of section 54(1) in calculating the amount of the payment (if any) treated by section 50 as made in the tax year concerned by the paying intermediary to the payee.

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(4) For the purposes of subsection (3)(c), the contributions to which Step 5 of section 54(1) applies in the case of the particular calculation are "deductible" at that Step so far as their amount does not exceed the result after Step 4 in that calculation.

(5) In subsection (1)(d) "the underlying chain payment" means the chain payment whose amount is used at Step 1 of section 61Q(1) as the starting point for calculating the amount of the deemed payment.

(6) Subsection (2) applies whether the end-of-line remuneration—
(a) is earnings of the payee,
(b) is a distribution of the paying intermediary, or
(c) takes some other form.

Interpretation

61X In this Chapter—

"associate" has the meaning given by section 60;

"company" means a body corporate or unincorporated association, and does not include a partnership;

"engagement to which Chapter 8 applies" has the meaning given by section 49(5)."

PART 3 U.K.

CONSEQUENTIAL AMENDMENTS

10 In section 7(5)(a) of ITEPA 2003 (amounts treated as earnings by Chapters 7 to 9 of Part 2 are "employment income" and "general earnings"), for "9" substitute " 10 ".

11 In section 49 of ITEPA 2003 (engagements to which Chapter 8 of Part 2 applies), after subsection (4) insert—

"(4A) Holding office as statutory auditor of the client does not count as holding office under the client for the purposes of subsection (1)(c), and here "statutory auditor" means a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (see section 1210 of that Act)."

12 In section 339A of ITEPA 2003 (travel for employment involving intermediaries), after subsection (6) insert—

"(6A) Subsection (3) does not apply in relation to an engagement if—
(a) sections 61N to 61R in Chapter 10 of Part 2 apply in relation to the engagement,
(b) one of Conditions A to C in section 61N is met in relation to the employment intermediary, and
(c) the employment intermediary is not a managed service company.

(6B) This section does not apply in relation to an engagement if—
(a) sections 61N to 61R in Chapter 10 of Part 2 do not apply in relation to the engagement because the circumstances in section 61M(1)(d) are not met,

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(b) assuming those circumstances were met, one of Conditions A to C in section 61N would be met in relation to the employment intermediary, and

(c) the employment intermediary is not a managed service company.

(6C) In determining for the purposes of subsection (6A) or (6B) whether one of Conditions A to C in section 61N is or would be met in relation to the employment intermediary, read references to the intermediary as references to the employment intermediary."

13 In Chapter 11 of Part 2 of ITTOIA 2005 (trade profits: specific trades), after section 164A insert—

"Worker's services provided to public sector through intermediary

164B Intermediaries providing worker's services to public sector

(1) This section applies for the purposes of calculating the trading profits of a person where—

(a) the person is the intermediary in a chain identified under section 61N of ITEPA 2003 (see section 61N(1)(b)),

(b) a deemed direct payment is treated as made under subsection (3) of that section, and

(c) the person receives a payment which can reasonably be taken to be in respect of the same services as those in respect of which the underlying chain payment is made.

(2) The payment mentioned in subsection (1)(c) is not required to be brought into account in calculating the profits of the trade.

(3) In this section "underlying chain payment" means the payment whose amount is used at Step 1 of section 61Q(1) of ITEPA 2003 as the starting point for calculating the amount of the deemed direct payment mentioned in subsection (1)(b)."

14 In Chapter 9 of Part 3 of CTA 2009 (trade profits: specific trades), after section 141 insert—

"Worker's services provided to public sector through intermediary

141A Intermediaries providing worker's services to public sector

(1) This section applies for the purposes of calculating the trading profits of a person where—

(a) the person is the intermediary in a chain identified under section 61N of ITEPA 2003 (see section 61N(1)(b)),

(b) a deemed direct payment is treated as made under subsection (3) of that section, and

(c) the person receives a payment which can reasonably be taken to be in respect of the same services as those in respect of which the underlying chain payment is made.

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(2) The payment mentioned in subsection (1)(c) is not required to be brought into account in calculating the profits of the trade.

(3) In this section "underlying chain payment" means the payment whose amount is used at Step 1 of section 61Q(1) of ITEPA 2003 as the starting point for calculating the amount of the deemed direct payment mentioned in subsection (1)(b)."

PART 4 U.K.

COMMENCEMENT

15 The amendments made in ITEPA 2003 by Parts 1 and 3 of this Schedule have effect for the tax year 2017-18 and subsequent tax years.

16 The amendment made by Part 2 of this Schedule has effect in relation to deemed direct payments treated as made on or after 6 April 2017, and does so even if relating to services provided before that date.

17 The payments to which the amendments made in ITTOIA 2005 and CTA 2009 by Part 3 of this Schedule apply include payments made before the passing of this Act.

SCHEDULE 2 U.K.

Section 7

OPTIONAL REMUNERATION ARRANGEMENTS

Optional remuneration arrangements

1 In Part 3 of ITEPA 2003 (employment income: earnings and benefits etc treated as earnings), in Chapter 2 (taxable benefits: the benefits code), after section 69 insert—

"**69A Optional remuneration arrangements**

(1) Subsections (2) to (7) have effect for the purposes of the benefits code.

(2) A benefit provided for an employee is provided under "optional remuneration arrangements" so far as it is provided under arrangements of type A or B (regardless of whether those arrangements are made before or after the beginning of the person's employment).

(3) "Type A arrangements" are arrangements under which, in return for the benefit, the employee gives up the right (or a future right) to receive an amount of earnings within Chapter 1 of Part 3.

(4) "Type B arrangements" are arrangements (other than type A arrangements) under which the employee agrees to be provided with the benefit rather than an amount of earnings within Chapter 1 of Part 3.

(5) A benefit provided for an employee is to be regarded as provided under optional remuneration arrangements (whether of type A or type B) so far as it is just and reasonable to attribute the provision of the benefit to the arrangements in question.

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(6) Where a benefit is provided for an employee under any arrangements, the mere fact that under the arrangements the employee makes good, or is required to make good, any part of the cost of provision is not to be taken to show that the benefit is (to any extent) provided otherwise than under optional remuneration arrangements.

(7) Where a benefit is provided for an employee partly under optional remuneration arrangements and partly otherwise than under such arrangements, the benefits code is to apply with any modifications (including provision for just and reasonable apportionments) that may be required for ensuring that the benefit is treated—

(a) in accordance with the relevant provision in the column 2 of the table so far as it is provided under optional remuneration arrangements, and

(b) in accordance with the relevant provision in column 1 of the table so far as it is provided otherwise than under such arrangements.

Column 1	***Column 2***
Section	***Section***
81(1)	81(1A)(b)
87(1)	87A(1)(a)
94(1)	94A(1)(a)
102(1A)	102(1B)(b)
120(1)	120A(1)(a)
149(1)	149A(2)(a)
154(1)	154A(1)(a)
160(1)	160A(2)(a)
175(1)	175(1A)(b)
203(1)	203A(1)(a)

69B Optional remuneration arrangements: supplementary

(1) For the purposes of the benefits code "the amount foregone"—

(a) in relation to a benefit provided for an employee under type A arrangements means the amount of earnings mentioned in section 69A(3);

(b) in relation to a benefit provided for an employee under type B arrangements means the amount of earnings mentioned in section 69A(4);

(c) in relation to a benefit provided for an employee partly under type A arrangements and partly under type B arrangements, means the sum of the amounts foregone under the arrangements of each type.

(2) Subsection (3) applies where, in order to determine the amount foregone with respect to a particular benefit mentioned in section 69A(3) or (4), it is necessary to apportion an amount of earnings to the benefit.

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(3) The apportionment is to be made on a just and reasonable basis.

(4) In this section and section 69A references to a benefit provided for an employee include a benefit provided for a member of an employee's family or household.

(5) In this section and section 69A—

"benefit" includes any benefit or facility, regardless of its form and the manner of providing it;

"earnings" means earnings within Chapter 1 of Part 3 (and includes a reference to amounts which would have been such earnings if the employee had received them)."

Benefits in kind: amount treated as earnings

2 Part 3 of ITEPA 2003 (employment income: earnings and benefits in kind etc treated as earnings) is amended as follows.

3 (1) Section 81 (benefit of cash voucher treated as earnings) is amended as follows.

(2) After subsection (1) insert—

"(1A) Where a cash voucher to which this Chapter applies is provided pursuant to optional remuneration arrangements—

(a) subsection (1) does not apply, and

(b) the relevant amount is to be treated as earnings from the employment for the tax year in which the voucher is received by the employee.

(1B) In this section "the relevant amount" means—

(a) the cash equivalent, or

(b) if greater, the amount foregone with respect to the benefit of the voucher (see section 69B)."

(3) At the end insert—

"(3) For the purposes of subsection (1B), assume that the cash equivalent is zero if the condition in subsection (4) is met.

(4) The condition is that the benefit of the voucher would be exempt from income tax but for section 228A (exclusion of certain exemptions)."

4 After section 87 insert—

"**87A Benefit of non-cash voucher treated as earnings: optional remuneration arrangements**

(1) Where a non-cash voucher to which this Chapter applies is provided pursuant to optional remuneration arrangements—

(a) the relevant amount is to be treated as earnings from the employment for the tax year in which the voucher is received by the employee, and

(b) section 87(1) does not apply.

(2) To find the relevant amount, first determine which (if any) is the greater of—

(a) the cost of provision (see section 87(3)), and

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(b) the amount foregone with respect to the benefit of the voucher (see section 69B).

(3) If the cost of provision is greater than or equal to the amount foregone, the "relevant amount" is the cash equivalent of the benefit of the non-cash voucher (see section 87(2)).

(4) Otherwise, the "relevant amount" is the difference between—

(a) the amount foregone, and

(b) any part of the cost of provision that is made good by the employee, to the person incurring it, on or before 6 July following the relevant tax year.

(5) If the voucher is a non-cash voucher other than a cheque voucher, the relevant tax year is—

(a) the tax year in which the cost of provision is incurred, or

(b) if later, the tax year in which the employee receives the voucher.

(6) If the voucher is a cheque voucher, the relevant tax year is the tax year in which the voucher is handed over in exchange for money, goods or services.

(7) For the purposes of subsections (2) and (3), assume that the cost of provision is zero if the condition in subsection (8) is met.

(8) The condition is that the non-cash voucher would be exempt from income tax but for section 228A (exclusion of certain exemptions)."

5 In section 88 (year in which earnings treated as received)—

(a) in subsection (1), after "87" insert " or 87A ";

(b) in subsection (2), after "87" insert " or 87A ".

6 After section 94 insert—

"**94A Benefit of credit-token treated as earnings: optional remuneration arrangements**

(1) If the conditions in subsections (2) and (3) are met in relation to any occasions on which a credit-token to which this Chapter applies is used by the employee in a tax year to obtain money, goods or services—

(a) the relevant amount is to be treated as earnings from the employment for that year, and

(b) section 94(1) does not apply in relation to the use of the credit-token on those occasions.

(2) The condition in this subsection is that the credit-token is used pursuant to optional remuneration arrangements.

(3) The condition in this subsection is that AF is greater than the relevant cost of provision for the tax year.

In this section "AF" means so much of the amount foregone (see section 69B) as is attributable on a just and reasonable basis to the use of the credit-token by the employee in the tax year pursuant to the optional remuneration arrangements to obtain money, goods or services.

(4) The "relevant amount" is the difference between—

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(a) AF, and

(b) any part of the relevant cost of provision for the tax year that is made good by the employee, to the person incurring it, on or before 6 July following the tax year which contains the occasion of use of the credit-token to which the making good relates.

(5) But the relevant amount is taken to be zero if the amount given by paragraph (b) of subsection (4) exceeds AF.

(6) For the purposes of this section the "relevant cost of provision for the tax year" is determined as follows—

Step 1 Find the cost of provision with respect to each occasion of use of the credit-token by the employee in the tax year pursuant to the optional remuneration arrangements to obtain money, goods or services.

Step 2 The total of those amounts is the relevant cost of provision for the tax year.

(7) But the relevant cost of provision for the tax year is to be taken to be zero if the condition in subsection (8) is met.

(8) The condition is that use of the credit token by the employee in the tax year pursuant to the optional remuneration arrangements to obtain money, goods or services would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(9) In this section "cost of provision" has the same meaning as in section 94."

7 In section 97 (living accommodation to which Chapter 5 applies), in subsection (1A)(b), for "the cash equivalent of" substitute " an amount in respect of ".

8 In section 98 (accommodation provided by local authority), in the words before paragraph (a), for "This Chapter" substitute " In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements) ".

9 (1) Section 99 (accommodation provided for performance of duties) is amended as follows.

(2) In subsection (1), for "This Chapter" substitute " In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements) ".

(3) In subsection (2), for "This Chapter" substitute " In section 102 (benefit of accommodation treated as earnings) subsection (1A) ".

10 In section 100 (accommodation provided as result of security threat), in the words before paragraph (a), for "This Chapter" substitute " In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements) ".

11 In section 100A (homes outside UK owned by company etc), in subsection (1), for "This Chapter" substitute " In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements) ".

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12 In section 101 (Chevening House), in the words before paragraph (a), for "This Chapter" substitute " In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements) ".

13 (1) Section 102 (benefit of living accommodation treated as earnings) is amended as follows.

(2) In subsection (1), for the words before paragraph (a) substitute " This section applies if living accommodation to which this Chapter applies is provided in any period ("the taxable period")— ".

(3) The words in subsection (1) from "the cash equivalent" to the end become subsection (1A).

(4) After subsection (1A) insert—

"(1B) If the benefit of the accommodation is provided pursuant to optional remuneration arrangements—

(a) subsection (1A) does not apply, and

(b) the relevant amount is to be treated as earnings from the employment for that tax year."

(5) Omit subsection (2).

(6) At the end insert—

"(4) Section 103A indicates how the relevant amount is determined."

14 In section 103 (method of calculating cash equivalent), in subsection (3), for "102(2)" substitute " 102(1) ".

15 After section 103 insert—

"**103A Accommodation provided pursuant to optional remuneration arrangements: relevant amount**

(1) To find the relevant amount, first determine which (if any) is the greater of—

(a) the modified cash equivalent of the benefit of the accommodation (see sections 105(2A) and 106(2A)), and

(b) the amount foregone with respect to the benefit of the accommodation (see section 69B).

(2) If the amount mentioned in subsection (1)(a) is greater than or equal to the amount mentioned in subsection (1)(b), the "relevant amount" is the cash equivalent of the benefit of the accommodation (see section 103).

(3) Otherwise, the "relevant amount" is the difference between—

(a) the amount foregone with respect to the benefit of the accommodation, and

(b) the deductible amount (see subsections (7) and (8)).

(4) If the amount foregone with respect to the benefit of the accommodation does not exceed the deductible amount, the relevant amount is taken to be zero.

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(5) For the purposes of subsections (1) and (2), assume that the modified cash equivalent of the benefit of the accommodation is zero if the condition in subsection (6) is met.

(6) The condition is that the benefit of the accommodation would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(7) If the cost of providing the living accommodation does not exceed £75,000, the "deductible amount" means any sum made good, on or before 6 July following the tax year which contains the taxable period, by the employee to the person at whose cost the accommodation is provided that is properly attributable to its provision.

(8) If the cost of providing the living accommodation exceeds £75,000, the "deductible amount" means the total of amounts A and B where—

A is equal to so much of MG as does not exceed RV;

B is the amount of any excess rent paid by the employee in respect of the taxable period;

MG is the total of any sums made good, on or before 6 July following the tax year which contains the taxable period, by the employee to the person at whose cost the accommodation is provided that are properly attributable to its provision (in the taxable period);

RV is the rental value of the accommodation for the taxable period as set out in section 105(3) or (4A)(b) (as applicable).

(9) In subsection (8) "excess rent" means so much of the rent in respect of the taxable period paid—

(a) by the employee,

(b) in respect of the accommodation,

(c) to the person providing it, and

(d) on or before 6 July following the tax year which contains the taxable period,

as exceeds the rental value of the accommodation.

(10) Where it is necessary for the purposes of subsection (1)(b) and (3)(a) to apportion an amount of earnings to the benefit of the accommodation in the taxable period, the apportionment is to be made on a just and reasonable basis.

In this subsection "earnings" is to be interpreted in accordance with section 69B(5)."

16 (1) Section 105 (cash equivalent: cost of accommodation not over £75,000) is amended as follows.

(2) In subsection (1), after "equivalent" insert " or modified cash equivalent ".

(3) After subsection (2) insert—

"(2A) The modified cash equivalent is equal to the rental value of the accommodation for the taxable period."

17 (1) Section 106 (cash equivalent: cost of accommodation over £75,000) is amended as follows.

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(2) In subsection (1), after "equivalent" insert " or modified cash equivalent ".

(3) After subsection (2) insert—

"(2A) To calculate the modified cash equivalent—

(a) apply steps 1 to 3 in subsection (2), as if the words "cash equivalent" in step 1 were "modified cash equivalent (for the purposes of section 105)";

(b) calculate the modified cash equivalent by adding together the amounts calculated under steps 1 and 3 as applied by paragraph (a)."

18 (1) Section 109 (priority of Chapter 5 over Chapter 1 of Part 3 of the Act) is amended as follows.

(2) In subsection (1)(a), for "the cash equivalent of the benefit of living accommodation" substitute " an amount ".

(3) In subsection (2), for "of the cash equivalent" substitute " mentioned in subsection (1)(a) ".

(4) In subsection (4), in the words before paragraph (a), for "cash equivalent of the benefit of the living accommodation" substitute " amount mentioned in subsection (1)(a) ".

19 In section 114 (cars, vans and related benefits), in subsection (2)—

(a) in paragraph (a), for "the cash equivalent of" substitute " an amount in respect of ";

(b) in paragraph (b), for "the cash equivalent of" substitute " an amount in respect of ";

(c) in paragraph (c), for "the cash equivalent of" substitute " an amount in respect of ";

(d) in paragraph (d), for "the cash equivalent of" substitute " an amount in respect of ".

20 (1) Section 119 (where alternative to benefit of car or van offered) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies where in a tax year—

(a) a car is made available as mentioned in section 114(1),

(b) the car's CO_2 emissions figure (see sections 133 to 138) does not exceed 75 grams per kilometre, and

(c) an alternative to the benefit of the car is offered."

(3) In the heading, before "car" insert " low emission ".

21 In section 120 (benefit of car treated as earnings), after subsection (3) insert—

"(4) This section is subject to section 120A."

22 After section 120 insert—

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"**120A Benefit of car treated as earnings: optional remuneration arrangements**

(1) Where this Chapter applies to a car in relation to a particular tax year and the conditions in subsection (3) are met—

(a) the relevant amount (see section 121A) is to be treated as earnings from the employment for that tax year, and

(b) section 120(1) does not apply.

(2) In such a case (including a case where the relevant amount is nil) the employee is referred to in this Chapter as being chargeable to tax in respect of the car in the tax year.

(3) The conditions are that—

(a) the car is made available to the employee or member of the employee's household pursuant to optional remuneration arrangements,

(b) the amount foregone (see section 69B) with respect to the benefit of the car for the tax year is greater than the modified cash equivalent of the benefit of the car for the tax year (see section 121B), and

(c) the car's CO_2 emissions figure (see sections 133 to 138) exceeds 75 grams per kilometre."

23 After section 121 insert—

"**121A Optional remuneration arrangements: method of calculating relevant amount**

(1) To find the relevant amount for the purposes of section 120A, take the following steps—

Step 1 Take the amount foregone with respect to the benefit of the car for the tax year.

Step 2 Make any deduction under section 132A in respect of capital contributions made by the employee to the cost of the car or accessories.

The resulting amount is the provisional sum.

Step 3 Make any deduction from the provisional sum under section 144 in respect of payments by the employee for the private use of the car.

The result is the "relevant amount" for the purposes of section 120A.

(2) Where it is necessary, for the purpose of determining the "amount foregone" under step 1 of subsection (1), to apportion an amount of earnings to the benefit of the car for the tax year, the apportionment is to be made on a just and reasonable basis.

In this subsection "earnings" is to be interpreted in accordance with section 69B(5).

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121B Meaning of "modified cash equivalent"

(1) The "modified cash equivalent" of the benefit of a car for a tax year is calculated in accordance with the following steps (which must be read with subsections (2) to (4))—

Step 1 Find the price of the car in accordance with sections 122 to 124A.

Step 2 Add the price of any accessories which fall to be taken into account in accordance with sections 125 to 131.

The resulting amount is the interim sum.

Step 3 Find the appropriate percentage for the car for the year in accordance with sections 133 to 142.

Step 4 Multiply the interim sum by the appropriate percentage for the car for the year.

Step 5 Make any deduction under section 143 for any periods when the car was unavailable.

The resulting amount is the modified cash equivalent of the benefit of the car for the year.

(2) Where the car is shared the modified cash equivalent is calculated under this section in accordance with section 148.

(3) The modified cash equivalent of the benefit of a car for a tax year is to be taken to be zero if the condition in subsection (4) is met.

(4) The condition is that the benefit of the car for the tax year would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(5) The method of calculation set out in subsection (1) is modified in the special cases dealt with in—

(a) section 146 (cars that run on road fuel gas), and

(b) section 147A (classic cars: optional remuneration arrangements)."

24 In section 126 (amounts taken into account in respect of accessories), in subsection (1), in the words before paragraph (a), after "121(1)" insert " and step 2 of section 121B(1) ".

25 (1) Section 131 (replacement accessories) is amended as follows.

(2) In subsection (1), in the words before paragraph (a), after "applies" insert " for the purposes of sections 121(1) and 121B(1) ".

(3) After subsection (1) insert—

"(1A) In the application of this section for the purposes of section 121B(1)—

(a) references to the cash equivalent of the benefit of the car for the tax year are to be read as references to the modified cash equivalent of the benefit of the car for the tax year, and

(b) references to step 2 of section 121(1) are to be read as references to step 2 of section 121B(1)."

26 In section 132 (capital contributions by employee), in subsection (1), in the words before paragraph (a), after "applies" insert " for the purposes of section 121(1) ".

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27 After section 132 insert—

"**132A Capital contributions by employee: optional remuneration arrangements**

(1) This section applies for the purposes of section 121A(1) if the employee contributes a capital sum to expenditure on the provision of—

(a) the car, or

(b) any qualifying accessory which is taken into account in calculating under section 121B the modified cash equivalent of the benefit of the car.

(2) A deduction is to be made from the amount carried forward from step 1 of section 121A(1)—

(a) for the tax year in which the contribution is made, and

(b) for all subsequent tax years in which the employee is chargeable to tax in respect of the car by virtue of section 120A.

(3) The amount of the deduction allowed in any tax year is found by multiplying the capped amount by the appropriate percentage.

(4) In subsection (3) the reference to "the appropriate percentage" is to the appropriate percentage for the car for the tax year (determined in accordance with sections 133 to 142).

(5) In this section "the capped amount" means the lesser of—

(a) the total of the capital sums contributed by the employee in that year and any earlier years to expenditure on the provision of—

(i) the car, or

(ii) any qualifying accessory which is taken into account in calculating under section 121B the modified cash equivalent of the benefit of the car for the tax year in question, and

(b) £5,000.

