SCHEDULES

SCHEDULE 4

RELIEF FOR CARRIED-FORWARD LOSSES

PART 9

TAX AVOIDANCE

Change in company ownership

78 After Chapter 2C insert—

"CHAPTER 2D

ASSET TRANSFERRED WITHIN GROUP: RESTRICTION OF GROUP RELIEF FOR CARRIED-FORWARD LOSSES

676DA Introduction to Chapter

(1) This section applies if—

(a) there is a change in the ownership of a company ("the company") on or after 1 April 2017, and

(b) the following are met—

conditions 1 and 2, or

condition 3.

(2) Condition 1 is that after the change in ownership the company acquires an asset from another company in circumstances such that—

(a) section 171 of TCGA 1992 (no gain/no loss transfer within a group), or

(b) section 775 of CTA 2009 (tax-neutral transfer within a group),

applies to the acquisition.

(3) Condition 2 is that—

(a) in a case within subsection (2)(a), a chargeable gain accrues to the company on a disposal of the asset within the period of 5 years beginning with the change in ownership, or

(b) in a case within subsection (2)(b), there is a non-trading chargeable realisation gain on the realisation of the asset within that period.

(4) Condition 3 is that a chargeable gain on a disposal of an asset within the period of 5 years beginning immediately after the change in ownership (or an amount of such a gain) is treated as accruing to the company by virtue

of an election under section 171A of TCGA 1992 (notional transfers within a group).

(Accordingly, references in this Chapter to the accrual of a relevant gain are to be read in the light of section 171B(2) and (3) of TCGA 1992.)

(5) For the purposes of subsection (3), an asset (P) acquired by the company as mentioned in subsection (2) is treated as the same as an asset (Q) owned at a later time by the company if the value of Q is derived in whole or in part from P.

(6) In particular, P is treated as the same as Q for those purposes if—

(a) Q is a freehold,

(b) P was a leasehold, and

(c) the lessee has acquired the reversion.

(7) In this Chapter

"the change in ownership" means the change in ownership mentioned in subsection (1),

"the company" has the same meaning as in this section,

"non-trading chargeable realisation gain" means a chargeable realisation gain (within the meaning of Part 8 of CTA 2009 (intangible fixed assets)) which is a non-trading credit for the purposes of that Part (see section 746 of that Act),

"realisation" has the meaning given by section 734 of CTA 2009, and

"the relevant gain" means the gain (or amount of a gain) within subsection (3)(a) or (b) or (4).

676DB Notional split of accounting period in which change in ownership occurs

(1) This section applies for the purposes of this Chapter.

(2) The accounting period in which the change in ownership occurs ("the actual accounting period") is treated as two separate accounting periods ("notional accounting periods"), the first ending with the change and the second consisting of the remainder of the period.

(3) Section 702 (apportionment of amounts) applies for the purposes of this Chapter as it applies for the purposes of Chapter 4.

(4) The amounts for the actual accounting period in column 1 of the table in section 702(2) are apportioned to the two notional accounting periods in accordance with section 702.

(5) In this Chapter, and in sections 702 and 703 as they apply by virtue of subsection (3), "the actual accounting period" and "notional accounting periods" have the same meaning as in this section.

676DC Disallowance of group relief for carried-forward losses

(1) This section has effect for the purposes of restricting relief under Chapter 3 of Part 5A (group relief for carried-forward losses).

(2) But this section applies only if, in accordance with the relevant provisions and section 702, an amount is included in respect of chargeable gains or, as the case may be, non-trading chargeable realisation gains in the total profits of the accounting period in which the relevant gain accrues or arises.

(3) In calculating the company's taxable total profits of the accounting period in which the relevant gain accrues or arises, a relevant pre-acquisition loss may not be deducted, as a result of section 188CK (group relief for carried-forward losses: deductions from total profits) from so much of the total profits of the accounting period as represents the relevant gain.

(4) "Relevant pre-acquisition loss" means—

(a) a non-trading deficit from loan relationships for an accounting period beginning before the change in ownership carried forward to the surrender period under section 463G(6) of CTA 2009,

(b) a loss on intangible fixed assets so far as it is made up of amounts carried forward to the surrender period under section 753(3) of CTA 2009 from one or more accounting periods beginning before the change in ownership,

(c) expenses carried forward to the surrender period under section 1223 of CTA 2009 (carrying forward expenses of management and other amounts) which were first deductible in an accounting period beginning before the change in ownership,

(d) a loss made in an accounting period beginning before the change in ownership and carried forward to the surrender period under section 45A(3) (post- 1 April 2017 trade loss);

(e) a loss made in an accounting period beginning before the change in ownership and carried forward to the surrender period under section 62(5)(b) or 63(3)(a) (loss made in UK property business),

(f) a loss made in an accounting period beginning before the change in ownership and carried forward to the surrender period under section 303B(2) or 303D(3) (post-1 April non-decommissioning losses of ring fence trade),

(g) a BLAGAB trade loss made in an accounting period beginning before the change in ownership and carried forward to the surrender period under section 124A(2) or 124C(3) of FA 2012.

(5) In this section "the surrender period" is to be interpreted in accordance with section 188BB(7).

676DD Meaning of "the relevant provisions"

In this Chapter "the relevant provisions" means—

(a) section 8(1) of, and Schedule 7A to, TCGA 1992 (amounts included in respect of chargeable gains in total profits), or

(b) Chapter 6 of Part 8 of CTA 2009 (intangible fixed assets: how credits and debits are given effect).

676DE Meaning of "amount of profits which represents a relevant gain"

(1) In this Chapter, the amount of any profits which represents a relevant gain is found by comparing—

(a) the amount ("Y") of the relevant gain, with

(b) the amount ("Z") which is included in respect of chargeable gains or, as the case may be, non-trading chargeable realisation gains for the accounting period concerned.

(2) If Y does not exceed Z, the amount of the profits which represents the relevant gain equals Y.

(3) If Y exceeds Z, the amount of those profits equals Z."