(6) This section is modified by section 147A (classic cars: optional remuneration arrangements)."

28 (1) Section 143 (deduction for periods when car unavailable) is amended as follows.

(2) Before subsection (1) insert—

"(A1) This section has effect for the purposes of—

(a) section 121(1) (method of calculating the cash equivalent of the benefit of a car), and

(b) section 121B(1) (optional remuneration arrangements: meaning of "modified cash equivalent")."

(3) In subsection (1), after "121(1)" insert " or (as the case may be) step 4 of section 121B(1) ".

(4) In subsection (3), in the definition of "A", at the end insert " of section 121(1) or (as the case may be) step 4 of section 121B(1) ".

29 (1) Section 144 (deduction for payments for private use) is amended as follows.

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(2) In subsection (1), for "calculated under step 7 of section 121(1)" substitute " (see subsection (1A)) ".

(3) After subsection (1) insert

"(1A) In this section "the provisional sum" means the provisional sum calculated under—

(a) step 7 of section 121(1) (method of calculating the cash equivalent of the benefit of a car), or

(b) step 2 of section 121A(1) (optional remuneration arrangements: method of calculating relevant amount)."

(4) In subsection (2), for the words from "so that" to the end substitute "so that—

(a) in a case within subsection (1A)(a), the cash equivalent of the benefit of the car for the year is nil, or

(b) in a case within subsection (1A)(b), the relevant amount for the purposes of section 120A is nil."

(5) In subsection (3)—

(a) for "In any other case" substitute " Where subsection (2) does not apply, " and

(b) for the words from "give" to the end substitute "give—

(a) in a case within subsection (1A)(a), the cash equivalent of the benefit of the car for the year, or

(b) in a case within subsection (1A)(b), the relevant amount for the purposes of section 120A."

30 (1) Section 145 (modification of provisions where car temporarily replaced) is amended as follows.

(2) In subsection (1), for paragraph (c) substitute—

"(c) the employee is chargeable to tax—

(i) in respect of both the normal car and the replacement car by virtue of section 120, or

(ii) in respect of both the normal car and the replacement car by virtue of section 120A, and"."

(3) After subsection (5) insert—

"(6) Where this section applies by virtue of subsection (1)(c)(ii), the condition in subsection (5)(b) is to be taken to be met if it would be met on the assumption that the cash equivalent of the benefit of the cars in question is to be calculated under section 121(1)."

31 (1) Section 146 (cars that run on road fuel gas) is amended as follows.

(2) In subsection (1), in the words before paragraph (a), after "applies" insert " for the purposes of sections 121 and 121B ".

(3) In subsection (2), after "121(1)" insert " or (as the case may be) step 1 of section 121B(1) ".

32 After section 147 insert—

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"**147A Classic cars: optional remuneration arrangements**

(1) This section applies in calculating the relevant amount in respect of a car for a tax year for the purposes of section 120A (benefit of car treated as earnings: optional remuneration arrangements) if—

(a) the age of the car at the end of the year is 15 years or more,

(b) the market value of the car for the year is £15,000 or more, and

(c) that market value exceeds the specified amount (see subsection (4)).

(2) In calculating the modified cash equivalent of the benefit of the car, for the interim sum calculated under step 2 of section 121B(1) substitute the market value of the car for the tax year in question.

(3) Section 132A (capital contributions by employee: optional remuneration arrangements) has effect as if—

(a) in subsection (1)(b) the reference to calculating under section 121B the modified cash equivalent of the benefit of the car were to determining the market value of the car, and

(b) in subsection (5)(a)(ii) the reference to calculating under section 121B the modified cash equivalent of the benefit of the car for the tax year in question were to determining the market value of the car for the tax year in question.

(4) The "specified amount" is found as follows.

Step 1 Find what would be the interim sum under step 2 of section 121B(1) (if subsection (2) of this section did not have effect).

Step 2 (Assuming for this purpose that the reference in section 132(2) to step 2 of section 121(1) includes a reference to step 1 of this subsection) make any deduction under section 132 for capital contributions made by the employee to the cost of the car or accessories.

The resulting amount is the specified amount.

(5) The market value of a car for a tax year is to be determined in accordance with section 147(3) and (4)."

33 (1) Section 148 (reduction of cash equivalent where car is shared) is amended as follows.

(2) In subsection (1)—

(a) in the words before paragraph (a), after "applies" insert " for the purposes of sections 121 and 121B ";

(b) in the words after paragraph (c), for "section 120" substitute " sections 120 and 120A ".

(3) For subsection (2) substitute—

"(2) The amount to be treated as earnings in respect of the benefit of the car is to be calculated separately for each of those employees for that tax year (whether under section 120 or section 120A)."

(4) In subsection (2A), at the beginning insert " In the case of an employee chargeable to tax in respect of the car by virtue of section 120 ".

(5) After subsection (2A) insert—

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"(2B) In the case of an employee chargeable to tax in respect of the car by virtue of section 120A, the modified cash equivalent (as determined under section 121B(1)) is to be reduced on a just and reasonable basis."

34 In section 149 (benefit of car fuel treated as earnings), in subsection (1)(b), at the end insert " or 120A ".

35 After section 149 insert—

"**149A Benefit of car fuel treated as earnings: optional remuneration arrangements**

(1) This section applies if—

(a) fuel is provided for a car in a tax year by reason of an employee's employment,

(b) the employee is chargeable to tax in respect of the car in the tax year by virtue of section 120 or 120A, and

(c) the fuel is provided pursuant to optional remuneration arrangements.

(2) If the condition in subsection (3) is met—

(a) the amount foregone with respect to the benefit of the fuel (see section 69B) is to be treated as earnings from the employment for the tax year, and

(b) section 149(1) does not apply.

(3) The condition mentioned in subsection (2) is that the amount foregone with respect to the benefit of the fuel is greater than the cash equivalent of the benefit of the fuel.

(4) For the purposes of subsection (3), assume that the cash equivalent of the benefit of the fuel is zero if the condition in subsection (5) is met.

(5) The condition mentioned in subsection (4) is that the benefit of the fuel would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(6) References in this section to fuel do not include any facility or means for supplying electrical energy or any energy for a car which cannot in any circumstances emit CO_2 by being driven.

(7) Where it is necessary for the purposes of subsections (2)(a) and (3) to apportion an amount of earnings to the benefit of the fuel in the tax year, the apportionment is to be made on a just and reasonable basis.

In this subsection "earnings" is to be interpreted in accordance with section 69B(5)."

36 In section 154 (benefit of van treated as earnings), after subsection (3) insert—

"(4) This section is subject to section 154A."

37 After section 154 insert—

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"**154A Benefit of van treated as earnings: optional remuneration arrangements**

(1) Where this Chapter applies to a van in relation to a particular tax year and the conditions in subsection (2) are met—

(a) the relevant amount is to be treated as earnings from the employment for that tax year, and

(b) section 154(1) does not apply.

In such a case (including a case where the relevant amount is nil) the employee is referred to in this Chapter as being chargeable to tax in respect of the van in the tax year.

(2) The conditions are that—

(a) the van is made available to the employee or member of the employee's household pursuant to optional remuneration arrangements, and

(b) the amount foregone with respect to the benefit of the van (see section 69B) is greater than the modified cash equivalent of the benefit of the van.

(3) To find the relevant amount for the purposes of this section take the following steps—

Step 1 Take the amount foregone with respect to the benefit of the van for the tax year.

Step 2 Make any deduction under section 158A in respect of payments by the employee for the private use of the van.

The result is the "relevant amount".

(4) In subsection (2) the reference to the "modified cash equivalent" is to the amount which would be the cash equivalent of the benefit of the van (after any reductions under section 156 or 157) if this Chapter had effect the following modifications—

(a) omit paragraph (c) of section 155(8);

(b) omit section 158;

(c) in section 159(2)(b), for "155, 157 and 158" substitute " 155 and 157 ".

(5) For the purposes of subsection (2) assume that the modified cash equivalent of the benefit of the van is zero if the condition in subsection (6) is met.

(6) The condition is that the benefit of the van would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(7) Where it is necessary for the purposes of subsection (2)(b) and step 1 of subsection (3) to apportion an amount of earnings to the benefit of the van in the tax year, the apportionment is to be made on a just and reasonable basis.

In this subsection "earnings" is to be interpreted in accordance with section 69B(5)."

38 After section 158 insert—

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"**158A Van provided pursuant to optional remuneration arrangements: private use**

(1) In calculating the relevant amount under section 154A in relation to a van and a tax year, a deduction is to be made under step 2 of subsection (3) of that section if, as a condition of the van being available for the employee's private use, the employee—

(a) is required in that year to pay (whether by way of deduction from earnings or otherwise) an amount of money for that use, and

(b) pays that amount on or before 6 July following that year.

(2) The amount of the deduction is—

(a) the amount paid as mentioned in subsection (1)(b) by the employee in respect of the year, or

(b) if less, the amount that would reduce the relevant amount to nil.

(3) In this section the reference to the van being available for the employee's private use includes a reference to the van being available for the private use of a member of the employee's family or household."

39 (1) Section 160 (benefit of van fuel treated as earnings) is amended as follows.

(2) In subsection (1)(b), after "154" insert " or 154A ".

(3) At the end insert—

"(5) This section is subject to section 160A."

40 After section 160 insert—

"**160A Benefit of van fuel treated as earnings: optional remuneration arrangements**

(1) This section applies if—

(a) fuel is provided for a van in a tax year by reason of an employee's employment,

(b) the benefit of the fuel is provided pursuant to optional remuneration arrangements, and

(c) the employee is chargeable to tax in respect of the van in the tax year by virtue of section 154 or 154A.

(2) If the condition in subsection (3) is met—

(a) the amount foregone with respect to the benefit of the fuel (see section 69B) is to be treated as earnings from the employment for that year, and

(b) section 160(1) does not apply.

(3) The condition mentioned in subsection (2) is that the amount foregone with respect to the benefit of the fuel is greater than the cash equivalent of the benefit of the fuel.

(4) For the purposes of subsection (3), assume that the cash equivalent of the benefit of the fuel is zero if the condition mentioned in subsection (5) is met.

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(5) The condition mentioned in subsection (4) is that the benefit of the fuel would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(6) Where it is necessary for the purposes of subsections (2)(a) and (3) to apportion an amount of earnings to the benefit of the fuel in the tax year, the apportionment is to be made on a just and reasonable basis.

In this subsection "earnings" is to be interpreted in accordance with section 69B(5)."

41 In section 170 (orders etc relating to Chapter 6 of Part 3), in subsection (1)—

(a) after paragraph (c) insert—

"(ca) section 132A(5)(b) (corresponding provision with respect to optional remuneration arrangements),";

(b) omit "or" at the end of paragraph (d);

(c) after paragraph (e) insert ", or

(f) section 147A(1)(b) (classic car: minimum value: optional remuneration arrangements)."

42 In section 173 (loans to which Chapter 7 applies), in subsection (1A)(b), for the words from "provide" to the end substitute " make provision about amounts which, in the case of a taxable cheap loan, are to be treated as earnings in certain circumstances ".

43 In section 175 (benefit of taxable cheap loan treated as earnings), for subsection (1) substitute—

"(A1) This section applies where an employment-related loan is a taxable cheap loan in relation to a tax year.

(1) The cash equivalent of the benefit of the loan is to be treated as earnings from the employee's employment for the tax year.

(1A) If the benefit of the loan is provided pursuant to optional remuneration arrangements and the condition in subsection (1B) is met—

(a) subsection (1) does not apply, and

(b) the relevant amount (see section 175A) is to be treated as earnings from the employee's employment for the tax year.

(1B) The condition is that the amount foregone with respect to the benefit of the loan for the tax year (see section 69B) is greater than the modified cash equivalent of the benefit of the loan for the tax year (see section 175A)."

44 (1) After section 175 insert—

"**175A Optional remuneration arrangements: "relevant amount" and "modified cash equivalent"**

(1) In section 175(1A) "the relevant amount", in relation to a loan the benefit of which is provided pursuant to optional remuneration arrangements, means the difference between—

(a) the amount foregone (see section 69B) with respect to the benefit of the loan, and

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(b) the amount of interest (if any) actually paid on the loan for the tax year.

(2) For the purposes of section 175 the "modified cash equivalent" of the benefit of an employment-related loan for a tax year is the amount which would be the cash equivalent if section 175(3) had effect with the following modifications—

(a) in the opening words, omit "the difference between";

(b) omit paragraph (b) and the "and" before it.

(3) But the modified cash equivalent of the benefit of the loan is to be taken to be zero if the condition in subsection (4) is met.

(4) The condition is that the benefit of the loan for the tax year would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(5) For the purpose of calculating the modified cash equivalent of the benefit of an employment-related loan, assume that section 186(2) (replacement loans: aggregation) and section 187(3) (aggregation of loans by close company to a director) do not have effect.

(6) Where it is necessary for the purposes of section 175(1B) and subsection (1) of this section to apportion an amount of earnings to the benefit of the loan for the tax year, the apportionment is to be made on a just and reasonable basis.

In this subsection "earnings" is to be interpreted in accordance with section 69B(5)."

45 In section 180 (threshold for benefit of loan to be treated as earnings), in subsection (1), for the words before paragraph (a) substitute " Section 175 does not have effect in relation to an employee and a tax year— ".

46 In section 184 (interest treated as paid), in subsection (1), for the words from "the cash equivalent" to the end substitute "—

(a) the cash equivalent of the benefit of a taxable cheap loan is treated as earnings from an employee's employment for a tax year under section 175(1), or

(b) the relevant amount in respect of the benefit of a taxable cheap loan is treated as earnings from an employee's employment for a tax year under section 175(1A)."

47 In section 202 (excluded benefits), after subsection (1) insert—

"(1A) But a benefit provided to an employee or member of an employee's family or household is to be taken not to be an excluded benefit by virtue of subsection (1)(c) so far as it is provided under optional remuneration arrangements."

48 After section 203 insert—

"**203A Employment-related benefit provided under optional remuneration arrangements**

(1) Where an employment-related benefit is provided pursuant to optional remuneration arrangements—

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(a) the relevant amount is to be treated as earnings from the employment for the tax year in which the benefit is provided, and

(b) section 203(1) does not apply.

(2) To find the relevant amount, first determine which (if any) is the greater of—

(a) the cost of the employment-related benefit, and

(b) the amount foregone with respect to the benefit (see section 69B).

(3) If the cost of the employment-related benefit is greater than or equal to the amount foregone, the "relevant amount" is the cash equivalent (see section 203(2)).

(4) Otherwise, the "relevant amount" is—

(a) the amount foregone with respect to the employment-related benefit, less

(b) any part of the cost of the benefit made good by the employee, to the persons providing the benefit, on or before 6 July following the tax year in which it is provided.

(5) For the purposes of subsections (2) and (3), assume that the cost of the employment-related benefit is zero if the condition in subsection (6) is met.

(6) The condition is that the employment-related benefit would be exempt from income tax but for section 228A (exclusion of certain exemptions).

(7) Where it is necessary for the purposes of subsections (2)(b) and (4) to apportion an amount of earnings to the benefit provided in the tax year, the apportionment is to be made on a just and reasonable basis.

In this subsection "earnings" is to be interpreted in accordance with section 69B(5)."

Exemptions

49 In Part 4 of ITEPA 2003 (employment income: exemptions), after section 228 insert—

"**228A General exclusion from exemptions: optional remuneration arrangements**

(1) A relevant exemption does not apply (whether to prevent liability to income tax from arising or to reduce liability to income tax) in respect of a benefit or facility so far as the benefit or facility is provided pursuant to optional remuneration arrangements.

(2) For the purposes of subsection (1) it does not matter whether the relevant exemption would (apart from that subsection) have effect as an employment income exemption or an earnings-only exemption.

(3) For the purposes of this section an exemption conferred by this Part is a "relevant exemption" unless it is—

(a) a special case exemption (see subsection (4)), or

(b) an excluded exemption (see subsection (5)).

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(4) "Special case exemption" means an exemption conferred by any of the following provisions—

(a) section 289A (exemption for paid or reimbursed expenses);

(b) section 289D (exemption for other benefits);

(c) section 308B (independent advice in respect of conversions and transfers of pension scheme benefits);

(d) section 312A (limited exemption for qualifying bonus payments);

(e) section 317 (subsidised meals);

(f) section 320C (recommended medical treatment);

(g) section 323A (trivial benefits provided by employers).

(5) "Excluded exemption" means an exemption conferred by any of the following provisions—

(a) section 239 (payments and benefits connected with taxable cars and vans and exempt heavy goods vehicles);

(b) section 244 (cycles and cyclist's safety equipment);

(c) section 266(2)(c) (non-cash voucher regarding entitlement to exemption within section 244);

(d) section 270A (limited exemption for qualifying childcare vouchers);

(e) section 307 (death or retirement provision), so far as relating to provision made for retirement benefits;

(f) section 308 (exemption of contribution to registered pension scheme);

(g) section 308A (exemption of contributions to overseas pension scheme);

(h) section 308C (provision of pensions advice);

(i) section 309 (limited exemptions for statutory redundancy payments);

(j) section 310 (counselling and other outplacement services);

(k) section 311 (retraining courses);

(l) section 318 (childcare: exemption for employer-provided care);

(m) section 318A (childcare: limited exemption for other care).

(6) In subsection (5) "retirement benefit" has the meaning that would be given by subsection (2) of section 307 if "or death" were omitted in both places where it occurs in that subsection.

(7) In this section "benefit or facility" includes anything which constitutes employment income or in respect of which employment income is treated as arising to the employee (regardless of its form and the manner of providing it).

(8) In this section "optional remuneration arrangements" has the same meaning as in the benefits code (see section 69A).

(9) The Treasury may by order amend subsections (4) and (5) by adding or removing an exemption conferred by Part 4."

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Other amendments

50 (1) Section 19 of ITEPA 2003 (receipt of non-money earnings) is amended as follows.

(2) In subsection (2), after "94" insert " or 94A ".

(3) In subsection (3), after "87" insert " or 87A ".

51 In section 95 of ITEPA 2003 (disregard for money, goods or services obtained), in subsection (1), in the words before paragraph (a), after "credit-token" insert " or the relevant amount in respect of a cash voucher, a non-cash voucher or a credit-token ".

52 (1) In section 236 of ITEPA 2003 (interpretation of Chapter 2 of Part 4: exemptions for mileage allowance relief etc), in subsection (2)(b)—

(a) in the words before sub-paragraph (i), for "the cash equivalent of" substitute " an amount in respect of ";

(b) in sub-paragraph (i), after "120" insert " or 120A ";

(c) in sub-paragraph (ii), after "154" insert " or 154A ";

(d) in sub-paragraph (iii), after "203" insert " or 203A ".

(2) In section 236 of ITEPA 2003 (interpretation of Chapter 2 of Part 4), in subsection (2)(c), for "the cash equivalent of" substitute " an amount in respect of ".

53 (1) Section 239 of ITEPA 2003 (payments and benefits connected with taxable cars and vans etc) is amended as follows.

(2) In subsection (3)—

(a) after "149" insert " or 149A ";

(b) after "160" insert " or 160A ".

(3) In subsection (6), for "the cash equivalent of" substitute " an amount (whether the cash equivalent or the relevant amount) in respect of ".

54 In section 362 of ITEPA 2003 (deductions where non-cash voucher provided), in subsection (1)(a), for "87(1) (cash equivalent" substitute " 87(1) or 87A(1) (amount in respect ".

55 In section 318A of ITEPA 2003 (childcare: limited exemption for other care), in subsection (1)(b), for "cash equivalent of the benefit" substitute " amount treated as earnings in respect of the benefit by virtue of section 203(1) or 203A(1) (as the case may be) ".

56 In section 363 of ITEPA 2003 (deductions where credit-token provided), in subsection (1)(a), for "94(1) (cash equivalent" substitute " 94(1) or 94A(1) (amount in respect ".

57 In section 693 of ITEPA 2003 (cash vouchers), in subsection (1), for "section 81(2)" substitute " subsection (2) of, or (as the case may be) referred to in subsection (1A)(b) of, section 81 ".

58 In section 694 of ITEPA 2003 (non-cash vouchers), in subsection (1), after "87(2)" insert " or 87A(4) ".

59 In section 695 of ITEPA 2003 (benefit of credit-token treated as earnings), after subsection (1) insert—

"(1A) If the credit-token is provided pursuant to optional remuneration arrangements, the reference in subsection (1) to the amount ascertained under section 94(2) is to be read as a reference to what that amount

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would be were the credit-token provided otherwise than pursuant to optional remuneration arrangements.

In this subsection "optional remuneration arrangements" is to be interpreted in accordance with section 69A."

60 In Part 2 of Schedule 1 to ITEPA 2003 (index of defined expressions), at the appropriate places insert—

"amount foregone (in relation to a benefit) (in the benefits code)	section 69B"
"optional remuneration arrangements (in the benefits code)	section 69A"

61 In Part 2 of Schedule 1 to ITEPA 2003 (index of defined expressions), in the entry relating to "the taxable period", for "102(2)" substitute " 102(1) ".

Commencement and transitional provision

62 (1) The amendments made by paragraphs 1, 52(1)(a) and (2) and 60 of this Schedule have effect for the tax year 2017-18 and subsequent tax years.

(2) The amendments made by paragraphs 2 to 51, 52(1)(b) to (d), 53 to 59 and 61 of this Schedule have effect for the tax year 2017-18 and subsequent tax years.

(3) In relation to a benefit provided pursuant to pre-6 April 2017 arrangements, the amendment made by paragraph 49 has effect for the tax year 2018-19 and subsequent tax years.

(4) In relation to a benefit provided pursuant to pre-6 April 2017 arrangements, the amendments made by paragraphs 7 to 41, 52(1)(b) and (c), 53 and 61 (and paragraph 2, so far as relating to those paragraphs) have effect for the tax year 2021-22 and subsequent tax years.

(5) In relation to a benefit provided pursuant to pre-6 April 2017 arrangements, the amendments made by paragraphs 3 to 6, 42 to 48, 50, 51, 52(1)(d) and 54 to 59 (and paragraph 2, so far as relating to those paragraphs) have effect for the tax year 2018-19 and subsequent tax years (but see sub-paragraph (10)).

(6) If any terms of a pre-6 April 2017 arrangement which relate to the provision of a particular benefit are varied on or after 6 April 2017, that benefit is treated, with effect from the beginning of the day on which the variation takes effect, as not being provided pursuant to pre-6 April 2017 arrangements for the purposes of this paragraph.

(7) If pre-6 April 2017 arrangements are renewed on or after 6 April 2017, this paragraph has effect as if those arrangements were entered into at the beginning of the day on which the renewal takes effect (and are distinct from the arrangements existing immediately before that day).

(8) In sub-paragraph (6) the reference to variation does not include any variation which is required in connection with accidental damage to a benefit provided under the arrangements, or otherwise for reasons beyond the control of the parties to the arrangements.

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(9) In sub-paragraph (6) the reference to variation does not include any variation which occurs in connection with a person's entitlement to statutory sick pay, statutory maternity pay, statutory adoption pay, statutory paternity pay **[**F29, statutory shared parental pay or statutory parental bereavement pay**]**.

(10) In relation to relevant school fee arrangements which were entered into before 6 April 2017—

(a) sub-paragraph (5) is to be read as if it did not include a reference to paragraph 48;

(b) the amendment made by paragraph 48 has effect for the tax year 2021-22 and subsequent tax years.

(11) Relevant school fee arrangements to which an employee is a party ("the continuing arrangements") are to be regarded for the purposes of this paragraph as the same arrangements as any relevant school fee arrangements to which the employee was previously a party ("the previous arrangements") if the continuing arrangements and the previous arrangements relate—

(a) to employment with the same employer,

(b) to the same school, and

(c) to school fees in respect of the same child.

(12) Sub-paragraphs (6) and (7) do not have effect in relation to relevant school fee arrangements.

(13) If a non-cash voucher is provided under pre-6 April 2017 arrangements and is used to obtain anything (whether money, goods or services) that is provided on or after 6 April 2018 ("delayed benefits"), so much of the benefit of the voucher as it is reasonable to regard as being applied to obtain the delayed benefits is to be treated for the purposes of this paragraph as not having been provided pursuant to pre-6 April 2017 arrangements.

(14) For the purposes of this paragraph arrangements are "relevant school fee arrangements" if the benefit mentioned in section 69A(1) of ITEPA 2003 consists in the payment or reimbursement (in whole or in part) of, or a waiver or reduction of, school fees.

(15) In this paragraph—

"arrangements" means optional remuneration arrangements (as defined in section 69A of ITEPA 2003);

"benefit" includes any benefit or facility, regardless of the manner of providing it;

"non-cash voucher" has the same meaning as in Chapter 4 of Part 3 of ITEPA 2003;

"pre-6 April 2017 arrangements" means arrangements which are entered into before 6 April 2017.

Textual Amendments

F29 Words in Sch. 2 para. 62(9) substituted (retrospectively) by Finance Act 2021 (c. 26), **s. 27(1)(2)**

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SCHEDULE 3 U.K.

Section 9

OVERSEAS PENSIONS

PART 1 U.K.

REGISTERED PENSION SCHEMES ESTABLISHED OUTSIDE THE UK

1 (1) In Chapter 5A of Part 4 of FA 2004 (registered pension schemes established outside the UK), after section 242B (inserted by Schedule 4 to this Act) insert—

"**242C Application of this Part to non-UK registered schemes**

(1) This Part (so far as would not otherwise be the case) is to be read—

(a) as applying in relation to UK-relieved funds of a non-UK registered scheme as it applies in relation to sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme established in the United Kingdom,

(b) as applying in relation to a non-UK registered scheme, so far as the scheme relates to the scheme's UK-relieved funds, as it applies in relation to a registered pension scheme established in the United Kingdom,

(c) as applying in relation to members of a non-UK registered scheme, so far as their rights under the scheme are represented by UK-relieved funds of the scheme, as it applies in relation to members of a registered pension scheme established in the United Kingdom, and

(d) as applying to relevant contributions to a non-UK registered scheme as it applies in relation to contributions to a registered pension scheme established in the United Kingdom.

(2) Subsection (1) has effect subject to, and in accordance with, the following provisions of this Chapter.

(3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make—

(a) provision elucidating the application of, or supplementing, subsection (1) or other provisions of this Chapter, or

(b) where relief from tax is involved, other provision for or in connection with the application of this Part where the interpretative presumption against extra-territorial application means that it would otherwise not apply.

(4) Regulations under subsection (3) may (in particular)—

(a) amend provisions of or made under—

(i) this Part, or

(ii) any other enactment related to taxation in connection with pensions, and

(b) make consequential amendments of provisions of, or made under, any enactment.

(5) See section 242B for the meaning of "UK-relieved funds" and "relevant contribution".

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242D Non-UK registered schemes: annual allowance charge

(1) This section is about the application of the provisions of this Part relating to the annual allowance charge.

(2) Pension input amounts in respect of arrangements relating to an individual under a non-UK registered scheme are to be taken into account in applying the provisions for a tax year in relation to the individual only if, in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, relieved inputs are to be taken to have been made in respect of the individual under the scheme in the year.

242E Investment-regulated non-UK registered schemes

For the purposes of the application of the taxable property provisions in relation to a non-UK registered scheme, property is taxable property in relation to the scheme if it would be taxable property in relation to the scheme were the scheme a registered pension scheme established in the United Kingdom."

(2) The amendment made by this paragraph has effect for the tax year 2017-18 and subsequent tax years.

PART 2 U.K.

INCOME TAX ON PENSION INCOME

UK residents to be taxed on 100%, not 90%, of foreign pension income

2 (1) Omit section 575(2) of ITEPA 2003 (foreign pensions received by UK residents: taxable amount is 90% of actual amount).

(2) Omit section 613(3) of ITEPA 2003 (annuities from non-UK sources: taxable amount is 90% of actual amount).

(3) Omit section 635(3) of ITEPA 2003 (foreign voluntary annual payments: taxable amount is 90% of actual amount).

(4) In consequence—

(a) in section 575 of ITEPA 2003—

(i) in subsection (1) omit ", (2)";

(ii) in subsection (1A), for "subsections (2) and" substitute " subsection ";

(iii) in subsection (3), for "That pension income" substitute " The full amount of the pension income arising in the tax year, or (as the case may be) the UK part of the tax year, ";

(iv) in subsection (3), for "that Act" substitute " ITTOIA 2005 ";

(b) in section 613 of ITEPA 2003—

(i) in subsection (2), for "subsections (3) and" substitute " subsection ";

(ii) in subsection (4), for "that Act" substitute " ITTOIA 2005 ";

(c) in section 635 of ITEPA 2003—

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(i) in subsection (2), for "subsections (3) and" substitute " subsection ";

(ii) in subsection (4), for "That pension income" substitute " The full amount of the pension income arising in the tax year ";

(iii) in subsection (4), for "that Act" substitute " ITTOIA 2005 ";

(d) in Schedule 45 to FA 2013 omit paragraph 72(4).

(5) In sections 613(5) and 635(5) of ITEPA 2003 (application of section 839 of ITTOIA 2005 in certain cases), for "condition B" substitute " conditions B1 and B2 (and the reference to them in subsection (1)) ".

(6) The amendments made by this paragraph have effect for the tax year 2017-18 and subsequent tax years, subject to sub-paragraph (7).

(7) The amendments in section 575 of ITEPA 2003, so far as they relate to relevant withdrawals, have effect in relation to relevant withdrawals paid in or after the tax year 2017-18; and here "relevant withdrawal" has the meaning given by section 576A of ITEPA 2003.

Superannuation funds to which section 615(3) of ICTA applies

3 (1) Section 615 of ICTA (trust funds for pensions in respect of employment outside UK) is amended as follows.

(2) In subsection (6)—

(a) in paragraph (b), omit the final "and";

(b) in paragraph (c), at the end insert " and ";

(c) after paragraph (c) insert—

"(d) meets the benefit accrual condition (see subsection (6A));".

(3) After subsection (6) insert—

"(6A) The benefit accrual condition is—

(a) that, in the case of any money purchase arrangement relating to a member of the fund that is not a cash balance arrangement, no contributions are made under the arrangement on or after 6 April 2017;

(b) that, in the case of any cash balance arrangement relating to a member of the fund, there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement;

(c) that, in the case of any defined benefits arrangement relating to a member of the fund, there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement; and

(d) that, in the case of any arrangement relating to a member of the fund that is neither a money purchase arrangement nor a defined benefits arrangement—

(i) no contributions are made under the arrangement on or after 6 April 2017, and

(ii) there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement.

(6B) For the purposes of subsection (6A)(b)—

(a) whether there is an increase in the value of a person's rights is to be determined by reference to whether there is an increase in the

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amount that would, on the valuation assumptions, be available for the provision of benefits under the arrangement to or in respect of the person (and, if there is, the amount of the increase), but

(b) in the case of rights that accrued to a person before 6 April 2017, ignore increases in the value of the rights if in no tax year do they exceed the relevant percentage.

(6C) For the purposes of subsection (6A)(c)—

(a) whether there is an increase in the value of a person's rights is to be determined by reference to whether there is an increase in the benefits amount as defined by paragraph 14(7) of Schedule 18 to the Finance Act 2011, but

(b) in the case of rights that accrued to a person before 6 April 2017, ignore increases in the value of the rights if in no tax year do they exceed the relevant percentage.

(6D) For the purposes of subsection (6A)(d)(ii), regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision—

(a) for determining whether there is an increase in the value of a person's rights,

(b) for determining the amount of any increase, and

(c) for ignoring the whole or part of any increase;

and regulations under this subsection may make provision having effect in relation to times before the regulations are made.

(6E) In this section, "relevant percentage", in relation to a tax year, means—

(a) where, on 20 March 2017, the rules of the fund include provision for the value of the rights of a person to increase during the tax year at an annual rate specified in those rules, that rate, or

(b) in any other case, the percentage by which the consumer prices index for September in the previous tax year is higher than it was for the September in the tax year before that (or, if greater, 0%).

(6F) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—

(a) so as to change, or modify the effect of, the benefit accrual condition;

(b) as to the matters to be taken into account in determining whether the benefit accrual condition is met;

(c) for a superannuation fund to be treated to any extent as meeting or not meeting the benefit accrual condition.

(6G) Provision under subsection (6D) or (6F) may be made by amending this section."

(4) In subsection (7)—

(a) for "In this section—" substitute "For the purposes of this section—

"arrangement", in relation to a member of a superannuation fund, means an arrangement relating to the member under the fund;

a money purchase arrangement relating to a member of a superannuation fund is a "cash balance arrangement" at any time if,

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at that time, all the benefits that may be provided to or in respect of the member under the arrangement are cash balance benefits;

an arrangement relating to a member of a superannuation fund is a "defined benefits arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are defined benefits;

an arrangement relating to a member of a superannuation fund is a "money purchase arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are money purchase benefits;

"cash balance benefits", "defined benefits" and "money purchase benefits" have the meaning given by section 152 of the Finance Act 2004, but for this purpose reading references in that section to a pension scheme as references to a superannuation fund;

"member", in relation to a superannuation fund, has the meaning given by section 151 of the Finance Act 2004, but for this purpose reading references in that section to a pension scheme as references to a superannuation fund;";

(b) at the end insert—

""the valuation assumptions" has the meaning given by section 277 of the Finance Act 2004."

(5) After subsection (10) insert—

"(11) Where the conditions in subsection (6)(a) to (c) are met in the case of a superannuation fund ("the actual fund")—

(a) any disqualifying contributions made under an arrangement relating to a member of the actual fund are treated for the purposes of the Income Tax Acts as instead made under an arrangement relating to the member under a separate superannuation fund ("the shadow fund" for the actual fund),

(b) any disqualifying increase in the value of a person's rights under an arrangement relating to a member of the actual fund is treated for the purposes of the Income Tax Acts as instead being an increase under an arrangement relating to the member under the shadow fund for the actual fund, and

(c) any reference in this or any other Act (including the reference in subsection (3) and any reference enacted after the coming into force of this subsection) to a fund, or superannuation fund, to which subsection (3) applies does not include so much of the actual fund as—

(i) represents any contribution treated as made under, or any increase in the value of any rights treated as an increase under, the shadow fund of the actual fund or the shadow fund of any other superannuation fund, or

(ii) arises, or (directly or indirectly) derives, from anything within sub-paragraph (i) or this sub-paragraph.

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(12) For the purposes of subsection (11) a contribution, or an increase in the value of any rights, is "disqualifying" if it would (ignoring that subsection) cause the benefit accrual condition not to be met in the case of the actual fund.

(13) For the purposes of the provisions of this section relating to the benefit accrual condition, where there is a recognised transfer—

(a) any transfer of sums or assets to the recipient fund by the recognised transfer is to be categorised as not being "a contribution" to the recipient fund, and

(b) any increase in the value of rights under the recipient fund that occurs at the time of the recognised transfer is to be treated as not being an increase in that value if the increase is solely a result of the transfer effected by the recognised transfer.

(14) For the purposes of subsection (13), where there is a transfer such that sums or assets held for the purposes of, or representing accrued rights under, an arrangement relating to a member of a superannuation fund ("the transferor fund") are transferred so as to become held for the purposes of, or to represent rights under, an arrangement relating to that person as a member of another superannuation fund, the transfer is a "recognised transfer" if—

(a) the conditions in subsection (6)(a) to (c) are met in the case of each of the funds, and

(b) none of the sums and assets transferred—

(i) represents any contribution treated as made under, or any increase in the value of any rights treated as an increase under, the shadow fund of the transferor fund or the shadow fund of any other superannuation fund, or

(ii) arises, or (directly or indirectly) derives, from anything within sub-paragraph (i) or this sub-paragraph."

(6) The amendments made by this paragraph are to be treated as having come into force on 6 April 2017.

PART 3 U.K.

LUMP SUMS FOR UK RESIDENTS FROM FOREIGN PENSION SCHEMES

Introductory

4 ITEPA 2003 is amended as follows.

Employer-financed retirement benefit schemes: ending of foreign-service relief

5 (1) Section 395B (exemption or reduction for foreign service) is amended as follows.

(2) In subsection (1) (conditions for entitlement to exemption or reduction), after paragraph (c) insert—

"(ca) the recipient is not resident in the United Kingdom in the tax year in which the lump sum is received,".

(3) In subsection (8) (meaning of "foreign service"), for "413(2)" substitute " 395C ".

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(4) The amendments made by this paragraph have effect for the tax year 2017-18 and subsequent tax years.

6 After section 395B insert—

"**395C Meaning of "foreign service" in section 395B**

(1) In section 395B "foreign service" means service to which subsection (2), (3), (6) or (8) applies.

(2) This subsection applies to service in or after the tax year 2013–14—

(a) to the extent that it consists of duties performed outside the United Kingdom in respect of which earnings would not be relevant earnings, or

(b) if a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings).

(3) This subsection applies to service in or after the tax year 2003–04 but before the tax year 2013–14 such that—

(a) any earnings from the employment would not be relevant earnings, or

(b) a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings).

(4) In subsection (2) "relevant earnings" means earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year.

(5) In subsection (3) "relevant earnings" means—

(a) for service in or after the tax year 2008–09, earnings—

(i) which are for a tax year in which the employee is ordinarily UK resident,

(ii) to which section 15 applies, and

(iii) to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year, and

(b) for service before the tax year 2008–09, general earnings to which section 15 or 21 as originally enacted applies.

(6) This subsection applies to service before the tax year 2003–04 and after the tax year 1973–74 such that—

(a) the emoluments from the employment were not chargeable under Case I of Schedule E, or would not have been so chargeable had there been any, or

(b) a deduction equal to the whole amount of the emoluments from the employment was or would have been allowable under a foreign earnings deduction provision.

(7) In subsection (6) "foreign earnings deduction provision" means—

(a) paragraph 1 of Schedule 2 to FA 1974,

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(b) paragraph 1 of Schedule 7 to FA 1977, or

(c) section 192A or 193(1) of ICTA.

(8) This subsection applies to service before the tax year 1974-75 such that tax was not chargeable in respect of the emoluments of the employment—

(a) in the tax year 1956–57 or later, under Case I of Schedule E, or

(b) in earlier tax years, under Schedule E,

or it would not have been so chargeable had there been any such emoluments."

7 In section 554Z4 (treatment of relevant step: residence issues), after subsection (6) insert—

"(7) Subsections (8) and (9) apply if—

(a) the relevant step is the payment of a lump sum,

(b) the payment of the lump sum is the provision of a relevant benefit under an employer-financed retirement benefits scheme, and

(c) the person by whom the lump sum is received is resident in the United Kingdom in the tax year in which the lump sum is received.

(8) If the lump sum is wholly in respect of rights which have accrued on or after 6 April 2017, there is no reduction under subsection (4).

(9) If the lump sum is wholly or partly in respect of rights which accrued before 6 April 2017, the amount of any reduction under subsection (4) is given by—

$$R \times \frac{A}{\mathrm{LS}}$$

where—

A is so much of the lump sum as is in respect of rights which accrued before 6 April 2017,

LS is the amount of the lump sum, and

R is the amount which (ignoring this subsection) is given by subsection (4) as the amount of the reduction.

(10) In subsection (7)—

"employer-financed retirement benefits scheme" has the same meaning as in Chapter 2 of Part 6 (see section 393A), and

"relevant benefit" has the same meaning as in that Chapter (see section 393B)."

Lump sums under other foreign schemes

8 In section 573 (foreign pensions), after subsection (3) insert—

"(4) This section also applies to a pension paid by or on behalf of a person who is outside the United Kingdom to a person who is not resident in the United Kingdom if—

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(a) the pension is a relevant lump sum paid under a pension scheme to that person in respect of a member of the scheme, and

(b) the member is, or immediately before the member's death was, resident in the United Kingdom."

9 In section 574(1) (foreign pensions: meaning of "pension"), after paragraph (a) insert—

"(aa) a relevant lump sum (see section 574A),".

10 (1) After section 574 insert—

"**574A "Pension": relevant lump sums**

(1) A lump sum paid under a pension scheme to a member of the scheme, or to a person in respect of a member of the scheme, is "a relevant lump sum" for the purposes of this Chapter if—

(a) the scheme is none of the following—

(i) a registered pension scheme,

(ii) a relevant non-UK scheme, and

(iii) an employer-financed retirement benefits scheme established in the United Kingdom, and

(b) the payment of the lump sum is not a relevant step by reason of which Chapter 2 of Part 7A applies.

(2) A lump sum paid under a relevant non-UK scheme to a member of the scheme, or to a person in respect of a member of the scheme, is "a relevant lump sum" for the purposes of this Chapter if the effect of paragraphs 1 to 7 of Schedule 34 to FA 2004 is that the member payment provisions (see paragraph 1(4) of that Schedule) do not apply in relation to the payment of the lump sum.

(3) If section 573 applies to a relevant lump sum then, for the purposes of section 575, the full amount of the pension income arising by reason of the payment of the lump sum is the amount of the lump sum, reduced as follows—

Step 1 Deduct so much of the lump sum as is payable by reason of commutation of rights to receive pension income on which no liability to tax arises as a result of any provision of Chapter 17 of this Part.

Step 2 Where the lump sum is paid under a pension scheme that was an employer-financed retirement benefits scheme immediately before 6 April 2017, deduct so much of the lump sum left after Step 1 as is deductible in accordance with subsection (6). Where the lump sum is paid otherwise than under such a scheme, deduct so much of the lump sum left after Step 1 as is paid in respect of the value immediately before 6 April 2017 of rights, accrued by then, specifically to receive benefits by way of lump sum payments.

Step 3 If the lump sum is paid under an overseas pension scheme, deduct so much of the lump sum left after Step 2 as would, if the scheme were a registered pension scheme, not be liable to income tax under this Part. For the purposes of this Step—

(a) treat amounts not included in taxable pension income because of section 636B(3) as being not liable to tax;

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(b) assume that all or part of the member's lifetime allowance is available.

(4) The amount given by subsection (3) is treated for the purposes of section 575 as arising when the lump sum is paid.

(5) The Commissioners may by regulations make provision (including provision amending this section) as to the assumptions to be made for the purposes of Step 3.

(6) These rules apply for the purposes of the first sentence of Step 2—

(a) "the post-Step 1 amount" means so much of the lump sum as is left after Step 1;

(b) "the relevant amount" means so much of the post-Step 1 amount as is paid in respect of rights specifically to receive benefits by way of lump sum payments;

(c) "reckonable service" means service in respect of which the rights to receive the relevant amount accrued (whether or not service in the same employment or with the same employer, and even if the rights originally accrued under a different employer-financed retirement benefits scheme established in or outside the United Kingdom);

(d) "pre-6 April 2017 reckonable service" means reckonable service that is service before 6 April 2017;

(e) "pre-6 April 2017 reckonable foreign service" means pre-6 April 2017 reckonable service that is foreign service;

(f) the deductible amount is the value immediately before 6 April 2017 of the rights then accrued to payment of so much of the relevant amount as is paid in respect of pre-6 April 2017 reckonable service if—

(i) at least 75% of pre-6 April 2017 reckonable service is made up of foreign service, or

(ii) the period of pre-6 April 2017 reckonable service exceeds 10 years and the whole of the last 10 years of that period is made up of foreign service, or

(iii) the period of pre-6 April 2017 reckonable service exceeds 20 years and at least 50% of that period, including any 10 of the last 20 years, is made up of foreign service;

(g) otherwise, the deductible amount is the appropriate fraction of the value immediately before 6 April 2017 of the rights then accrued to payment of so much of the relevant amount as is paid in respect of pre-6 April 2017 reckonable service;

(h) "the appropriate fraction" is given by—

$$\frac{F}{R}$$

where—

F is the period of pre-6 April 2017 reckonable foreign service, and

R is the period of pre-6 April 2017 reckonable service.

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(7) In this section—

"employer-financed retirement benefits scheme" has the same meaning as in Chapter 2 of Part 6 (see section 393A),

"foreign service" has the meaning given by section 395C,

"member", in relation to a pension scheme, has the meaning given by section 151 of FA 2004,

"overseas pension scheme" has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act),

"payment" includes a transfer of assets and any other transfer of money's worth,

"pension scheme" has the meaning given by section 150(1) of FA 2004, and

"relevant non-UK scheme" is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004."

(2) The amendment made by this paragraph has effect in relation to lump sums paid on or after 6 April 2017.

11 (1) In section 576A (temporary non-residents), as it applies where the year of departure is the tax year 2013-14 or a later tax year, after subsection (4) insert—

"(4ZA) Payment of a relevant lump sum is also a "relevant withdrawal".

(2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.

12 (1) In section 576A, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, after subsection (4A) insert—

"(4AA) Payment of a relevant lump sum is also a "relevant withdrawal"."

(2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.

Relief from tax under Part 9 of ITEPA 2003 not to give rise to tax under other provisions

13 (1) In section 393B(2)(a) (tax on benefits under employer-financed retirement benefit schemes: "relevant benefits" do not include benefits charged to tax under Part 9), after "646E" insert " or any deductions under section 574A(3) ".

(2) The amendment made by this paragraph has effect in relation to benefits by way of lump sums paid on or after 6 April 2017.

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SCHEDULE 4 U.K.

Section 10

PENSIONS: OFFSHORE TRANSFERS

PART 1 U.K.

CHARGES WHERE PAYMENTS MADE IN RESPECT OF OVERSEAS PENSIONS

Amendments of Schedule 34 to FA 2004

1 Schedule 34 to FA 2004 (non-UK pension schemes: application of certain charges) is amended as follows.

2 (1) Paragraph 1 (application of member payment charges to relevant non-UK schemes) is amended as follows.

(2) After sub-paragraph (6) insert—

"(6A) There are three types of relevant transfer—

(a) an original relevant transfer,

(b) a subsequent relevant transfer, and

(c) any other (including, in particular, all relevant transfers before 9 March 2017).

(6B) "An original relevant transfer" is—

(a) a relevant transfer within sub-paragraph (6)(a) made on or after 9 March 2017,

(b) a relevant transfer within sub-paragraph (6)(b), made on or after 9 March 2017, of the whole or part of the UK tax-relieved fund of a relieved member of a qualifying recognised overseas pension scheme, or

(c) a relevant transfer within sub-paragraph (6)(b), made on or after 6 April 2017, of the whole or part of the UK tax-relieved fund of a relieved member of a relevant non-UK scheme that is not a qualifying recognised overseas pension scheme.

(6C) The sums or assets transferred as a result of an original relevant transfer constitute a ring-fenced transfer fund, and the key date for that fund is the date of the transfer.

(6D) Where in the case of a ring-fenced transfer fund ("the source fund") there is a relevant transfer of the whole or part of the fund—

(a) the sums or assets transferred as a result of the transfer constitute a ring-fenced transfer fund,

(b) that fund has the same key date as the source fund, and

(c) the transfer is "a subsequent relevant transfer", and is not an original relevant transfer.

(6E) Sub-paragraph (6D) applies whether the source fund is a ring-fenced transfer fund as a result of sub-paragraph (6C) or as a result of sub-paragraph (6D).

(6F) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that sums or assets identified in accordance with the

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regulations are not included in a ring-fenced transfer fund as a result of sub-paragraph (6C) or (6D)(a).”

3 (1) Paragraph 2 (member payment provisions apply to payments out of non-UK schemes if member is UK resident or has been UK resident in any of the preceding 5 tax years) is amended as follows.

(2) The existing text becomes sub-paragraph (1).

(3) In that sub-paragraph, after “scheme” insert “ so far as it is referable to 5-year rule funds ”.

(4) After that sub-paragraph insert—

“(2) The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a relieved member of a relevant non-UK scheme so far as it is referable to 10-year rule funds unless the member—

(a) is resident in the United Kingdom when the payment is made (or treated as made), or

(b) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax year in which the payment is made (or treated as made) or in any of the 10 tax years immediately preceding that year.

(3) The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a transfer member of a relevant non-UK scheme, so far as it is referable to any particular ring-fenced transfer fund of the member's under the scheme which has a key date of 6 April 2017 or later, unless—

(a) the member is resident in the United Kingdom when the payment is made (or treated as made), or

(b) although the member is not resident in the United Kingdom at that time—

(i) the member has been resident in the United Kingdom earlier in the tax year containing that time, or

(ii) the member has been resident in the United Kingdom in any of the 10 tax years immediately preceding the tax year containing that time, or

(iii) that time is no later than the end of 5 years beginning with the key date for the particular fund.

(4) In this paragraph—

“5-year rule funds”, in relation to a payment to or in respect of a relieved member of a relevant non-UK scheme, means so much of the member's UK tax-relieved fund under the scheme as represents tax-relieved contributions, or tax-exempt provision, made under the scheme before 6 April 2017;

“5-year rule funds”, in relation to a payment to or in respect of a transfer member of a relevant non-UK scheme, means—

(a) the member's relevant transfer fund under the scheme, and

(b) any of the member's ring-fenced transfer funds under the scheme that has a key date earlier than 6 April 2017;

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"10-year rule funds", in relation to a payment to or in respect of a relieved member of a relevant non-UK scheme, means so much of the member's UK tax-relieved fund under the scheme as represents tax-relieved contributions, or tax-exempt provision, made under the scheme on or after 6 April 2017.

(5) See also—

paragraph 1(6C), (6D) and (6F) (meaning of "ring-fenced transfer fund"),

paragraph 3 (meaning of "UK tax-relieved fund", "tax-relieved contributions" and "tax-exempt provision" etc), and

paragraph 4 (meaning of "relevant transfer fund" etc)."

4 (1) Paragraph 3 (payments to or in respect of relieved members of schemes) is amended as follows.

(2) After sub-paragraph (5) insert—

"(5A) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that, in circumstances specified in the regulations, something specified in the regulations is to be treated as done by, to, in respect of or in the case of a relieved member of a relevant non-UK scheme."

(3) In sub-paragraph (6) (power to specify whether payments by scheme are referable to UK tax-relieved fund), after "payments made (or treated as made) by" insert " , or other things done by or to or under or in respect of or in the case of, ".

(4) After sub-paragraph (7) insert—

"(8) Where regulations under sub-paragraph (6) make provision for a payment or something else to be treated as referable to a member's UK tax-relieved fund under a scheme, regulations under that sub-paragraph may make provision for the payment or thing, or any part or aspect of the payment or thing, also to be treated as referable to a particular part of that fund."

5 (1) Paragraph 4 (payments to or in respect of transfer members of schemes) is amended as follows.

(2) In sub-paragraph (1), after "relevant transfer fund" insert " , or ring-fenced transfer funds, ".

(3) In sub-paragraph (2) (meaning of "relevant transfer fund"), before "so much of" insert " , subject to sub-paragraph (3A), ".

(4) After sub-paragraph (3) insert—

"(3A) The member's relevant transfer fund under the scheme does not include sums or assets that are in any of the member's ring-fenced transfer funds under the scheme."

(5) In sub-paragraph (4) (power to specify whether payments by scheme are referable to relevant transfer fund), after "payments or transfers made (or treated as made) by" insert " , or other things done by or to or under or in respect of or in the case of, ".

(6) After sub-paragraph (4) insert—

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"(5) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that, in circumstances specified in the regulations, something specified in the regulations is to be treated as done by, to, in respect of or in the case of a transfer member of a relevant non-UK scheme.

(6) Regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision for determining whether payments or transfers made (or treated as made) by, or other things done by or to or under or in respect of or in the case of, a relevant non-UK scheme are to be treated as referable to a member's ring-fenced transfer funds under the scheme (and so whether or not they reduce the funds or any of them).

(7) Where regulations under sub-paragraph (6) make provision for a payment or transfer or something else to be treated as referable to a member's ring-fenced transfer funds under a scheme, regulations under that sub-paragraph may make provision for the payment or transfer or other thing, or any part or aspect of the payment or transfer or thing, also to be treated as referable to a particular one of those funds."

6 In paragraph 7(2)(c) (regulations about application of member payment provisions), after "relevant transfer fund" insert " or ring-fenced transfer funds ".

7 (1) Paragraph 9ZB (application of section 227G) is amended as follows.

(2) In sub-paragraph (2), after "relevant transfer fund" insert " or ring-fenced transfer funds ".

(3) After sub-paragraph (3) insert—

"(4) The reference in sub-paragraph (2) to the individual's ring-fenced transfer funds under the relevant non-UK scheme is to be read in accordance with paragraph 1."

8 The amendments made by paragraph 3 apply in relation to payments made (or treated as made) on or after 6 April 2017, and the amendments made by paragraphs 2 and 4 to 7 come into force on 9 March 2017.

Consequential amendments in ITEPA 2003

9 (1) Section 576A of ITEPA 2003, as it applies where the year of departure is the tax year 2013-14 or a later tax year, is amended as follows.

(2) In subsection (6)(b) (pension income: temporary non-residents: non-application where payment not referable to relevant transfer fund)—

(a) for "not referable" substitute " referable neither ", and

(b) after "relevant transfer fund" insert " , nor to the member's ring-fenced transfer funds, ".

(3) In subsection (10) (interpretation), at the end insert—

""member's ring-fenced transfer fund" (see paragraph 1(6C) and (6D))."

(4) The amendments made by this paragraph apply in relation to relevant withdrawals on or after 6 April 2017.

10 (1) Section 576A of ITEPA 2003, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, is amended as follows.

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(2) In subsection (6) (pension income: temporary non-residents: non-application unless payment referable to relevant transfer fund), after "member's relevant transfer fund" insert " , or the member's ring-fenced transfer funds, ".

(3) In subsection (8) (interpretation), before the definition of "scheme pension" insert—

""member's ring-fenced transfer funds" has the same meaning as in that Schedule (see paragraph 1(6C) and (6D));".

(4) The amendments made by this paragraph apply in relation to relevant withdrawals on or after 6 April 2017.

PART 2 U.K.

INCOME TAX ON PENSION TRANSFERS: OVERSEAS TRANSFER CHARGE

Tax charge on transfers to qualifying recognised overseas pension schemes

11 In Part 4 of FA 2004 (pension schemes etc), after section 244 insert—

"Non-UK schemes: the overseas transfer charge

244A Overseas transfer charge

(1) A charge to income tax, to be known as the overseas transfer charge, arises where—

(a) a recognised transfer is made to a QROPS, or

(b) an onward transfer is made during the relevant period for the original transfer,

and the transfer is not excluded from the charge by or under any of sections 244B to 244H.

(2) Sections 244B to 244H are subject to section 244I (circumstances in which exclusions do not apply).

(3) In this group of sections, an "onward transfer" is a transfer of sums or assets held for the purposes of, or representing accrued rights under, an arrangement under a QROPS or former QROPS in relation to a member so as to become held for the purposes of, or to represent rights under, an arrangement under another QROPS in relation to that person as a member of that other QROPS.

(4) In this group of sections "relevant period" means—

(a) in the case of a recognised transfer made on 6 April in any year, the 5 years beginning with the date of the transfer,

(b) in the case of any other recognised transfer, the period consisting of the combination of—

(i) the period beginning with the date of the transfer and ending immediately before the next 6 April, and

(ii) the 5 years beginning at the end of that initial period,

(c) in the case of an onward transfer, the period—

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(i) beginning with the date of the transfer, and

(ii) ending at the end of the relevant period for the original transfer (see paragraphs (a) and (b) or, as the case may be, paragraphs (d) and (e)),

(d) in the case of a relevant transfer that—

(i) is made on 6 April in any year, and

(ii) is the original transfer for an onward transfer,

the 5 years beginning with the date of the relevant transfer, and

(e) in the case of a relevant transfer that—

(i) is made otherwise than on 6 April in any year, and

(ii) is the original transfer for an onward transfer,

the period consisting of the combination of: the period beginning with the date of the relevant transfer and ending immediately before the next 6 April; and the 5 years beginning at the end of that initial period.

(5) In this group of sections "the original transfer", in relation to an onward transfer, means (subject to subsection (6))—

(a) the recognised transfer in respect of which the following conditions are met—

(i) it is from a registered pension scheme to a QROPS,

(ii) the sums and assets transferred by the onward transfer directly or indirectly derive from those transferred by it, and

(iii) it is more recent than any other recognised transfer in respect of which the conditions in sub-paragraphs (i) and (ii) are met, or

(b) where there is no such recognised transfer, the relevant transfer (see paragraph 1(6) of Schedule 34) in respect of which the following conditions are met—

(i) it is from a relevant non-UK scheme (see paragraph 1(5) of Schedule 34),

(ii) it is a transfer of the whole or part of the UK tax-relieved fund (see paragraph 3 of Schedule 34) of a member of the scheme,

(iii) it is to a QROPS, and

(iv) the sums and assets transferred by the onward transfer directly or indirectly derive from those transferred by it.

(6) Where apart from this subsection there would be different original transfers for different parts of an onward transfer, each such part of the onward transfer is to be treated as a separate onward transfer for the purposes of this group of sections.

(7) In this section and sections 244B to 244N—

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

"ring-fenced transfer fund", in relation to a QROPS or former QROPS, has the meaning given by paragraph 1 of Schedule 34;

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"this group of sections" means this section and sections 244B to 244N.

244B Exclusion: member and receiving scheme in same country

(1) A recognised transfer to a QROPS is excluded from the overseas transfer charge if during the relevant period—

(a) the member is resident in the country or territory in which the QROPS is established, and

(b) there is no onward transfer—

(i) for which the recognised transfer is the original transfer, and

(ii) which is not excluded from the charge.

(2) If the member is resident in that country or territory at the time of the transfer mentioned in subsection (1), it is to be assumed for the purposes of subsection (1) that the member will be resident in that country or territory during the relevant period; but if, at a time before the end of the relevant period, the transfer ceases to be excluded by subsection (1) otherwise than by reason of the member's death—

(a) that assumption is from that time no longer to be made, and

(b) the charge on the transfer is treated as charged at that time.

(3) An onward transfer to a QROPS ("transfer A") is excluded from the overseas transfer charge if during so much of the relevant period as is after the time of transfer A—

(a) the member is resident in the country or territory in which the QROPS is established, and

(b) there is no subsequent onward transfer that—

(i) is of sums and assets which, in whole or part, directly or indirectly derive from those transferred by transfer A, and

(ii) is not excluded from the charge.

(4) If the member is resident in that country or territory at the time of transfer A, it is to be assumed for the purposes of subsection (3) that the member will be resident in that country or territory during so much of the relevant period as is after the time of transfer A; but if, at a time before the end of the relevant period, the transfer ceases to be excluded by subsection (3) otherwise than by reason of the member's death—

(a) that assumption is from that time no longer to be made, and

(b) the charge on transfer A is treated as charged at that time.

244C Exclusion: member and receiving scheme in EEA states

(1) This section applies to a transfer to a QROPS established in an EEA state.

(2) If the transfer is a recognised transfer, the transfer is excluded from the overseas transfer charge if during the relevant period—

(a) the member is resident in an EEA state (whether or not the same EEA state throughout that period), and

(b) there is no onward transfer—

(i) for which the recognised transfer is the original transfer, and

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(ii) which is not excluded from the charge.

(3) If the member is resident in an EEA state at the time of the recognised transfer mentioned in subsection (2), it is to be assumed for the purposes of this section that the member will be resident in an EEA state during the relevant period; but if, at a time before the end of the relevant period, the transfer ceases to be excluded by subsection (2) otherwise than by reason of the member's death—

(a) that assumption is from that time no longer to be made, and

(b) the charge on the transfer is treated as charged at that time.

(4) If the transfer is an onward transfer ("transfer B"), the transfer is excluded from the overseas transfer charge if during so much of the relevant period as is after the time of the onward transfer—

(a) the member is resident in an EEA state (whether or not the same EEA state at all those times), and

(b) there is no subsequent onward transfer that—

(i) is of sums and assets which, in whole or part, directly or indirectly derive from those transferred by transfer B, and

(ii) is not excluded from the charge.

(5) If the member is resident in an EEA state at the time of transfer B, it is to be assumed for the purposes of subsection (4) that the member will be resident in an EEA state during so much of the relevant period as is after the time of transfer B; but if, at a time before the end of the relevant period, the transfer ceases to be excluded by subsection (4) otherwise than by reason of the member's death—

(a) that assumption is from that time no longer to be made, and

(b) the charge on transfer B is treated as charged at that time.

244D Exclusion: receiving scheme is an occupational pension scheme

A transfer to a QROPS is excluded from the overseas transfer charge if—

(a) the QROPS is an occupational pension scheme, and

(b) when the transfer is made, the member is an employee of a sponsoring employer of the QROPS.

244E Exclusion: receiving scheme set up by international organisation

(1) A transfer to a QROPS is excluded from the overseas transfer charge if—

(a) the QROPS is established by an international organisation and has effect so as to provide benefits for, or in respect of, past service as an employee of the organisation, and

(b) when the transfer is made, the member is an employee of the organisation.

(2) In this section "international organisation" means an organisation to which section 1 of the International Organisations Act 1968 applies by virtue of an Order in Council under subsection (1) of that section.

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244F Exclusion: receiving scheme is an overseas public service scheme

(1) A transfer to a QROPS is excluded from the overseas transfer charge if—

(a) the QROPS is an overseas public service pension scheme, and

(b) when the transfer is made, the member is an employee of an employer that participates in the scheme.

(2) A QROPS is an "overseas public service pension scheme" for the purposes of this section if—

(a) either—

(i) it is established by or under the law of the country or territory in which it is established, or

(ii) it is approved by the government of that country or territory, and

(b) it is established solely for the purpose of providing benefits to individuals for or in respect of services rendered to—

(i) that country or territory, or

(ii) any political subdivision or local authority of that country or territory.

(3) For the purposes of this section, an employer participates in a QROPS that is an overseas public service pension scheme if the scheme has effect so as to provide benefits to or in respect of any or all of the employees of the employer in respect of their employment by the employer.

244G Exclusions: avoidance of double charge, and transitional protections

(1) A recognised transfer to a QROPS is excluded from the overseas transfer charge if it is made in execution of a request made before 9 March 2017.

(2) An onward transfer ("the current onward transfer") is excluded from the overseas transfer charge if—

(a) the charge has been paid on the original transfer and the amount paid is not repayable, or

(b) the charge has been paid on an onward transfer ("the earlier onward transfer") in respect of which the conditions in subsection (4) are met and the amount paid is not repayable, or

(c) the original transfer was made before 9 March 2017, or

(d) the original transfer was made on or after 9 March 2017 in execution of a request made before 9 March 2017.

(3) An onward transfer is excluded from the overseas transfer charge so far as the transfer is made otherwise than out of the member's ring-fenced transfer funds under the scheme from which the onward transfer is made.

(4) The conditions mentioned in subsection (2)(b) are—

(a) that the earlier onward transfer was made before the current onward transfer,

(b) that the earlier onward transfer was made after the original transfer, and

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(c) that all the sums and assets transferred by the current onward transfer directly or indirectly derive from those transferred by the earlier onward transfer.

244H Power to provide for further exclusions

The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for a recognised transfer to a QROPS, or an onward transfer, to be excluded from the overseas transfer charge if the transfer is of a description specified in the regulations.

244I Circumstances in which exclusions do not apply

(1) Subsection (2) applies if a recognised transfer to a QROPS, or an onward transfer, would (but for this section) be excluded from the overseas transfer charge by any of sections 244B to 244F.

(2) The transfer is not excluded from the charge if the member has, in connection with the transfer, failed to comply with the relevant information regulation.

(3) In subsection (2) "the relevant information regulation" means whichever of the following is applicable—

(a) regulation 11BA of the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567), or any regulation having effect in place of any of that regulation, as (in either case) from time to time amended, and

(b) regulation 3AE of the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208), or any regulation having effect in place of any of that regulation, as (in either case) from time to time amended.

244J Persons liable to charge

(1) In the case of a recognised transfer to a QROPS, the persons liable to the overseas transfer charge are—

(a) the scheme administrator of the registered pension scheme from which the transfer is made, and

(b) the member,

and their liability is joint and several.

(2) In the case of an onward transfer, the persons liable to the overseas transfer charge are—

(a) the scheme manager of the QROPS, or former QROPS, from which the transfer is made, and

(b) the member,

and their liability is joint and several.

(3) Subsections (1) and (2) are subject to subsection (4), and subsections (2) and (4) are subject to subsection (5).

(4) If a transfer is one required by section 244B or 244C to be initially assumed to be excluded by that section but an event occurring before the end of the

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relevant period means that the transfer is not so excluded, the persons liable to the overseas transfer charge in the case of the transfer are—

(a) the scheme manager of any QROPS, or former QROPS, under which the member has, at the time of the event, ring-fenced transfer funds in which any of the sums and assets referred to in section 244K(6) in the case of the transfer are represented, and

(b) the member,

and their liability is joint and several.

(5) The scheme manager of a former QROPS is liable to the overseas transfer charge in the case of a transfer ("the transfer concerned") only if the former QROPS—

(a) was a QROPS when a relevant inward transfer was made, and

(b) where a relevant inward transfer was made before 9 March 2017, was a QROPS at the start of 9 March 2017;

and here "relevant inward transfer" means a recognised or onwards transfer to the former QROPS (at a time when it was a QROPS) of sums and assets which, to any extent, are represented by sums or assets transferred by the transfer concerned.

(6) A person is liable to the overseas transfer charge whether or not—

(a) that person, and

(b) any other person who is liable to the charge,

are resident or domiciled in the United Kingdom.

244K Amount of charge

(1) Where the overseas transfer charge arises in the case of a transfer, the charge is 25% of the transferred value.

(2) If the transfer is from a registered pension scheme established in the United Kingdom, the transferred value is the total of—

(a) the amount of any sums transferred, and

(b) the value of any assets transferred,

but this is subject to subsections (5) to (9).

(3) If the transfer is from a registered pension scheme established in a country or territory outside the United Kingdom, the transferred value is the total of—

(a) the amount of any sums transferred that are attributable to UK-relieved funds of the scheme, and

(b) the value of any assets transferred that are attributable to UK-relieved funds of the scheme,

but this is subject to subsections (5) to (9).

(4) If the transfer is from a QROPS or former QROPS, the transferred value is the total of—

(a) the amount of any sums transferred that are attributable to the member's ring-fenced transfer funds under the scheme, and

(b) the value of any assets transferred that are attributable to the member's ring-fenced transfer funds under the scheme,

but this is subject to subsections (5) to (9).

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(5) If the lifetime allowance charge arises in the case of the transfer and is to be deducted from the transfer, paragraphs (a) and (b) of subsections (2) to (4) are to be read as referring to what is to be transferred after deduction of the lifetime allowance charge.

(6) If the transfer is one initially assumed to be excluded by section 244B or 244C but an event occurring before the end of the relevant period means that the transfer is not so excluded, the sums and assets mentioned in whichever of subsections (2) to (4) is applicable include only those that at the time of the event are represented in any of the member's ring-fenced transfer funds under any QROPS or former QROPS.

(7) If the operator pays the charge on the transfer and does so—

(a) otherwise than by deduction from the transfer, and

(b) out of sums and assets held for the purposes of, or representing accrued rights under, the scheme from which the transfer is made,

the transferred value is the amount given by subsections (2) to (6) grossed up by reference to the rate specified in subsection (1).

(8) If the operator pays the charge on the transfer and does so by deduction from the transfer, the transferred value is the amount given by subsections (2) to (6) before the deduction.

(9) If the member pays the charge on the transfer, the transferred value is the amount given by subsections (2) to (6) without any deduction for the charge.

(10) The provisions of this Part relating to the lifetime allowance charge apply (whether or not in relation to the transfer) as if the overseas transfer charge did not arise in the case of the transfer.

(11) In this section—

"the operator" means—

(a) the scheme administrator of the scheme from which the transfer is to be made if that scheme is a registered pension scheme, or

(b) the scheme manager of the scheme from which the transfer is to be made if that scheme is a QROPS or former QROPS;

"UK-relieved funds", in relation to a registered pension scheme established in a country or territory outside the United Kingdom, has the meaning given by section 242B.

244L Accounting for overseas transfer charge by scheme managers

(1) In this section "charge" means overseas transfer charge for which the scheme manager of a QROPS or former QROPS is liable.

(2) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for or in connection with—

(a) the payment of charge, including due dates for payment,

(b) the charging of interest on charge not paid on or before its due date,

(c) notification by the scheme manager of errors in information provided by the scheme manager to the Commissioners in

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connection with charge or the scheme manager's liability for overseas transfer charge,

(d) repayments to scheme managers under section 244M of amounts paid by way of charge, and

(e) the making of assessments, repayments or adjustments in cases where the correct amount of charge has not been paid by the due date for payment of the charge.

(3) The regulations may, in particular—

(a) modify the operation of any provision of the Tax Acts, or

(b) provide for the application of any provision of the Tax Acts (with or without modification).

244M Repayments of charge on subsequent excluding events

(1) This section applies if—

(a) overseas transfer charge arose on a transfer at the time the transfer was made, and

(b) at a time during the relevant period for the transfer, circumstances arise such that, had those circumstances existed at the time the transfer was made, the transfer would at the time it was made have been excluded from the charge by sections 244B to 244F or under section 244H.

(2) Any amount paid in respect of charge on the transfer is to be repaid by the Commissioners for Her Majesty's Revenue and Customs so far as not already repaid.

(3) Subsection (2) does not give rise to entitlement to repayment of, or cancellation of liabilities to, interest or penalties in respect of late payment of charge on the transfer.

(4) Repayment under this section to the scheme administrator of a registered pension scheme, or the scheme manager of a QROPS or former QROPS, is conditional on prior compliance with any requirements to give information to the Commissioners, about the circumstances in which the right to the repayment arises, that are imposed on the prospective recipient under section 169 or 251 (but repayment is not conditional on compliance with any time limits so imposed for compliance with any such requirements).

(5) Repayment under this section is not a relievable pension contribution.

(6) Repayment under this section to the member is conditional on making a claim, and such a claim must be made no later than one year after the end of the relevant period for the transfer concerned.

(7) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for or in connection with claims or repayments under this section, including provision—

(a) requiring claims,

(b) about who may claim,

(c) imposing conditions for making claims, including conditions about time limits,

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(d) as to additional circumstances in which repayments may be made,

(e) modifying the operation of any provision of the Tax Acts, or

(f) applying any provision of the Tax Acts (with or without modifications).

244N Discharge of liability of scheme administrator or manager

(1) In this section "operator" means—

(a) the scheme administrator of a registered pension scheme, or

(b) the scheme manager of a QROPS or former QROPS.

(2) If an operator is liable under section 244J, the operator may apply to an officer of Revenue and Customs for the discharge of the operator's liability on the following ground.

(3) The ground is that—

(a) the operator reasonably believed that there was no liability to the overseas transfer charge on the transfer concerned, and

(b) in all the circumstances of the case, it would not be just and reasonable for the operator to be liable to the charge on the transfer.

(4) On receiving an application under subsection (2), an officer of Revenue and Customs must decide whether to discharge the operator's liability.

(5) An officer of Revenue and Customs must notify the operator of the decision on the application.

(6) The discharge of the operator's liability does not affect the liability of any other person to overseas transfer charge on the transfer concerned.

(7) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision supplementing this section, including provision for time limits for making an application under this section."

Further amendments in Part 4 of FA 2004.

12 Part 4 of FA 2004 is further amended as follows.

13 (1) Section 169 (recognised transfers, and definition and obligations of a QROPS) is amended as follows.

(2) In subsection (2) (what makes a recognised overseas pension scheme a QROPS), after paragraph (b) insert—

"(ba) the scheme manager has confirmed to an officer of Revenue and Customs that the scheme manager understands the scheme manager's potential liability to overseas transfer charge and has undertaken to such an officer to operate the charge including by meeting the scheme manager's liabilities to the charge,".

(3) After subsection (2) insert—

"(2A) Regulations may make provision as to—

(a) information that is to be included in, or is to accompany, a notification under subsection (2)(a);

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(b) the way and form in which such a notification, or any required information or evidence, is to be given or provided."

(4) After subsection (4) insert—

"(4ZA) Regulations may require a member, or former member, of a QROPS or former QROPS to give information of a prescribed description to the scheme manager of a QROPS or former QROPS."

(5) In subsection (4A) (inclusion of supplementary provision in regulations under subsection (4)), after "(4)" insert " or (4ZA) ".

(6) After subsection (4B) insert—

"(4C) Provision under subsection (2A)(b) or (4A)(a) may, in particular, provide for use of a way or form specified by the Commissioners."

(7) After subsection (7) insert—

"(7A) Regulations may, in a case where—

(a) any of the sums and assets transferred by a relevant overseas transfer represent rights in respect of a pension to which a person has become entitled under the transferring scheme ("the original pension"), and

(b) those sums and assets are, after the transfer, applied towards the provision of a pension under the other scheme ("the new pension"),

provide that the new pension is to be treated, to such extent as is prescribed and for such of the purposes of this Part as are prescribed, as if it were the original pension.

(7B) For the purposes of subsection (7A), a "relevant overseas transfer" is a transfer of sums or assets held for the purposes of, or representing accrued rights under, a relevant overseas scheme ("the transferring scheme") so as to become held for the purposes of, or to represent rights under—

(a) another relevant overseas scheme, or

(b) a registered pension scheme,

in connection with a member of that pension scheme.

(7C) In subsection (7B) "relevant overseas scheme" means—

(a) a QROPS, or

(b) a relevant non-UK scheme (see paragraph 1(5) of Schedule 34).

(7D) Regulations under subsection (7A) may—

(a) apply generally or only in specified cases, and

(b) make different provision for different cases."

(8) In subsection (8) (interpretation)—

(a) in the opening words, after "subsections (4) to (6)" insert " , (7A) to (7D) ", and

(b) in the definition of "relevant requirement", at the end insert ", or

(c) a requirement to pay overseas transfer charge, or interest on overseas transfer charge, imposed by regulations under section 244L(2) or by an assessment under such regulations."

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14 After Chapter 5 insert—

"CHAPTER 5A U.K.

REGISTERED PENSION SCHEMES ESTABLISHED OUTSIDE THE UNITED KINGDOM

Meaning of "non-UK registered scheme"

242A In this Chapter "non-UK registered scheme" means a registered pension scheme established in a country or territory outside the United Kingdom.

Meaning of "UK-relieved funds"

242B (1) For the purposes of this Chapter, the "UK-relieved funds" of a non-UK registered scheme are sums or assets held for the purposes of, or representing accrued rights under, the scheme—

(a) that (directly or indirectly) represent sums or assets that at any time were held for the purposes of, or represented accrued rights under, a registered pension scheme established in the United Kingdom,

(b) that (directly or indirectly) represent sums or assets that at any time formed the UK tax-relieved fund under a relevant non-UK scheme of a relieved member of that scheme, or

(c) that—

(i) are held for the purposes of, or represent accrued rights under, an arrangement under the scheme relating to a member of the scheme who on any day has been an accruing member of the scheme, and

(ii) in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, are to be taken to have benefited from relief from tax.

(2) In this Chapter "relevant contribution" has the meaning given by regulation 14ZB(8) of the Information Regulations.

(3) Paragraphs (7) and (8) of regulation 14ZB of the Information Regulations (meaning of "accruing member") apply for the purposes of this section as for those of that regulation.

(4) "The Information Regulations" means the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567)."

15 In section 254(6) (regulations about accounting for tax by scheme administrators), after paragraph (b) insert—

"(ba) repayments under section 244M to scheme administrators,".

16 In section 255(1) (power to make provision for assessments), after paragraph (d) insert—

"(da) liability of the scheme administrator of a registered pension scheme, or the scheme manager of a qualifying recognised overseas pension scheme or of a former such scheme, to the overseas transfer charge,".

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17 In section 269(1)(a) (appeal against decision on discharge of liability), before "section 267(2)" insert " section 244N (discharge of liability to overseas transfer charge), ".

18 In Schedule 32 (benefit crystallisation events: supplementary provision), after paragraph 2 insert—

"Avoiding double counting of refunded amounts of overseas transfer charge

2A (1) This paragraph applies where an amount of overseas transfer charge is repaid (whether or not under section 244M) to the scheme administrator of one of the relevant pension schemes.

(2) The amount crystallised by the first benefit crystallisation event that occurs in respect of the individual and a benefited scheme after receipt of the repayment is to be reduced (but not below nil) by the amount of the repayment.

(3) If the amount of the repayment exceeds the reduction under sub-paragraph (2), the excess is to be set sequentially until exhausted against the amounts crystallised by subsequent benefit crystallisation events occurring in respect of the individual and a benefited scheme.

(4) In sub-paragraphs (2) and (3) "benefited scheme" means—

(a) the scheme to which the repayment is made, and

(b) any other pension scheme if as a result of a recognised transfer, or a chain of two or more recognised transfers, sums or assets representing the repayment are held for the purposes of, or represent rights under, that other scheme."

Other amendments

19 In section 9(1A) of TMA 1970 (tax not within the scope of self-assessment), after paragraph (a) insert—

"(aa) is chargeable, on the scheme manager of a qualifying recognised overseas pension scheme or a former such scheme, under Part 4 of the Finance Act 2004,".

20 In Schedule 56 to FA 2009 (penalty for failure to make payments on time), in the Table in paragraph 1, after the entry for item 3 insert—

3A	Income tax	Amount payable under regulations under section 244L(2)(a) of FA 2004	The date falling 30 days after the due date determined by or under the regulations

21 (1) In regulation 3(1) of the Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454), in Table 1, at the end insert—

"Charge under section 244A (overseas transfer charge).	(1)	The name, date of birth and national insurance number of each individual in whose case a transfer results in the scheme administrator becoming liable to the overseas transfer charge.

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(2) The date, and transferred value, of each transfer.

(3) The reference number of the qualifying recognised overseas pension scheme to which each transfer is made.

(4) The amount of tax due in respect of each transfer."

(2) In those Regulations, after regulation 13 insert—

Claims for repayments of overseas transfer charge

"14 (1) This regulation applies where the scheme administrator of a registered pension scheme becomes aware that the scheme administrator may be entitled to a repayment under section 244M of the Act in respect of overseas transfer charge on a transfer.

(2) The scheme administrator must, no later than 60 days after the date on which the scheme administrator becomes aware of that, make a claim for the repayment to the Commissioners for Her Majesty's Revenue and Customs.

(3) The claim must provide the following information—

(a) the member's name, date of birth and principal residential address,

(b) the date of the transfer and, if different, the date of the event triggering payability of the charge on the transfer,

(c) the date on which the scheme manager accounted for the charge on the transfer,

(d) why the charge on the transfer has become repayable, and

(e) the amount in respect of which the claim is made.

(4) In a case where the 60 days mentioned in paragraph (2) ends with a day earlier than 14 November 2017, paragraph (2) is to be treated as requiring the claim to be made no later than 14 November 2017."

(3) The amendment made by sub-paragraph (1) is to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs under the applicable powers to make regulations conferred by section 254 of FA 2004.

(4) The amendment made by sub-paragraph (2) is to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs under the powers to make regulations conferred by section 244M(7) of FA 2004.

22 (1) The Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208) are amended as follows.

(2) In regulation 1(2) (interpretation), after the definition of "HMRC" insert—

""onward transfer" has the meaning given by section 244A;".

(3) In regulation 3(2) (duty to provide information to HMRC)—

(a) in sub-paragraph (c), after "no relevant transfer fund remains" insert " and no ring-fenced transfer funds remain ", and

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(b) after sub-paragraph (d) insert—

"(da) if the payment is made to a QROPS—

(i) whether the overseas transfer charge arises on the payment,

(ii) if the charge does arise, the transferred value and the amount of charge the scheme manager deducted from the payment before making it,

(iii) if the charge does not arise, why it does not, and

(iv) the total amount or value of the member's relevant transfer fund, and ring-fenced transfer funds, remaining immediately after the payment;"."

(4) In regulation 3, after paragraph (2) insert—

"(2A) Paragraphs (2B) and (2C) apply where—

(a) a recognised transfer is made to a QROPS, or

(b) an onward transfer is made by a QROPS or former QROPS.

(2B) Where an event occurring before the end of the relevant period for the transfer (see section 244A(4)) means that the transfer no longer counts as excluded from the overseas transfer charge or that entitlement to repayment under section 244M arises, the scheme manager of the QROPS or former QROPS must, within 90 days after the date the scheme manager is notified of the event, provide to HMRC notification of—

(a) the occurrence, nature and date of the event,

(b) the transferred value of the transfer,

(c) the amount of overseas transfer charge on the transfer,

(d) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and

(e) the total amount or value of the member's relevant transfer fund, and ring-fenced transfer funds, remaining immediately after the event.

This paragraph is subject to the qualification in paragraph (3A).

(2C) Where the scheme manager of the QROPS or former QROPS becomes aware that the member has at any time in the relevant period for the transfer acquired a new residential address that is neither—

(a) in the country or territory in which the QROPS or former QROPS is established, nor

(b) in an EEA state,

the scheme manager is to notify that address to HMRC within 3 months after the date on which the scheme manager becomes aware of it."

(5) In regulation 3(3)(a) (reporting duty under regulation 3(2) expires after 10 years from creation of relevant transfer fund), after "beginning" insert "—

(i) if the payment is in respect of one or more of the relevant member's ring-fenced transfer funds (whether or not it is also in respect of anything else), with the key date for that fund or (as the case may be) the later or latest of the key dates for those funds, and

(ii) if the payment is not to any extent in respect of the relevant member's ring-fenced transfer funds,"."

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(6) In regulation 3, after paragraph (3) insert—

"(3A) No obligation arises under paragraph (2B) in relation to a transfer if the following conditions are met—

(a) at the date of the transfer more than 10 years has elapsed since the key date for the ring-fenced transfer fund arising from the transfer (see paragraph 1 of Schedule 34); and

(b) the relevant member to whom the transfer is made is a person to whom the member payment provisions do not apply."

(7) In regulation 3(6), in the definition of "relevant member", after "relevant transfer fund" insert " or any ring-fenced transfer fund ".

(8) In regulation 3AB(4), for the words from "as a result" to the end substitute "as a result of—

(a) a transfer of the member's relevant transfer fund,

(b) a transfer of any of the member's ring-fenced transfer funds, or

(c) a recognised transfer,

after the date of the relevant event concerned. "

(9) In regulation 3AC—

(a) in paragraph (1)(a), before the "or" at the end of paragraph (i) insert—

"(ia) any of the member's ring-fenced transfer funds;", and

(b) in the title omit "relevant".

(10) In regulation 3AD—

(a) in paragraph (1)(a), before the "or" at the end of paragraph (i) insert—

"(ia) any of the member's ring-fenced transfer funds;",

(b) in paragraph (2), after sub-paragraph (a) insert—

"(aa) where any of the transferred sums or assets are referable to the member's UK tax-relieved fund, the value of so many of them as are referable to tax-relieved contributions, or tax-exempt provision, made under the scheme before 9 March 2017;

(ab) the value of so many of the transferred sums or assets as are referable to any of the member's ring-fenced transfer funds (if any);",

(c) in paragraph (2)(b) omit the "and" at the end,

(d) in paragraph (2)(c)(i), after "fund" insert " or any of the member's ring-fenced transfer funds ",

(e) in paragraph (2)(c), in the words after paragraph (ii)—

(i) omit "it is", and

(ii) after "the date of that transfer" insert " and the date it was requested ",

(f) in paragraph (2), after sub-paragraph (c) insert—

"(d) whether the overseas transfer charge arises on the transfer;

(e) if the charge does arise on the transfer—

(i) the transferred value of the transfer, and

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(ii) the amount in respect of the charge deducted by the scheme manager from the transfer;

(f) if the transfer is excluded from the charge—

(i) the reason for its exclusion, and

(ii) where section 244G(2)(a) or (b) (charge paid on earlier transfer) is the reason for its exclusion, the date of the earlier transfer on which the charge was paid and the amount of charge paid on that earlier transfer; and

(g) the relevant period for the transfer (see section 244A(4)).", and

(g) in the title omit "relevant".

(11) After regulation 3AD insert—

Information provided by member to QROPS: onward transfers

"3AE(1) Paragraph (4) applies where a member of a QROPS or former QROPS makes a request to the scheme manager to make an onward transfer to a QROPS.

(2) But paragraph (4) does not apply if—

(a) the transfer will be excluded from the overseas transfer charge by section 244G, or

(b) the transfer will take place after the end of the relevant period (see section 244A(4)) for what would be the original transfer in relation to the requested onward transfer.

(3) In this regulation "original transfer", in relation to an onward transfer, has the meaning given by section 244A(5).

(4) The member must provide to the scheme manager—

(a) the member's name, date of birth and principal residential address,

(b) if the member is not UK resident for income tax purposes, the date when the member last ceased to be UK resident for those purposes,

(c) the member's national insurance number or, where applicable, confirmation that the member does not qualify for a national insurance number,

(d) the name and address of the QROPS to which the transfer is to be made,

(e) the country or territory under the law of which that QROPS is established and regulated,

(f) the reference number, if any, given by the Commissioners for that QROPS,

(g) whether the member knows for certain that the transfer would be excluded from the overseas transfer charge by one of sections 244D, 244E and 244F, and if the member does know that for certain—

(i) the section concerned (if known),

(ii) the name and address of the member's employer whose connection with the QROPS gives rise to exclusion of the transfer from the charge,

(iii) the member's job title as an employee of that employer,

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(iv) the date the member's employment with that employer began, and

(v) if known, that employer's tax reference for that employment, and

(h) the member's acknowledgement in writing that the member—

(i) is aware that an onward transfer to a qualifying recognised overseas pension scheme may give rise to a liability to overseas transfer charge, and

(ii) is aware of the circumstances in which liability arises, in which liability is excluded from the outset and in which liability is excluded only if conditions continue to be met over a period of time.

(5) The information specified in paragraph (4) must be provided within 60 days beginning with the day the transfer request is made.

(6) The scheme manager must send the member notification of the requirements specified in this regulation within 30 days beginning with that day.

Information provided by member to QROPS: inward and outward transfers

3AF(1) Paragraph (2) applies where—

(a) a recognised transfer or onward transfer is made to a QROPS, or an onward transfer is made by a QROPS or former QROPS, and

(b) either—

(i) the overseas transfer charge arises in the case of the transfer, or

(ii) the transfer is required by section 244B or 244C to be initially assumed to be excluded from the overseas transfer charge by that section.

(2) Each time during the relevant period for the transfer that the member—

(a) becomes resident in a country or territory, or

(b) ceases to be resident in a country or territory,

the member must, within 60 days after the date that happens, inform the scheme manager of the QROPS or former QROPS that it has happened.

(3) In a case where the 60 days mentioned in paragraph (2) ends with a day earlier than 30 June 2017, paragraph (2) is to be treated as requiring the information to be given no later than 30 June 2017.

Provision of information about liability for overseas transfer charge

3AG(1) If an onward transfer is made from a QROPS or former QROPS and the overseas transfer charge arises on the transfer, the scheme manager of the QROPS or former QROPS must within 90 days after the date of the transfer provide the member with a notice stating—

(a) the date of the transfer,

(b) that overseas transfer charge arises on the transfer,

(c) the transferred value of the transfer,

(d) the amount of the charge on the transfer,

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(e) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and

(f) where the scheme manager has accounted for the charge, the date the scheme manager did so.

(2) If an onward transfer is made from a QROPS or former QROPS and the transfer is excluded from the overseas transfer charge by or under sections 244B to 244H, the scheme manager of the QROPS or former QROPS must within 90 days after the date of the transfer provide the member with a notice stating—

(a) the date of the transfer,

(b) that the transfer is excluded from the overseas transfer charge,

(c) the provision by reason of which the transfer is excluded, and

(d) where that provision is section 244B or 244C—

(i) when the relevant period for the transfer ends, and

(ii) how the transfer may turn out not to be excluded as a result of the member changing country or territory of residence within the relevant period for the transfer.

(3) Paragraph (4) applies if—

(a) a recognised transfer is made to a QROPS, or

(b) an onward transfer is made by a QROPS or former QROPS.

(4) Where an event occurring before the end of the relevant period for the transfer (see section 244A(4)) means that the transfer no longer counts as excluded from the overseas transfer charge or that entitlement to repayment under section 244M arises, the scheme manager of the QROPS or former QROPS must, within 90 days after the date the scheme manager is notified of the event, provide the member with a notice stating—

(a) the amount of overseas transfer charge on the transfer,

(b) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and

(c) where the scheme manager has accounted for the charge, the date the scheme manager did so.

Accounting for overseas transfer charge on onward transfers

3AH(1) Paragraph (2) applies where—

(a) overseas transfer charge arises on an onward transfer from a QROPS or former QROPS,

(b) the scheme manager has notified HMRC of the transfer or, where applicable, of the event triggering payability of the charge on the transfer, and

(c) HMRC have provided the scheme manager with an accounting reference for paying the charge on the transfer.

(2) The scheme manager must pay the charge to HMRC using the accounting reference.

(3) Payment of the charge is due at the end of the 91 days beginning with the date of issue of the accounting reference.

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Assessments of unpaid overseas transfer charge on onward transfers

3AI (1) Where the correct amount of overseas transfer charge due from a scheme manager under regulation 3AH on an onward transfer has not been paid by the time it is due, an officer of Revenue and Customs must issue an assessment to tax to the scheme manager.

(2) Tax assessed under this regulation is payable within 30 days after the issue of the notice of assessment.

Interest on overdue overseas transfer charge

3AJ (1) Tax which—

(a) becomes due and payable in accordance with regulation 3AH, or

(b) is assessed under regulation 3AI,

carries interest at the prescribed rate from the due date under regulation 3AH until payment ("the interest period").

(2) Paragraph (1) applies even if the due date is a non-business day as defined by section 92 of the Bills of Exchange Act 1882.

(3) The "prescribed rate" means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of TMA.

(4) Any change made to the prescribed rate during the interest period applies to the unpaid amount from the date of the change.

Adjustments, repayments and interest on overpaid charge

3AK(1) If the correct tax due under regulation 3AH has not been paid on or before the due date, an officer of Revenue and Customs may make such adjustments or repayments as may be required for securing that the resulting liabilities to tax (including interest on unpaid or overpaid tax) whether of the scheme manager or of any other person are the same as they would have been if the correct tax had been paid.

(2) Tax overpaid which is repaid to the scheme manager or any other person carries interest at the prescribed rate from the later of the due date and the date on which the tax was paid until the date of repayment ("the interest period").

(3) The "prescribed rate" means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of the Income and Corporation Taxes Act 1988.

(4) Any change to the prescribed rate during the interest period applies to the overpaid amount from the date of the change.

Claims for repayments of charge on subsequent excluding events

3AL(1) Repayment under section 244M (repayments of overseas transfer charge) to the scheme manager of a QROPS or former QROPS is conditional on making a claim to HMRC.

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(2) Such a claim in respect of overseas transfer charge on a transfer—

(a) must be in writing,

(b) must be made no later than 12 months after the end of the relevant period for the transfer, and

(c) must provide the following information—

(i) the member's name, date of birth and principal residential address,

(ii) the date of the transfer and, if different, the date of the event triggering payability of the charge on the transfer,

(iii) the date on which the scheme manager accounted for the charge on the transfer,

(iv) why the charge on the transfer has become repayable, and

(v) the amount in respect of which the claim is made.”

(12) In regulation 3B (information on cessation of a QROPS), after “relevant transfer fund”, in both places, insert “ , or ring-fenced transfer fund, ”.

(13) In regulation 3C (correction of information)—

(a) in paragraph (3)(a)(i), after “existence” insert “ or, where the information relates to a ring-fenced transfer fund in respect of the relevant member, more than 10 years has elapsed beginning with the date on which that ring-fenced transfer fund came into existence ”, and

(b) in paragraph (3)(b), at the end insert “ and there are no ring-fenced transfer funds ”.

(14) In regulation 5(1) (application of provisions providing for penalties)—

(a) after “3(2),” insert “ (2B) or (2C), ”, and

(b) before “or 3C(1)” insert “ , 3AE(6), 3AG ”.

(15) The amendments made by this paragraph—

(a) are, so far as they insert new regulations 3AE(1) to (5) and 3AF, to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs under the powers to make regulations conferred by section 169(4ZA) of FA 2004,

(b) are, so far as they insert new regulations 3AE(6) and 3AG and amend regulations 3 to 3AD and 3B to 5, to be treated as having been made by the Commissioners under the powers to make regulations under section 169(4) of FA 2004 (see section 169(4), (4A), (4B) and (4C) of that Act),

(c) are, so far as they insert new regulations 3AH to 3AK, to be treated as having been made by the Commissioners under the applicable powers to make regulations conferred by section 244L of FA 2004, and

(d) are, so far as they insert new regulation 3AL, to be treated as having been made by the Commissioners under the powers to make regulations conferred by section 244M(7) of FA 2004.

23 (1) The Registered Pension Schemes (Transfers of Sums and Assets) Regulations 2006 (S.I. 2006/499) are amended as follows.

(2) In regulation 5, the existing text becomes paragraph (1).

(3) After that paragraph insert—

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"(2) In paragraph (1)(a) "administration costs" includes, in particular, payments of overseas transfer charge."

(4) The amendments made by this paragraph are to be treated as made by the Commissioners for Her Majesty's Customs and Revenue under the powers to make regulations conferred by paragraph 2(4)(h) of Schedule 28 to FA 2004.

24 (1) The Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567) are amended as follows.

(2) In regulation 3(1) (provision of information by scheme administrators to HMRC), in column 2 of the entry in the Table for reportable event 9—

(a) after paragraph (g) insert—

"(ga) whether or not overseas transfer charge arises on the transfer;

(gb) if the transfer is excluded from the charge, the reason why it is excluded;

(gc) if the charge arises on the transfer—

(i) the transferred value, and

(ii) the amount in respect of the charge deducted from the transfer;", and

(b) after paragraph (h) insert—

"(ha) the reference number, if any, given by the Commissioners for the QROPS;".

(3) In regulation 3(7) (deadline for event report for reportable event 9), at the end insert "but, if the scheme administrator applies before the end of those 60 days for a repayment of overseas transfer charge on the transfer, the report must be delivered before the administrator applies for the repayment.

(4) In regulation 11BA(2) (information about transfer to be provided by member to scheme administrator)—

(a) in sub-paragraph (a), omit paragraphs (vi) and (vii), including the "and" at the end,

(b) after sub-paragraph (a) insert—

"(aa) the name and address of, and (if known) the reference number given by the Commissioners for, the qualifying recognised overseas pension scheme ("the QROPS");

(ab) the country or territory under the law of which the QROPS is established and regulated;

(ac) whether the member knows for certain that the transfer would be excluded from the overseas transfer charge by one of sections 244D, 244E and 244F, and if the member does know that for certain—

(i) the section concerned (if known),

(ii) the name and address of the member's employer whose connection with the QROPS gives rise to exclusion of the transfer from the charge,

(iii) the member's job title as an employee of that employer,

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(iv) the date the member's employment with that employer began, and

(v) if known, that employer's tax reference for that employment;", and

(c) after sub-paragraph (b) insert "; and

(c) the member's acknowledgement in writing that the member—

(i) is aware that a recognised transfer to a qualifying recognised overseas pension scheme may give rise to a liability to overseas transfer charge, and

(ii) is aware of the circumstances in which liability arises, in which liability is excluded from the outset and in which liability is excluded only if conditions continue to be met over a period of time."

(5) After regulation 11BA insert—

Information provided by members to scheme administrators: overseas transfers

"11BB(1) Paragraph (2) applies where—

(a) a recognised transfer is made by a registered pension scheme to a qualifying recognised overseas pension scheme, and

(b) either—

(i) the overseas transfer charge arises in the case of the transfer, or

(ii) the transfer is required by section 244B or 244C to be initially assumed to be excluded from the overseas transfer charge by that section.

(2) Each time during the relevant period for the transfer that the member—

(a) becomes resident in a country or territory, or

(b) ceases to be resident in a country or territory,

the member must, within 60 days after the date that happens, inform the scheme administrator of the registered pension scheme that it has happened.

(3) In a case where the 60 days mentioned in paragraph (2) ends with a day earlier than 30 June 2017, paragraph (2) is to be treated as requiring the information to be given no later than 30 June 2017."

(6) After regulation 12 insert—

Provision of information about liability for overseas transfer charge

"12A(1) If a recognised transfer is made by a registered pension scheme to a qualifying recognised overseas pension scheme and the overseas transfer charge arises on the transfer, the scheme administrator of the registered pension scheme must within 90 days after the date of the transfer provide the member with a notice stating—

(a) the date of the transfer,

(b) that overseas transfer charge arises on the transfer,

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(c) the transferred value of the transfer,
(d) the amount of the charge on the transfer,
(e) whether, and to what extent, the scheme administrator has accounted, or intends to account, for the charge, and
(f) where the scheme administrator has accounted for the charge, the date the scheme administrator did so.

(2) If a recognised transfer is made by a registered pension scheme to a qualifying recognised overseas pension scheme and the transfer is excluded from the overseas transfer charge by or under sections 244B to 244H, the scheme administrator of the registered pension scheme must within 90 days after the date of the transfer provide the member with a notice stating—
(a) the date of the transfer,
(b) that the transfer is excluded from the overseas transfer charge,
(c) the provision by reason of which the transfer is excluded, and
(d) where that provision is section 244B or 244C, how the transfer may turn out not to be excluded as a result of the member changing country or territory of residence within the relevant period for the transfer.

(3) If overseas transfer charge on a transfer is repaid to the scheme administrator of a registered pension scheme, the scheme administrator must within 90 days after the date of the repayment provide the member with a notice stating—
(a) the date of the repayment,
(b) the amount of the repayment, and
(c) the reason for the repayment."

(7) After regulation 14ZC insert—

Further information provided by scheme administrators on recognised transfers to overseas schemes

"14ZCA(1) This regulation applies if there is a recognised transfer from a registered pension scheme to a qualifying recognised overseas pensions scheme.

(2) The scheme administrator of the registered pension scheme must provide the scheme manager of the qualifying recognised overseas pension scheme with a statement—
(a) stating whether or not the overseas transfer charge arose on the transfer, and
(b) stating—
(i) if the charge arose, the amount of the charge, and
(ii) if the transfer is excluded from the charge, the reason why it is excluded.

(3) The requirement under paragraph (2) is to be complied with before the end of the 31 days beginning with the date of the transfer.

(4) Paragraph (5) applies if overseas transfer charge on the transfer is repaid to the scheme administrator of the registered pension scheme.

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(5) The scheme administrator of the registered pension scheme must provide the scheme manager of the qualifying recognised overseas pension scheme with—

(a) a copy of the statement under paragraph (2),

(b) a statement that the original statement is inaccurate and that the overseas transfer charge on the transfer has been repaid to the scheme administrator, and

(c) the reason why the transfer is excluded from the charge.

(6) The requirement under paragraph (5) is to be complied with before the end of the 31 days beginning with the date of the repayment."

(8) The amendments made by this paragraph are to be treated as made by the Commissioners for Her Majesty's Revenue and Customs under the applicable powers to make regulations conferred by section 251 of FA 2004.

Commencement and transitional provision

25 (1) Subject to sub-paragraphs (2) to (4), the amendments made by this Part of this Schedule have effect in relation to transfers made on or after 9 March 2017.

(2) The new section 169(2)(ba) of FA 2004—

(a) has effect on and after 9 March 2017 in the case of a recognised overseas pension scheme where—

(i) the notification mentioned in section 169(2)(a) of FA 2004 (notification that scheme is a recognised overseas pension scheme) is given on or after 9 March 2017, or

(ii) although that notification is given before 9 March 2017, the letter from the Commissioners for Her Majesty's Revenue and Customs advising the scheme of the reference number allocated to the scheme is dated on or after 9 March 2017, and

(b) has effect on and after 14 April 2017 in the case of a recognised overseas pension scheme where that letter is dated before 9 March 2017.

(3) The other amendments in section 169 of FA 2004, and the amendment in section 255 of that Act, come into force on 9 March 2017.

(4) The amendments in regulation 3(2) of the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 have effect in relation to payments made on or after 9 March 2017; and the new regulation 3AE inserted into those Regulations, and the reference to the new regulation 3AE(6) inserted into regulation 5(1) of those Regulations and the amendments in regulation 11BA of the Registered Pension Schemes (Provision of Information) Regulations 2006, have effect in relation to requests made on or after 9 March 2017.

(5) Overseas transfer charge on transfers made in the period beginning with 9 March 2017 and ending with 30 June 2017 is, for the purposes of section 254 of FA 2004, to be treated as charged in the 3 months ending with 30 September 2017 if it would otherwise be considered for those purposes as charged in an earlier period.

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SCHEDULE 5 U.K.

Section 11

DEDUCTION OF INCOME TAX AT SOURCE

PART 1 U.K.

INTEREST DISTRIBUTIONS OF INVESTMENT TRUST OR AUTHORISED INVESTMENT FUND

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

"**888B Designated dividends of investment trusts**

The duty to deduct a sum representing income tax under section 874 does not apply to a dividend so far as it is treated as a payment of yearly interest by regulations under section 45 of FA 2009 (dividends designated by investment trust or prospective investment trust).

888C Interest distributions of certain open-ended investment companies

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of yearly interest under section 373 of ITTOIA 2005 (in the case of certain open-ended investment companies, payments of yearly interest treated as made where distributable amount shown in accounts as yearly interest).

888D Interest distribution of certain authorised unit trusts

The duty to deduct a sum representing income tax under section 874 does not apply to a payment of yearly interest under section 376 of ITTOIA 2005 (in the case of certain authorised unit trusts, payments of yearly interest treated as made where distributable amount shown in accounts as yearly interest)."

2 In section 45(2) of FA 2009 (provision that regulations may make about dividends of investment trusts) omit paragraph (c) (power to disapply duty to deduct tax under section 874 of ITA 2007).

PART 2 U.K.

INTEREST ON PEER-TO-PEER LENDING

3 In Chapter 3 of Part 15 of ITA 2007 (deduction of tax from certain payments of yearly interest), after section 888D (inserted by this Schedule) insert—

"**888E Interest on certain peer-to-peer lending**

(1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on an amount of peer-to-peer lending.

(2) In subsection (1) "peer-to-peer lending" means credit in relation to which the condition in subsection (4) is met.

(3) In this section—

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"original borrower", in relation to any credit, means the person to whom the credit is originally provided,

"credit" includes a cash loan and any other form of financial accommodation, and

"original lender", in relation to any credit, means the person who originally provides the credit.

(4) The condition is that—

(a) the original borrower and the original lender enter the agreement under which the credit is provided at the invitation of a person ("the operator"),

(b) the operator makes the invitation in the course of, or in connection with, operating an electronic system,

(c) the operator's operation of the electronic system is an activity specified in article 36H(1) or (2D) of the Order (operating an electronic system in relation to lending), and

(d) the operator has permission under Part 4A of FISMA 2000 to carry on that activity.

(5) For the purposes of subsection (4), it does not matter if the agreement mentioned in subsection (4)(a) is not an article 36H agreement (as defined in article 36H of the Order).

(6) The Commissioners for Her Majesty's Revenue and Customs may by regulations make such amendments of the preceding provisions of this section as they consider appropriate in consequence of—

(a) the Order, or any part of it, being replaced (or further replaced) by provision in another instrument, or

(b) any amendment of the Order or any such other instrument.

(7) In this section "the Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)."

PART 3 U.K.

FURTHER AMENDMENT AND COMMENCEMENT

Further amendment

4 In section 874(3)(a) of ITA 2007 (which refers to provisions which disapply the duty under section 874 to deduct tax from yearly interest), for "888" substitute " 888E ".

Commencement

5 (1) The new sections 888B to 888D of ITA 2007, and the repeal of section 45(2)(c) of FA 2009, have effect in relation to amounts treated as payments of yearly interest made on or after 6 April 2017.

(2) The new section 888E of ITA 2007 has effect in relation to payments of interest made on or after 6 April 2017.

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SCHEDULE 6 U.K.

Section 15

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

Introductory

1 Part 7A of ITEPA 2003 (employment income provided through third parties) is amended in accordance with paragraphs 2 to 11.

Meaning of "relevant step"

2 In section 554A(2) (meaning of "relevant") at the end insert "(including such a step where the taking of the step, or some aspect of the taking of the step, constitutes a breach of trust or is a constituent part of a breach of trust, and even if the step or aspect is void as a result of breach of trust).

Loans: transferring, releasing or writing off

3 (1) Section 554C (relevant steps: payment of sum, transfer of asset etc.) is amended as follows.

(2) In subsection (1), after paragraph (a) insert—

"(aa) acquires a right to a payment of a sum of money, or to a transfer of assets, where there is a connection (direct or indirect) between the acquisition of the right and—

(i) a payment made, by way of a loan or otherwise, to a relevant person, or

(ii) a transfer of assets to a relevant person,

(ab) releases or writes off the whole or a part of—

(i) a loan made to a relevant person, or

(ii) an acquired right of the kind mentioned in paragraph (aa),"."

(3) After subsection (3) insert—

"(3A) For the purposes of subsection (1) "loan" includes—

(a) any form of credit, and

(b) a payment that is purported to be made by way of a loan.

(3B) Subsection (3C) applies where a person ("T") acquires from another person ("L") (whether or not for consideration)—

(a) a right to payment of the whole or part of a loan where T is the person liable (at the time of the acquisition of the right) to repay the loan, or

(b) a right to payment of a sum of money, or to a transfer of assets, where T is the person liable (at the time of the acquisition of the right) to pay the sum, or transfer the assets.

(3C) L is to be treated for the purposes of subsection (1)(ab) as releasing—

(a) in a case within subsection (3B)(a), the loan or the relevant part of it;

(b) in a case within subsection (3B)(b), the right or the relevant part of it."

4 In section 554A(4) (non-application of Chapter 2 where relevant step taken on or after A's death)—

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(a) omit "within section 554B", and

(b) at the end insert "if—

(a) the relevant step is within section 554B, or

(b) the relevant step is within section 554C by virtue of subsection (1)(ab) of that section."

5 After section 554O insert—

"**554OA Exclusions: transfer of employment-related loans**

(1) Chapter 2 does not apply by reason of a relevant step taken by a person ("P") if—

(a) the step is acquiring a right to payment of an amount equal to the whole or part of a payment made by way of a loan to a relevant person (the "borrower"),

(b) the loan, at the time it was made, was an employment-related loan,

(c) at the time the relevant step is taken, the section 180 threshold is not exceeded in relation to the loan,

(d) at the time the relevant step is taken, the borrower is an employee, or a prospective employee, of P, and

(e) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.

(2) For the purposes of this section, the section 180 threshold is not exceeded in relation to a loan if, at all times in the relevant tax year—

(a) the amount outstanding on the loan, or

(b) if two or more employment-related loans are made by the same employer, the aggregate of the amount outstanding on them,

does not exceed the amount specified at the end of section 180(2) (normal threshold for benefit of a loan to be treated as earnings).

(3) Subsection (4) applies if—

(a) two or more employment-related loans are made by the same employer, and

(b) during the relevant tax year, a person acquires a right to payment of an amount (the "transfer amount") equal to the whole or part of the payment made by way of any of the loans.

(4) The transfer amount is to be treated as an "amount outstanding" on that loan for the purposes of subsection (2)(b).

(5) In this section—

(a) "employment-related loan" has the same meaning as it has for the purposes of Chapter 7 of Part 3;

(b) "relevant tax year" means the tax year in which the relevant step is taken."

6 In section 554Z(10)(b) (interpretation: relevant step which involves a sum of money), after "section 554C(1)(a)" insert " to (ab) ".

7 In section 554Z12(1) (relevant step taken after A's death etc.), after "554C" insert " , by virtue of subsection (1)(a) or (b) to (e) of that section, ".

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Exclusions: relevant repayments

8 After section 554R insert—

"**554RA Exclusions: relevant repayments**

(1) This section applies (subject to subsection (5)) if—

(a) a right to repayment of principal under a relevant loan (the "repayment right") is held by or on behalf of a person ("P"), and

(b) on or after 9 December 2010, a sum of money (the "repayment sum") is acquired by or on behalf of P by way of repayment of principal under the relevant loan.

(2) In this section "relevant loan" means a loan made on or after 6 April 1999.

(3) Subsection (4) applies if—

(a) on its acquisition, the repayment sum is the subject of a relevant step within section 554B taken by P, or

(b) for the sole purpose of the acquisition, the making of the payment of the repayment sum is a relevant step within section 554C(1)(a).

(4) Chapter 2 does not apply by reason of the relevant step if, on its acquisition, the repayment sum is held by or on behalf of P on the same basis as that on which the repayment right was held by or on behalf of P immediately before the acquisition.

(5) This section does not apply where there is any connection (direct or indirect) between the acquisition by or on behalf of P of the repayment sum and a tax avoidance arrangement (other than the arrangement under which the relevant loan was made)."

Exclusions: payments in respect of a tax liability

9 After section 554X insert—

"**554XA Exclusions: payments in respect of a tax liability**

(1) Chapter 2 does not apply by reason of a relevant step which is the payment of a sum of money if—

(a) the payment is a relevant tax payment, or

(b) where the payment is not a relevant tax payment—

(i) the payment is made to a person for the purpose of the person making a relevant tax payment,

(ii) the person makes a relevant tax payment of an amount equal to the amount of the first payment, and

(iii) the relevant tax payment is made before the end of the period of 60 days beginning with the day on which the first payment is made.

(2) "Relevant tax payment" means a payment made to Her Majesty's Revenue and Customs in respect of a relevant liability for—

(a) income tax,

(b) national insurance contributions,

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(c) inheritance tax, or
(d) corporation tax.

(3) But a provisional payment of tax (see section 554Z11D) is not a relevant tax payment.

(4) A liability is a "relevant liability" if—
(a) under the terms of an agreement for the discharge of the liability, or
(b) by way of a decision on an application under this section,
an officer of Revenue and Customs agrees that the liability is to be treated as arising in respect of the relevant arrangement concerned.

(5) A person may make an application to Her Majesty's Revenue and Customs for a liability to be treated, for the purposes of this section, as arising in respect of the relevant arrangement concerned.

(6) An application under this section must be made in such form and manner, and contain such information, as may be specified by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs.

(7) An officer of Revenue and Customs must notify the applicant of the decision on an application under this section."

Double taxation

10 For section 554Z5 (overlap with earlier relevant step) substitute—

"**554Z5 Overlap with money or asset subject to earlier tax liability**

(1) This section applies if there is overlap between—
(a) the sum of money or asset ("sum or asset P") which is the subject of the relevant step, and
(b) a sum of money or asset ("sum or asset Q") by reference to which, on an occasion that occurred before the relevant step is taken, A became subject to a liability for income tax ("the earlier tax liability").

(2) But this section does not apply where—
(a) the earlier tax liability arose by reason of a step within section 554B taken in a tax year before 6 April 2011, and
(b) the value of the relevant step is (or if large enough would be) reduced under paragraph 59 of Schedule 2 to FA 2011.

(3) Where either the payment condition or the liability condition is met, the value of the relevant step is reduced (but not below nil) by an amount equal to so much of the sum of money, or (as the case may be) the value of so much of the asset, as is within the overlap.

(4) The payment condition is that, at the time the relevant step is taken—
(a) the earlier tax liability has become due and payable, and
(b) either—
(i) it has been paid in full, or

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(ii) the person liable for the earlier tax liability has agreed terms with an officer of Revenue and Customs for the discharge of that liability.

(5) The liability condition is that, at the time the relevant step is taken, the earlier tax liability is not yet due and payable.

(6) For the purposes of this section there is overlap between sum or asset P and sum or asset Q so far as it is just and reasonable to conclude that—

(a) they are the same sum of money or asset, or

(b) sum or asset P directly, or indirectly, represents sum or asset Q.

(7) Subsection (8) applies where—

(a) the earlier tax liability arose by virtue of the application of this Chapter by reason of an earlier relevant step (the "earlier relevant step"), and

(b) reductions were made under this section to the value of the earlier relevant step.

(8) Where this subsection applies, sum or asset P is treated as overlapping with any other sum of money or asset so far as the other sum of money or asset was treated as overlapping with sum or asset Q for the purposes of this section.

(9) In subsection (1)(b)—

(a) the reference to A includes a reference to any person linked with A, and

(b) the reference to a liability for income tax does not include a reference to a liability for income tax arising by reason of section 175 (benefit of taxable cheap loan treated as earnings).

(10) In subsection (3) the reference to the value of the relevant step is a reference to that value—

(a) after any reductions made to it under section 554Z4, this section or 554Z7, but

(b) before any reductions made to it under section 554Z6 or 554Z8.

(11) For the purposes of subsection (4)(b)(i) a person is not to be regarded as having paid any tax by reason only of making—

(a) a payment on account of income tax,

(b) a payment that is treated as a payment on account under section 223(3) of FA 2014 (accelerated payments), or

(c) a payment pending determination of an appeal made in accordance with section 55 of TMA 1970."

11 After section 554Z11A insert—

"Double taxation: earlier income tax liability

554Z11B Earlier income tax liability: application of section 554Z11C

(1) Section 554Z11C applies if the conditions in subsections (2) and (3) are met.

(2) The first condition is that there is overlap between—

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(a) the sum of money or asset ("sum or asset P") which is the subject of the relevant step, and

(b) a sum of money or asset ("sum or asset Q") by reference to which, on an occasion that occurred before the relevant step is taken, A became subject to a liability for income tax ("the earlier tax liability").

(3) The second condition is that at the time the relevant step is taken—

(a) an amount is payable by a person (the "liable person") in respect of the earlier tax liability, but the whole or part of that amount is unpaid and not otherwise accounted for, and

(b) the liable person has not agreed any terms with an officer of Revenue and Customs for the discharge of the earlier tax liability.

(4) For the purposes of this section there is overlap between sum or asset P and sum or asset Q so far as it is just and reasonable to conclude that—

(a) they are the same sum of money or asset, or

(b) sum or asset P directly, or indirectly, represents sum or asset Q.

(5) In subsection (2)(b)—

(a) the reference to A includes a reference to any person linked with A, and

(b) the reference to a liability for income tax does not include a reference to a liability for income tax arising by reason of section 175 (benefit of taxable cheap loan treated as earnings).

554Z11C Earlier income tax liability: treatment of payments

(1) In this section—

(a) "the earlier charge" means so much of the earlier tax liability as relates to the overlap between sum or asset P and sum or asset Q, and

(b) "the Chapter 2 overlap charge" means so much of the Chapter 2 tax liability as relates to the overlap between sum or asset P and sum or asset Q.

(2) The amount of a tax liability that relates to the overlap between sum or asset P and sum or asset Q is to be determined on a just and reasonable basis.

(3) Subsection (4) applies where, after the relevant step is taken, an amount (the "earlier charge paid amount") is paid in respect of all or part of—

(a) the earlier charge, or

(b) any late payment interest in respect of the charge.

(4) An amount equal to the earlier charge paid amount is treated as a payment on account of—

(a) the Chapter 2 overlap charge, or

(b) if that charge has been paid in full, any late payment interest payable in respect of the charge.

(5) Except where subsection (10) applies, subsection (6) applies where an amount (the "Chapter 2 paid amount") is paid in respect of all or part of—

(a) the Chapter 2 overlap charge, or

(b) any late payment interest in respect of the charge.

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(6) An amount equal to the Chapter 2 paid amount is treated as a payment on account of—

(a) the earlier charge, or

(b) if the earlier charge has been paid in full, any late payment interest payable in respect of the charge.

(7) Subsection (10) applies where—

(a) the condition in 554Z11B(2) is met because there is overlap between sum or asset P and each of two or more items within section 554Z11B(2)(b), and

(b) an amount (the "Chapter 2 aggregate paid amount") is paid in respect of all or part of—

(i) two or more relevant Chapter 2 overlap charges, or

(ii) any late payment interest in respect of any of those charges.

(8) In subsection (7)(b), "relevant Chapter 2 overlap charge" means so much of the Chapter 2 tax liability as relates to the overlap between sum or asset P and one of those items within section 554Z11B(2)(b).

(9) For the purposes of subsection (10)—

(a) in the case of each of those items, the "earlier charge" in respect of the overlap between sum or asset P and the item is so much of the liability mentioned in section 554Z11B(2)(b) in the case of the item as relates to the overlap, and

(b) the Chapter 2 aggregate paid amount is to be allocated, in such proportions as are just and reasonable in all the circumstances, between the earlier charges given by paragraph (a).

(10) The amount allocated to an earlier charge under subsection (9) is treated as a payment on account of—

(a) the earlier charge to which it is allocated, and

(b) if the earlier charge has been paid in full, any late payment interest payable in respect of the charge.

(11) In this section—

"late payment interest" means interest payable under—

(a) section 86 of TMA 1970,

(b) section 101 of FA 2009, or

(c) regulation 82 of the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682);

"Chapter 2 tax liability" means the liability for income tax arising by virtue of the application of Chapter 2 by reason of the relevant step.

554Z11D Earlier income tax liability: provisional payments of tax

(1) Subsection (2) applies for the purposes of—

(a) section 554Z11B(3)(a), and

(b) section 554Z11C(3), (4)(b), (7)(b) and (10)(b).

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(2) A person is not to be regarded as having paid, or otherwise accounted for, any tax by reason only of making a provisional payment of tax, except in accordance with an application granted under section 554Z11E.

(3) In this Part, "provisional payment of tax" means—

(a) a payment on account of income tax,

(b) a payment that is treated as a payment on account under section 223(3) of FA 2014 (accelerated payments), or

(c) a payment pending determination of an appeal made in accordance with section 55 of TMA 1970.

(4) The reference in subsection (3)(a) to a payment on account of income tax does not include a reference to a payment treated under section 554Z11C as a payment on account of a tax liability.

554Z11E Application for provisional payments to be treated as payment of tax

(1) A person may make an application to Her Majesty's Revenue and Customs for a provisional payment of tax to be treated for the purposes of section 554Z11C as—

(a) an earlier charge paid amount,

(b) a Chapter 2 paid amount, or

(c) a Chapter 2 aggregate paid amount.

(2) Where an application under subsection (1) is granted, the provisional payment of tax to which it relates may not be repaid.

(3) An application for approval must be made in such form and manner, and contain such information, as may be specified by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs.

(4) An officer of Revenue and Customs must notify the applicant of the decision on an application.

554Z11F Provisional payments of tax: further provision

(1) This section applies in a case to which section 554Z11C applies (see section 554Z11B(1)).

(2) If a provisional payment of tax is made in respect of an earlier charge in relation to an overlap, it is to be treated as also being made in respect of the Chapter 2 overlap charge in relation to the overlap.

(3) If a provisional payment of tax is made in respect of a Chapter 2 overlap charge in relation to an overlap, it is to be treated as also being made in respect of the earlier charge in relation to the overlap.

(4) If section 554Z11C(10) applies in a case (see section 554Z11C(7)) and a provisional payment of tax is made in respect of two or more relevant Chapter 2 overlap charges—

(a) the amount of the provisional payment of tax is to be allocated, in such proportions as are just and reasonable in all the circumstances, between those relevant Chapter 2 overlap charges, and

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(b) a provisional payment of tax, equal to the amount allocated to the relevant Chapter 2 overlap charge relating to any particular overlap, is to be treated as also being made in respect of the earlier charge given by section 554Z11C(9) in respect of that overlap.

(5) Subsection (6) applies if—

(a) the provisional payment of tax is repaid, and

(b) late payment interest on the earlier charge or the Chapter 2 overlap charge would have accrued during the relevant period if the provisional payment of tax had not been made.

(6) The late payment interest mentioned in subsection (5) is treated as having accrued as if the provisional payment of tax had not been made.

(7) For the purposes of subsection (5), the "relevant period" is the period beginning on the day on which the provisional payment of tax is made and ending with the day on which the repayment is made.

554Z11G Earlier income tax liability: supplementary provision

(1) This section applies in a case to which section 554Z11C applies (see section 554Z11B(1)).

(2) Subsection (3) applies where an employer is treated by virtue of section 687A or 695A as making a payment of income ("the notional payment") by reason of the value of the relevant step, of which sum or asset P is the subject, counting as employment income.

(3) The reference in section 222 (payments by employer on account of tax where deduction not possible) to the notional payment is to be treated as a reference to that payment reduced by an amount equal to so much of the sum of money or (as the case may be) the value of so much of the asset—

(a) as is within the overlap, and

(b) in relation to which an amount is treated under section 554Z11C as a payment on account of either the earlier charge or the Chapter 2 overlap charge.

(3) Subsection (4) applies for the purposes of sections 65(5)(b) and 70(3)(b) of the Inheritance Tax Act 1984 (tax relief for payments which are income of a person for income tax purposes etc).

(4) The value of the relevant step of which sum or asset P is the subject is to be treated as reduced by an amount equal to so much of the sum of money or (as the case may be) the value of so much of the asset —

(a) as is within the overlap, and

(b) in relation to which an amount is treated under section 554Z11C as a payment on account of either the earlier charge or the Chapter 2 overlap charge."

Amendments to Schedule 2 to FA 2011

12 (1) Paragraph 59 of Schedule 2 to FA 2011 (transitional provision relating to Part 7A of ITEPA 2003) is amended as follows.

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(2) In sub-paragraph (1)(f), after "554Z4" insert " and 554Z6 ".

(3) In the opening words of sub-paragraph (2), after "554Z4" insert " and 554Z6 ".

Commencement

13 Subject to paragraphs 14 to 16, the amendments made by this Schedule to Part 7A of ITEPA 2003 have effect in relation to relevant steps taken on or after 6 April 2017.

14 Section 554RA of ITEPA 2003, inserted by paragraph 8 of this Schedule, has effect in relation to relevant steps taken on or after 9 December 2010.

15 (1) Paragraph 13 does not apply in relation to the amendment made by paragraph 11 of this Schedule (new sections 554Z11B to 554Z11G of ITEPA 2003).

(2) Sections 554Z11B to 554Z11D and 554Z11G of ITEPA 2003, inserted by paragraph 11 of this Schedule, have effect in relation to relevant steps taken on or after 6 April 2011.

(3) Where—

(a) a relevant step (the "early step") is taken on or after 9 December 2010 but before 6 April 2011, and

(b) Chapter 2 of Part 7A of ITEPA 2003 would have applied by reason of the early step had it been taken on or after 6 April 2011 but before 6 April 2017,

sections 554Z11B to 554Z11D and 554Z11G of ITEPA 2003 have effect in relation to the early step as they have effect in relation to relevant steps taken on or after 6 April 2011.

16 The amendments made by paragraph 12 of this Schedule to paragraph 59 of Schedule 2 to FA 2011 have effect in relation to chargeable steps (as defined in that paragraph) taken on or after 6 April 2017.

SCHEDULE 7 U.K.

Section 16

VAT: ZERO-RATING OF ADAPTED MOTOR VEHICLES ETC

Adaptation of a qualifying motor vehicle

1 (1) In Schedule 8 to VATA 1994 (zero-rating), Group 12 (drugs, medicines, aids for the handicapped etc) is amended as follows.

(2) For item 2A substitute—

"2A (1) The supply of a motor vehicle (other than a motor vehicle capable of carrying more than 12 persons including the driver) to a person ("P") if—

(a) the motor vehicle is a qualifying motor vehicle by virtue of paragraph (2) or (3),

(b) P is a disabled person to whom paragraph (4) applies, and

(c) the vehicle is supplied for domestic or P's personal use.

(2) A motor vehicle is a "qualifying motor vehicle" by virtue of this paragraph if it is designed to enable a person to whom paragraph (4) applies to travel in it.

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(3) A motor vehicle is a "qualifying motor vehicle" by virtue of this paragraph if—

(a) it has been substantially and permanently adapted to enable a person to whom paragraph (4) applies to travel in it, and

(b) the adaptation is necessary to enable P to travel in it.

(4) This paragraph applies to a disabled person—

(a) who usually uses a wheelchair, or

(b) who is usually carried on a stretcher.

2B (1) The supply of a qualifying motor vehicle (other than a motor vehicle capable of carrying more than 12 persons including the driver) to a charity for making available, by sale or otherwise to a person to whom paragraph (3) applies, for domestic or the person's personal use.

(2) A motor vehicle is a "qualifying motor vehicle" for the purposes of this item if it is designed or substantially and permanently adapted to enable a disabled person to whom paragraph (3) applies to travel in it.

(3) This paragraph applies to a disabled person—

(a) who usually uses a wheelchair, or

(b) who is usually carried on a stretcher."

Three year rule, reporting and certification

2 In Schedule 8 to VATA 1994, in Group 12—

(a) omit Note (5L), and

(b) before Note (6) insert—

"(5M) For the purposes of Notes (5N) to (5S), the supply of a motor vehicle is a "relevant supply" if it is a supply of goods (which is made in the United Kingdom).

(5N) In the case of a relevant supply of a motor vehicle to a disabled person ("the new supply"), items 2(f) and 2A do not apply if, in the period of 3 years ending with the day on which the motor vehicle is made available to the disabled person—

(a) a reckonable zero-rated supply of another motor vehicle has been made to that person, or

(b) that person has made a reckonable zero-rated acquisition, or reckonable zero-rated importation, of another motor vehicle.

(5O) If a relevant supply of a motor vehicle is made to a disabled person and—

(a) any reckonable zero-rated supply of another motor vehicle has previously been made to the person, or

(b) any reckonable zero-rated acquisition or importation of another motor vehicle has previously been made by the person,

the reckonable zero-rated supply or (as the case may be) reckonable zero-rated importation or acquisition is treated for the purposes of

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Note (5N) as not having been made if either of the conditions in Note (5P) is met.

(5P) The conditions mentioned in Note (5O) are that—

(a) at the time of the new supply (see Note (5N)) the motor vehicle mentioned in Note (5O)(a) or (b) is unavailable for the disabled person's use because—

(i) it has been stolen, or

(ii) it has been destroyed or damaged beyond repair (accidentally, or otherwise in circumstances beyond the disabled person's control), or

(b) the Commissioners are satisfied that (at the time of the new supply) the motor vehicle mentioned in Note (5O)(a) or (b) has ceased to be suitable for the disabled person's use because of changes in the person's condition.

(5Q) In the case of a relevant supply of a motor vehicle to a disabled person, items 2(f) and 2A cannot apply unless the supplier—

(a) gives to the Commissioners, before the end of the period of 12 months beginning with the day on which the supply is made, any information and supporting documentary evidence that may be specified in a notice published by them, and

(b) in doing so complies with any requirements as to method set out in the notice.

(5R) In the case of a relevant supply of a motor vehicle to a disabled person, items 2(f) and 2A cannot apply unless, before the supply is made, the person making the supply has been given a certificate in the required form which—

(a) states that the supply will not fall within Note (5N), and

(b) sets out any other matters, and is accompanied by any supporting documentary evidence, that may be required under a notice published by the Commissioners for the purposes of this Note.

(5S) The information that may be required under Note (5Q)(a) includes—

(a) the name and address of the disabled person and details of the person's disability, and

(b) any other information that may be relevant for the purposes of that Note,

(and the matters that may be required under Note (5R)(b) include any information that may be required for the purposes of Note (5Q)).

(5T) In Notes (5N) to (5S)—

"in the required form" means complying with any requirements as to form that may be specified in a notice published by the Commissioners;

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"reckonable zero-rated acquisition", in relation to a motor vehicle, means an acquisition of the vehicle from another member State in a case where—

(a) VAT is not chargeable on the acquisition as a result of item 2(f) or 2A, and

(b) the acquisition takes place on or after 1 April 2017;

"reckonable zero-rated importation", in relation to a motor vehicle, means an importation of the vehicle from a place outside the member States in a case where—

(a) VAT is not chargeable on the importation as a result of item 2(f) or 2A, and

(b) the importation takes place on or after 1 April 2017;

"reckonable zero-rated supply", in relation to a motor vehicle, means a supply of the vehicle which—

(a) is a supply of goods,

(b) is zero-rated as a result of item 2(f) or 2A, and

(c) is made on or after 1 April 2017.

(5U) In items 2A and 2B references to design, or adaptation, of a motor vehicle to enable a person (or a person of any description) to travel in it are to be read as including a reference to design or, as the case may be, adaptation of the motor vehicle to enable the person (or persons of that description) to drive it."

Penalty

3 (1) Section 62 of VATA 1994 (incorrect certificates as to zero-rating etc) is amended as follows.

(2) After subsection (1A) insert—

"(1B) Where—

(a) a person gives a certificate for the purposes of Note (5R) to Group 12 of Schedule 8 with respect to a supply of a motor vehicle, and

(b) the certificate is incorrect,

the person giving the certificate is to be liable to a penalty."

(3) In subsection (2), at the end insert—

"(c) in a case where it is imposed by virtue of subsection (1B), the difference between—

(i) the amount of the VAT which would have been chargeable on the supply if the certificate had been correct, and

(ii) the amount of VAT actually chargeable."

Minor amendments

4 Schedule 8 to VATA 1994 is amended as follows.

5 In Part 1 (index to zero-rated supplies of goods and services)—

(a) in the entry relating to Group 12, for "handicapped" substitute " disabled ";

(b) in the entry relating to Group 4, for "handicapped" substitute " disabled ".

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6 In Group 4 (talking books for the blind and handicapped and wireless sets for the blind)—

(a) in item 1, for each occurrence of "handicapped" substitute " disabled ";

(b) in the heading, for "handicapped" substitute " disabled ".

7 In Group 12 (drugs, medicines, aids for the handicapped etc)—

(a) in items 2 to 19 and Notes (1) and (5B) to (9), for each occurrence of "handicapped" substitute " disabled ";

(b) for Note (3) substitute—

"(3) Any person who is chronically sick or disabled is "disabled" for the purposes of this Group.";

(c) in the heading, for "handicapped," substitute " disabled, ".

8 In Group 15 (charities etc)—

(a) in item 5 and Notes (1C) to (4A), (5A) and (5B), for "handicapped" substitute " disabled ";

(b) for Note (5) substitute—

"(5) Any person who is chronically sick or disabled is "disabled" for the purposes of this Group."

Commencement

9 The amendments made by this Schedule have effect in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2017.

SCHEDULE 8 U.K.

Section 52

SOFT DRINKS INDUSTRY LEVY: RECOVERY AND OVERPAYMENTS

PART 1 U.K.

RECOVERY

Recovery as debt due

1 Soft drinks industry levy is recoverable as a debt due to the Crown.

Commencement Information
I55 Sch. 8 para. 1 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Assessments

2 (1) Sub-paragraph (2) applies where it appears to the Commissioners—

(a) that any period is an accounting period by reference to which a person is liable to account for soft drinks industry levy,

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(b) that an amount of soft drinks industry levy for which that person is liable to account by reference to that period has become due (but the amount due cannot be ascertained), and

(c) that there has been a relevant default by the person (see sub-paragraph (3)).

(2) The Commissioners may—

(a) assess the amount of soft drinks industry levy due from the person to the best of their judgment, and

(b) notify the amount to the person.

(3) The following are "relevant defaults"—

(a) a failure to comply with a requirement of section 44 (notification of liability to register) or of regulations under section 48 (correction of the register);

(b) a failure to make a return required by regulations under section 52;

(c) a failure to keep documents, or provide facilities, necessary to verify returns required by those regulations;

(d) the making, in purported compliance with a requirement of the regulations, of an incomplete or incorrect return;

(e) a failure to comply with a requirement of regulations under section 53(1) (keeping and preserving records);

(f) an unreasonable delay in complying with a requirement, where the failure to comply would be a default within any of paragraphs (a) to (e).

Commencement Information

I56 Sch. 8 para. 2 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

3 (1) Sub-paragraph (2) applies where—

(a) the Commissioners have made an assessment for an accounting period as a result of a person's failure to make a return for that period,

(b) the levy assessed has been paid but no proper return has been made for that period, and

(c) as a result of a failure to make a return for a later accounting period, the Commissioners make another assessment (the "later assessment") under paragraph 2 in relation to the later period.

(2) The Commissioners may, if they consider it appropriate in the light of the absence of a return for the earlier period, specify in the later assessment an amount of soft drinks industry levy due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.

Commencement Information

I57 Sch. 8 para. 3 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

4 (1) Sub-paragraph (2) applies where it appears to the Commissioners that—

(a) any period is an accounting period by reference to which a person is liable to account for soft drinks industry levy,

(b) an amount of soft drinks industry levy for which that person is liable to account by reference to that period has become due, and

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(c) the amount due can be ascertained by the Commissioners.

(2) The Commissioners may—

(a) assess the amount of soft drinks industry levy due from the person, and

(b) notify the amount to the person.

Commencement Information

I58 Sch. 8 para. 4 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Supplementary assessments

5 (1) Sub-paragraph (2) applies where—

(a) an assessment has been notified to a person under paragraph 2(2) or 4(2), and

(b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.

(2) The Commissioners may—

(a) make a supplementary assessment of the amount of soft drinks industry levy due from the person to the best of their judgment, and

(b) notify the amount to that person.

Commencement Information

I59 Sch. 8 para. 5 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Further provision about assessments under paragraphs 2, 4 and 5

6 (1) Where an amount has been assessed and notified to a person under paragraph 2, 4 or 5, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.

(2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Commencement Information

I60 Sch. 8 para. 6 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Time limits for assessments

7 (1) An assessment under paragraph 2, 4 or 5 may not be made after the end of the relevant period.

(2) Except in a case within sub-paragraph (3), the relevant period is the period of 4 years from the end of the accounting period to which the assessment relates.

(3) Where an assessment of an amount due from a person is made in a case involving loss of soft drinks industry levy—

(a) brought about deliberately by the person, or

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(b) attributable to a failure by the person to comply with a requirement of section 44 (notification of liability to be registered) or a requirement of regulations under section 48 (correction of the register),

the relevant period is the period of 20 years from the end of the accounting period to which the assessment relates.

(4) In sub-paragraph (3)(a) the reference to loss brought about deliberately by a person includes a reference to a loss brought about as a result of the deliberate inaccuracy in a document given to HMRC by the person.

(5) In sub-paragraphs (3) and (4) references to a loss brought about by a person include references to a loss brought about by another person acting on behalf of that person.

Commencement Information

I61 Sch. 8 para. 7 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

PART 2 U.K.

OVERPAYMENTS

Repayments of overpaid levy

8 (1) This paragraph applies where a person (P) has paid an amount to the Commissioners by way of soft drinks industry levy which was not levy due.

(2) The Commissioners are liable, on the making of a claim by P, to repay the amount.

(3) The Commissioners may by regulations make provision about—

(a) the form and manner of a claim;

(b) the information required in support of a claim.

(4) Except as provided by this paragraph, the Commissioners are not liable to repay any amount paid by way of soft drinks industry levy by reason of the fact that it was not levy due.

(5) This paragraph is subject to paragraph 9.

Commencement Information

I62 Sch. 8 para. 8 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I63 Sch. 8 para. 8 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

Supplementary provisions about repayment etc.

9 (1) The Commissioners are not liable, on a claim for a repayment of soft drinks industry levy, to repay any amount paid more than 4 years before the making of the claim.

(2) It is a defence to any claim for repayment of an amount of soft drinks industry levy that the repayment of that amount would unjustly enrich the claimant.

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Commencement Information
I64 Sch. 8 para. 9 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

10 (1) This paragraph applies where—

(a) an amount has been paid by way of soft drinks industry levy which (apart from paragraph 9(2)) would fall to be repaid to a person (P), and

(b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than P.

(2) Where loss or damage has been, or may be, incurred by P as a result of mistaken assumptions made in P's case about the operation of any provision relating to soft drinks industry levy, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of a relevant determination.

(3) In sub-paragraph (2) "the quantified amount" means the amount (if any) which is shown by P to constitute the amount that would appropriately compensate P for loss or damage shown by P to have resulted from the making of the mistaken assumptions.

(4) A "relevant determination" means a determination for the purposes of paragraph 9(2) as to—

(a) whether or to what extent the repayment of an amount would enrich P, or

(b) whether or to what extent an enrichment of P would be unjust.

(5) The reference in sub-paragraph (2) to provision relating to soft drinks industry levy is a reference to any provision made by or under any enactment which relates to the levy or to any matter connected with it.

Commencement Information
I65 Sch. 8 para. 10 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Reimbursement arrangements

11 (1) The Commissioners may by regulations make provision for reimbursement arrangements to be disregarded for the purposes of paragraph 9(2) except where the arrangements—

(a) contain such provision as may be required by the regulations, and

(b) are supported by such undertakings to comply with the arrangements as may be required by the regulations to be given to the Commissioners.

(2) In this paragraph "reimbursement arrangements" means arrangements for the purposes of a claim to a repayment of soft drinks industry levy which—

(a) are made by a person for the purpose of securing that the person is not unjustly enriched by the repayment of any amount in pursuance of the claim, and

(b) provide for the reimbursement of a person who has for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.

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(3) Regulations under this paragraph may include provision requiring reimbursement arrangements to contain provision—

(a) requiring a reimbursement for which the arrangements provide to be made within a specified period after the repayment to which it relates;

(b) for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;

(c) requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to reimburse or repay the Commissioners;

(d) requiring records of a specified description relating to the arrangements to be kept and produced to the Commissioners, or to an officer of Revenue and Customs;

(e) imposing obligations on specified persons for the purposes of provision made under paragraphs (a) to (d).

(4) Regulations under this paragraph may—

(a) make provision about the form, manner and timing of undertakings given to the Commissioners in accordance with the regulations, and

(b) provide for those matters to be determined by the Commissioners in accordance with the regulations.

Commencement Information

I66 Sch. 8 para. 11 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I67 Sch. 8 para. 11 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

Assessment for excessive repayment

12 (1) Sub-paragraph (3) applies where—

(a) an amount has been paid at any time to a person by way of a repayment of soft drinks industry levy, and

(b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person.

(2) Sub-paragraph (3) also applies where a person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by regulations under paragraph 11(3)(b), (c) or (e).

(3) The Commissioners may—

(a) to the best of their judgment, assess the amount of the excess (in a case within sub-paragraph (1)) or the amount due (in a case within sub-paragraph (2)), and

(b) notify the amount to the person.

(4) Subject to sub-paragraph (5), where—

(a) an assessment is made on any person under this paragraph in respect of a repayment of soft drinks industry levy, and

(b) the Commissioners have power under Part 1 of this Schedule to make an assessment on that person as to an amount of the levy due from that person,

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the assessments may be combined and notified to the person as one assessment.

(5) A notice of a combined assessment under sub-paragraph (4) must separately identify the amount being assessed in respect of repayments of soft drinks industry levy.

Commencement Information
I68 Sch. 8 para. 12 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Supplementary assessments

13 (1) Sub-paragraph (2) applies where—

(a) an assessment has been notified to a person under paragraph 12, and

(b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.

(2) The Commissioners may—

(a) on or before the last day on which the assessment under paragraph 12 could have been made, make a supplementary assessment of the amount of soft drinks industry levy due from the person, and

(b) notify the amount to that person.

Commencement Information
I69 Sch. 8 para. 13 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Further provision about assessments under paragraphs 12 and 13

14 (1) Where an amount has been assessed and notified to a person under paragraph 12 or 13, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.

(2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Commencement Information
I70 Sch. 8 para. 14 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Time limits for assessments

15 An assessment under paragraph 12 or 13 may not be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

Commencement Information
I71 Sch. 8 para. 15 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

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PART 3 U.K.

FURTHER PROVISION ABOUT NOTICES ETC.

Notifications to a person's representative

16 (1) A notice of an assessment under paragraph 2, 5, 12 or 13 given to a person's representative is to be treated for the purposes of this Schedule as a notice given to the person in relation to whom the representative acts.

(2) In sub-paragraph (1), "representative", in relation to a person, means—

(a) any of that person's personal representatives;

(b) that person's trustee in bankruptcy, interim or permanent trustee or liquidator;

(c) any person holding office as receiver in relation to that person or any of that person's property;

(d) any other person acting in a representative capacity in relation to that person.

Commencement Information

I72 Sch. 8 para. 16 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Service of notices

17 A notice under this Schedule may be given to a person by sending it to that person by post, addressed to the person's last known address.

Commencement Information

I73 Sch. 8 para. 17 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

SCHEDULE 9 U.K.

Section 53

SOFT DRINKS INDUSTRY LEVY: REQUIREMENTS TO KEEP RECORDS ETC: PENALTIES

PART 1 U.K.

PENALTIES

Sections 48(2) and 53(1): requirements imposed by regulations

1 (1) A person who fails to comply with a requirement imposed by regulations under section 48(2) or 53(1)(a) is liable to a penalty.

(2) The amount of the penalty is equal to the relevant amount multiplied by the number of days on which the failure continues (up to a maximum of 100 days) or, if it is greater, to a penalty of £50.

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(3) In relation to a failure by a person to comply with the requirement, the amount of the penalty is to be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure on which the person has previously failed to comply with that requirement.

(4) But—

(a) a continuing failure to comply with a requirement is to be regarded as one occasion of failure occurring on the date on which the failure began;

(b) if the same omission gives rise to a failure to comply with more than one such requirement, it is to be regarded as the occasion of only one failure.

(5) The relevant amount is—

(a) if there has been no previous occasion of failure in the period mentioned in sub-paragraph (3), £5;

(b) if there has been only one such occasion in that period, £10; and

(c) in any other case, £15.

(6) A person who fails to comply with a requirement to preserve records imposed by regulations under section 53(1)(b) is liable to a penalty of £500.

(7) If by reason of conduct falling within sub-paragraph (1) or (6) a person is assessed to a penalty for a deliberate inaccuracy under Schedule 24 to FA 2007, that conduct does not also give rise to a penalty under this paragraph.

Commencement Information
I74 Sch. 9 para. 1 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Section 53(2): requirements imposed by directions

2 (1) A person who fails to comply with a requirement imposed under section 53(2)(a) is liable to a penalty.

(2) The amount of the penalty is equal to £200 multiplied by the number of days on which the failure continues (up to a maximum of 30 days).

(3) A person who fails to comply with a requirement imposed under section 53(3)(b) is liable to a penalty of £500.

(4) If by reason of conduct falling within sub-paragraph (1) or (3) a person is assessed to a penalty for a deliberate inaccuracy under Schedule 24 to FA 2007, that conduct does not also give rise to a penalty under this paragraph.

Commencement Information
I75 Sch. 9 para. 2 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Power to alter amounts specified in paragraphs 1 and 2

3 (1) 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 sums specified in

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paragraph 1(2), (5)(a) to (c) and (6) and paragraph 2(2) and (3) such other sums as appear to them to be justified by the change.

(2) But regulations under sub-paragraph (1) may not apply to a failure which began before the date on which the regulations come into force.

(3) The "relevant date", in relation to a specified sum, means—

(a) the date on which this Act is passed, and

(b) each date on which the power conferred by sub-paragraph (1) has been exercised in relation to that sum.

Commencement Information

I76 Sch. 9 para. 3 in force at 13.1.2018 for specified purposes by S.I. 2018/32, **reg. 2**

I77 Sch. 9 para. 3 in force at 6.4.2018 in so far as not already in force by S.I. 2018/464, **art. 2(e)**

Reasonable excuse

4 (1) A failure by any person to comply with any requirement mentioned in paragraph 1 or 2 does not give rise to a liability to a penalty under this Schedule if the person concerned satisfies—

(a) the Commissioners, or

(b) on appeal, a tribunal,

that there is a reasonable excuse for the failure.

(2) A failure for which there is a reasonable excuse is to be disregarded for the purposes of paragraph 1(5).

(3) For the purposes of this paragraph, in the case of a person (P)—

(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P's control;

(b) where P relies on another person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the relevant failure;

(c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

Commencement Information

I78 Sch. 9 para. 4 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

PART 2 U.K.

ASSESSMENTS

Power to make assessments

5 (1) Where a person becomes liable for a penalty under this Schedule—

(a) the Commissioners may assess the penalty, and

(b) if they do so, they must notify the amount to that person.

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(2) Where a person is liable to a penalty under paragraph 1 for failure to comply with a requirement imposed by regulations under section 48(2) or 53, no assessment of the penalty may be made under this paragraph unless—

(a) the Commissioners have given the person written notice of the consequences of a continuing failure to comply with that requirement, and

(b) the notice has been given during the period of 2 years preceding the assessment.

(3) A notice under sub-paragraph (1) must specify a date, being not later than the date of the notice, to which the amount of the penalty is calculated.

(4) If the penalty continues to accrue after that date, a further assessment or assessments may be made under this paragraph in respect of the accrued amounts.

(5) If, within such period as may be notified by the Commissioners to the person liable to a penalty, the failure to comply with a requirement imposed by regulations under section 48(2), or by regulations or a direction under 53, is remedied, it is to be treated as remedied on the date specified under sub-paragraph (3).

Commencement Information

I79 Sch. 9 para. 5 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Supplementary assessments

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

(a) an assessment has been notified to a person under paragraph 5, and

(b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.

(2) The Commissioners may—

(a) make a supplementary assessment of the amount due from the person, and

(b) notify the amount to that person.

Commencement Information

I80 Sch. 9 para. 6 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Further provision about assessments under this Schedule

7 (1) Where an amount has been assessed and notified to a person under paragraph 5 or 6, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.

(2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Commencement Information

I81 Sch. 9 para. 7 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

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Time limits for assessments

8 (1) An assessment under paragraph 5 may not be made after the end of the relevant period.

(2) Except in a case within sub-paragraph (3), the relevant period is the period of 4 years from the end of the accounting period to which the assessment relates.

(3) Where an assessment of an amount due from a person in a case involving loss of soft drinks industry levy—

(a) brought about deliberately by the person, or

(b) attributable to a failure by the person to comply with a requirement imposed by regulations under section 53 (records),

the relevant period is the period of 20 years from the end of the accounting period to which the assessment relates.

(4) In sub-paragraph (3)(a) the reference to loss brought about deliberately by a person includes a reference to a loss brought about as a result of the deliberate inaccuracy in a document given to HMRC by the person.

(5) In sub-paragraphs (3) and (4) references to a loss brought about by a person include references to a loss brought about by another person acting on behalf of that person.

Commencement Information
I82 Sch. 9 para. 8 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Further provision about notices

9 (1) A notice of an assessment under paragraph 5 or 6 given to a person's representative is to be treated for the purposes of this Schedule as a notice given to the person in relation to whom the representative acts.

(2) In this paragraph "representative", in relation to a person, has the meaning given by paragraph 16(2) of Schedule 8.

Commencement Information
I83 Sch. 9 para. 9 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

10 A notice under this Schedule may be given to a person by sending it to that person by post, addressed to the person's last known address.

Commencement Information
I84 Sch. 9 para. 10 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

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SCHEDULE 10 U.K.

Section 55

SOFT DRINKS INDUSTRY LEVY: APPEALS AND REVIEWS

PART 1 U.K.

APPEALABLE DECISIONS

Appealable decisions

1 A person may appeal against a decision of the Commissioners or an officer of Revenue and Customs in respect of any of the following matters—

(a) whether or not a person is liable to pay an amount of soft drinks industry levy;

(b) whether or not the Commissioners are liable to repay an amount to a person under paragraph 8(2) of Schedule 8 (overpaid levy);

(c) whether or not the repayment of an amount under that paragraph is excessive (see paragraph 12 of that Schedule);

(d) whether or not a person is liable to pay an amount to the Commissioners in pursuance of an obligation imposed by regulations under paragraph 11(3)(b), (c) or (e) of Schedule 8 (reimbursement arrangements);

(e) whether or not a person is liable to a penalty under paragraph 1(1) or (6) or 2(1) or (3) of Schedule 9 (requirements to keep records etc: penalties);

(f) the amount of soft drinks industry levy payable by a person;

(g) the amount that the Commissioners are liable to repay to a person under paragraph 8(2) of Schedule 8;

(h) where repayment of an amount under that paragraph is excessive, the amount of the excess;

(i) the amount that a person is liable to pay to the Commissioners in pursuance of an obligation imposed by regulations under paragraph 11(3)(b), (c) and (e) of Schedule 8;

(j) the amount of a penalty payable under paragraph 1(1) or (6) or 2(1) or (3) of Schedule 9;

(k) the determination of a dilution ratio under section 27(2)(b);

(l) the registration, or cancellation of registration, of a person under this Part for the purposes of soft drinks industry levy;

(m) the period by reference to which payments of soft drinks industry levy are to be made;

(n) a person's entitlement to a tax credit, the withdrawal of a tax credit, the amount of a tax credit or the period for which a tax credit is to be brought into account under regulations under section 39;

(o) the giving of a direction by the Commissioners under section 53(2) (keeping and preserving records).

Commencement Information

I85 Sch. 10 para. 1 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

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PART 2 U.K.

REVIEWS

Offer of review

2 (1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal in respect of the decision may be brought under paragraph 1.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This paragraph does not apply to the notification of the conclusions of a review.

Commencement Information
I86 Sch. 10 para. 2 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Right to require review

3 (1) Any person (other than P) who has the right of appeal under paragraph 1 against a decision may require HMRC to review that decision if that person has not appealed to the appeal tribunal.

(2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

Commencement Information
I87 Sch. 10 para. 3 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Review by HMRC

4 (1) HMRC must review a decision if—

(a) they have offered a review of the decision under paragraph 2, and

(b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under paragraph 1.

(3) HMRC must review a decision if a person other than P notifies them under paragraph 3.

(4) HMRC may not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 1 in respect of the decision.

Commencement Information
I88 Sch. 10 para. 4 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Extensions of time

5 (1) If under paragraph 2 HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.

(2) If under paragraph 3 another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.

(3) If notice is given the relevant period is extended to the end of 30 days from—

(a) the date of the notice, or

(b) any other date set out in the notice or a further notice.

(4) In this paragraph "relevant period" means—

(a) the period of 30 days referred to in—

(i) paragraph 4(1)(b) (in a case falling within sub-paragraph (1)), or

(ii) paragraph 3(2) (in a case falling within sub-paragraph (2)), or

(b) if notice has been given under sub-paragraph (1) or (2), that period as extended (or as most recently extended) in accordance with sub-paragraph (3).

Commencement Information

I89 Sch. 10 para. 5 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Review out of time

6 (1) This paragraph applies if—

(a) HMRC have offered a review of a decision under paragraph 2 and P does not accept the offer within the time allowed under paragraph 4(1)(b) or 5(3), or

(b) a person who requires a review under paragraph 3 does not notify HMRC within the time allowed under that paragraph or paragraph 5(3).

(2) HMRC must review the decision under paragraph 4 if—

(a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,

(b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and

(c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.

(3) HMRC may not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 1 in respect of the decision.

Commencement Information

I90 Sch. 10 para. 6 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

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Nature of review etc.

7 (1) This paragraph applies if HMRC are required to undertake a review under paragraph 4 or 6.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purposes of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

(a) by HMRC in reaching the decision, and

(b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

(a) upheld,

(b) varied, or

(c) cancelled.

(6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—

(a) a period of 45 days beginning with the relevant date, or

(b) such other period as HMRC and P, or the other person, may agree.

(7) In sub-paragraph (6) "relevant date" means—

(a) the date HMRC received P's notification accepting the offer of a review (in a case falling within paragraph 2), or

(b) the date HMRC received notification from another person requiring review (in a case falling within paragraph 3), or

(c) the date on which HMRC decided to undertake the review (in a case falling within paragraph 6).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the period specified in sub-paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If sub-paragraph (8) applies HMRC must notify P, or the other person, of the conclusion which the review is treated as having reached.

Commencement Information

I91 Sch. 10 para. 7 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Service of notices

8 A notice under this Schedule may be given to a person by sending it to that person by post, addressed to the person's last known address.

Commencement Information

I92 Sch. 10 para. 8 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

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PART 3 U.K.

APPEALS

"Appeal tribunal"

9 In this Schedule "appeal tribunal" means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

Commencement Information
I93 Sch. 10 para. 9 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Bringing of appeals

10 (1) An appeal under paragraph 1 is to be made to the appeal tribunal before—
(a) the end of the period of 30 days beginning with—
(i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
(ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
(b) if later, the end of the relevant period (within the meaning of paragraph 5).

(2) But that is subject to sub-paragraphs (3) to (5).

(3) In a case where HMRC are required to undertake a review under paragraph 4—
(a) an appeal may not be made until the conclusion date, and
(b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where HMRC are requested to undertake a review by virtue of paragraph 6—
(a) an appeal may not be made to the appeal tribunal—
(i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
(ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;
(b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
(c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.

(5) In a case where paragraph 7(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 7(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in sub-paragraph (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.

(7) In this paragraph "conclusion date" means the date of the document notifying the conclusions of the review.

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Commencement Information
I94 Sch. 10 para. 10 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Appeals: further provision

11 (1) An appeal relating to a decision that an amount of soft drinks industry levy is due from a person may not be considered by the appeal tribunal unless the amount which HMRC have determined to be due has been paid or deposited with them.

(2) In a case where the amount determined to be payable as soft drinks industry levy has not been paid or deposited an appeal may be considered—

(a) if HMRC are satisfied (on the application of the appellant), or

(b) if HMRC are not satisfied, the appeal tribunal decides,

that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(3) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 (rights of appeal) the decision of the appeal tribunal as to the issue of hardship is final.

Commencement Information
I95 Sch. 10 para. 11 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Determinations on appeal

12 On an appeal against a decision mentioned in paragraph 1(a) or (c) to (e), the appeal tribunal may affirm or cancel the decision.

Commencement Information
I96 Sch. 10 para. 12 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

13 On an appeal against a decision mentioned in paragraph 1(f) to (j), the appeal tribunal may—

(a) affirm the decision, or

(b) substitute for that decision another decision that the Commissioners had power to make.

Commencement Information
I97 Sch. 10 para. 13 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

14 Subject to paragraph 15, on an appeal against a decision mentioned in paragraph 1(b) or (k) to (o), the appeal tribunal may—

(a) affirm or cancel the decision;

(b) substitute for that decision another decision that the Commissioners, or (as the case may be) an officer of Revenue and Customs had power to make;

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(c) vary the decision;

(d) direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct;

(e) require HMRC to conduct a review, or a further review, of the decision.

Commencement Information

I98 Sch. 10 para. 14 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

15 (1) On an appeal against a decision mentioned in paragraph 1(k), (n) or (o), the appeal tribunal may allow the appeal only if it considers that—

(a) the Commissioners could not reasonably have been satisfied that there were grounds for the decision, or

(b) if information brought to the attention of the appeal tribunal had been available to the Commissioners at the time the decision was made, the Commissioners could not reasonably have been satisfied that there were grounds for the decision.

(2) Where sub-paragraph (1) applies in relation to a decision mentioned in paragraph 1(o) (giving of a direction), the direction has effect pending the determination of the appeal.

Commencement Information

I99 Sch. 10 para. 15 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

SCHEDULE 11 U.K.

Section 56

SOFT DRINKS INDUSTRY LEVY: SUPPLEMENTARY AMENDMENTS

HMRC powers to obtain information etc.

1 (1) Schedule 36 to FA 2008 (powers to obtain information etc.) is amended as follows.

(2) In paragraph 10 (power to inspect business premises etc.), at the end insert—

"(5) In sub-paragraph (1), the reference to a person's tax position does not include a reference to a person's position as regards soft drinks industry levy."

(3) In paragraph 63(1) (meaning of "tax"), after paragraph (i) insert—

"(ia) soft drinks industry levy,".

Commencement Information

I100 Sch. 11 para. 1 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Penalties: failure to notify etc.

2 (1) Schedule 41 to FA 2008 (penalties: failure to notify etc.) is amended as follows.

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(2) In the Table in paragraph 1, after the entries relating to insurance premium tax, insert—

"Soft drinks industry levy	Obligation under section 44 of FA 2017 (obligation to give notice of liability to be registered)."

(3) In the heading before paragraph 4, at the end insert " etc ".

(4) In paragraph 4, after sub-paragraph (1) insert—

"(1A) A penalty is payable by a person (P) where—

(a) after a charge to soft drinks industry levy has arisen in respect of chargeable soft drinks, P acquires possession of them or is concerned with carrying, removing, depositing, keeping or otherwise dealing with them, and

(b) at the time when P acquires possession of the chargeable soft drinks or is so concerned, a payment of soft drinks industry levy in respect of the chargeable soft drinks is due or payable and has not been paid."

(5) In that paragraph, in sub-paragraph (2)—

(a) for "sub-paragraph (1)" substitute " this paragraph ";

(b) at the end insert—

"chargeable soft drinks" has the same meaning as in Part 2 of FA 2017.

(6) In paragraph 5(4), after "deferred" insert " or (as the case may be) chargeable soft drinks in respect of which a payment of soft drinks industry levy is due and payable and has not been paid ".

(7) In paragraph 10, after "deferred" insert " or (as the case may be) chargeable soft drinks in respect of which a payment of soft drinks industry levy is due and payable and has not been paid ".

(8) In paragraph 11(2)(d), after "deferred" insert " or (as the case may be) chargeable soft drinks in respect of which a payment of soft drinks industry levy is due and payable and has not been paid ".

(9) In paragraph 21—

(a) in sub-paragraph (4), for "paragraph 4" substitute " paragraph 4(1) ";

(b) after that sub-paragraph insert—

"(5) In paragraph 4(1A) the reference to P acquiring possession of, or being concerned in dealing with, chargeable soft drinks in respect of which a payment of soft drinks industry levy is payable but has not been paid includes a person who acts on P's behalf in doing so; but P is not liable to a penalty in respect of any action by P's agent where P satisfies HMRC or (on appeal) the First-tier Tribunal that P took reasonable care to avoid it."

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Commencement Information
I101 Sch. 11 para. 2 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

Penalties: failure to comply with requirements relating to returns

3 In Schedule 24 to FA 2007 (penalties for errors), in the Table in paragraph 1, after the entry relating to the statement under section 1(1)(a) of the Petroleum Revenue Tax Act 1980, insert—

"Soft drinks industry levy	Return under regulations under section 52 of FA 2017"

Commencement Information
I102 Sch. 11 para. 3 in force at 6.4.2018 by S.I. 2018/467, **reg. 2**

4 (1) Schedule 55 to FA 2009 (penalty for failure to make returns etc) is amended in accordance with this paragraph.

(2) In paragraph 1(4), in the definition of "penalty date", for "13" substitute " 13A ".

(3) In the Table in paragraph 1, after item 13 insert—

"13A	Soft drinks industry levy	Return under regulations under section 52 of FA 2017"

(4) In subsections (2) and (4) of section 106 of FA 2009 (penalties for failure to make returns: commencement) references to Schedule 55 to that Act have effect as references to that Schedule as amended by this paragraph.

Commencement Information
I103 Sch. 11 para. 4 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

5 (1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended in accordance with this paragraph.

(2) In the Table in paragraph 1, after item 11 insert—

"11ZA	Soft drinks industry levy	Amount payable under regulations under section 52 of FA 2017 or paragraphs 6 or 14 of Schedule 8 to that Act	The date determined by or under regulations under section 52 of FA 2017"

(3) In subsections (2) and (4) of section 107 of FA 2009 (penalties for failure to pay tax) references to Schedule 56 to that Act have effect as references to that Schedule as amended by this paragraph.

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Commencement Information
I104 Sch. 11 para. 5 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

PROSPECTIVE

6 (1) Schedule 23 to FA 2011 (data-gathering powers) is amended in accordance with this paragraph.

(2) After paragraph 24 insert—

"Chargeable soft drinks

24A (1) A person who is involved (in any capacity) in any of the following activities is a relevant data-holder—

(a) producing chargeable soft drinks;

(b) packaging chargeable soft drinks;

(c) carrying on a business involving the sale of chargeable soft drinks.

(2) For the purposes of sub-paragraph (1), "chargeable soft drinks", "producing" and "packaging" have the same meaning as in Part 2 of FA 2017."

(3) In paragraph 45(1) (meaning of "tax"), after paragraph (i) insert—

"(ia) soft drinks industry levy,".

Interest

7 In Schedule 53 to FA 2009 (late payment interest) after paragraph 11B insert—

"Soft drinks industry levy due from unregistered persons

11C (1) This paragraph applies where an amount of soft drinks industry levy is due from a person (P) in respect of a period during which P meets the liability condition (as defined for the purposes of section 46(2) of FA 2017) but was not registered.

(2) The late payment interest start date in respect of the amount is the date which would have been the late payment interest date in respect of that amount if P had been registered when P had first become liable to be registered."

Commencement Information
I105 Sch. 11 para. 7 in force at 6.4.2018 by S.I. 2018/464, **art. 2(e)**

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Changes and effects yet to be applied to :

– Sch. 4 para. 20 omitted by 2021 c. 26 Sch. 27 para. 50