# Finance Act 2018

**2018 CHAPTER 3**

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. [15th March 2018]

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 TAXES

*Income tax and corporation tax: charge*

**1 Income tax charge for tax year 2018-19** U.K.

Income tax is charged for the tax year 2018-19.

**2 Corporation tax charge for financial year 2019** U.K.

Corporation tax is charged for the financial year 2019.

***Status:*** *Point in time view as at 15/03/2018. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

*Income tax: rates and allowances*

**3 Main rates of income tax for tax year 2018-19** U.K.

For the tax year 2018-19 the main rates of income tax are as follows—

(a) the basic rate is 20%;

(b) the higher rate is 40%;

(c) the additional rate is 45%.

**4 Default and savings rates of income tax for tax year 2018-19** U.K.

(1) For the tax year 2018-19 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 2018-19 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%.

**5 Starting rate limit for savings for tax year 2018-19** U.K.

Section 21 of ITA 2007 (indexation) does not apply in relation to the starting rate limit for savings for the tax year 2018-19 (so that, under section 12(3) of ITA 2007 as amended by section 4 of FA 2017, that limit remains at £5000 for that tax year).

**6 Transfer of tax allowance after death of spouse or civil partner** U.K.

(1) Chapter 3A of Part 3 of ITA 2007 (transferable tax allowance) is amended as follows.

(2) Section 55B (tax reduction: entitlement) is amended in accordance with subsections (3) to (5).

(3) In subsection (2) (conditions for entitlement to tax reduction)—

(a) for paragraph (a) (individual is spouse or civil partner of maker of election in force under section 55C) substitute—

"(a) the individual is the gaining party (see section 55C(1)(a)) in the case of an election under section 55C which is in force for the tax year,", and

(b) in paragraph (d), for "individual's" substitute " relinquishing ".

(4) After subsection (5) insert—

"(5A) In this section "the relinquishing spouse or civil partner", in relation to an election under section 55C, means the individual mentioned in section 55C(1)(a) by whom, or by whose personal representatives, the election is made."

(5) In subsection (6) (reduced personal allowance for transferor)—

(a) after "under subsection (1)" insert " by reference to an election under section 55C ", and

(b) for "individual's" substitute " relinquishing ".

(6) Section 55C (elections to reduce personal allowance) is amended in accordance with subsections (7) and (8).

(7) In subsection (1)(a) (individual may make election if married or in civil partnership)—
  (a) after "the same person" insert " ("the gaining party") ", and
  (b) in sub-paragraph (ii), after "when the election is made" insert " or, where the election is made after the death of one or each of them, when they were last both living ".

(8) After subsection (4) insert—

  "(5) The personal representatives of an individual may make any election for the purposes of section 55B that the individual (if living) might make in relation to—
    (a) the tax year in which the individual dies, or
    (b) an earlier tax year."

(9) Section 55D (procedure for elections under section 55C) is amended in accordance with subsections (10) and (11).

(10) In subsection (3) (elections which are not automatically continued in force for subsequent years), after "is made after the end of the tax year to which it relates" insert " or is made after the death of either of the spouses or civil partners ".

(11) In subsection (4) (election may be withdrawn only by individual who made it), after "by whom the election was made" insert " ; an election made by an individual's personal representatives may not be withdrawn ".

(12) The amendments made by this section—
  (a) are to be treated as having come into force on 29 November 2017,
  (b) have effect in relation to elections made on or after that day, and
  (c) so have effect even where a relevant death occurred on or before that day.

*Employment*

## 7 Deductions from seafarers' earnings U.K.

In section 384 of ITEPA 2003 (which provides that Crown employees cannot be seafarers for the purposes of Chapter 6 of Part 5), in subsection (2) (meaning of Crown employment), before the "and" at the end of paragraph (a) insert—

  "(aa) which is not employment in the Royal Fleet Auxiliary Service,".

## 8 Exemption for armed forces' accommodation allowances U.K.

(1) In Chapter 8 of Part 4 of ITEPA 2003 (exemptions: special kinds of employees), after section 297C insert—

"**297D Armed forces: accommodation allowances**

(1) No liability to income tax arises in respect of payments of accommodation allowances to, or in respect of, a member of the armed forces of the Crown.

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(2) An "accommodation allowance" is an allowance—

(a) payable out of the public revenue,

(b) for, or towards, costs of accommodation, and

(c) in respect of which any conditions specified in regulations made by the Treasury are met.

(3) The provision that may be made by regulations under subsection (2)(c) includes provision framed by reference to a scheme (by whatever name called), or document, as it has effect from time to time.

(4) Regulations under this section may make—

(a) different provision for different cases, and

(b) different provision for different areas.

(5) Regulations under this section that do not increase any person's liability to income tax may have effect in relation to times before they are made."

(2) The amendment made by subsection (1) has effect in relation to payments on or after such date as may be specified in regulations made by the Treasury.

## 9 Benefits in kind: diesel cars U.K.

(1) Section 141 of ITEPA 2003 (benefits in kind: appropriate percentage for diesel cars) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies to a diesel car first registered on or after 1 January 1998 but before 1 September 2017.

(1A) This section applies to a diesel car first registered on or after 1 September 2017 if it does not meet the Euro 6d emissions standard."

(3) In subsection (2)—

(a) in the words before step 1, for "such a" substitute " the ";

(b) in paragraph (a) of step 3, for "3 percentage points" substitute " 4 percentage points ".

(4) After subsection (2) insert—

"(2A) A vehicle meets the Euro 6d emissions standard only if it is first registered on the basis of an EC certificate of conformity which indicates that the exhaust emission level is Euro 6d (and it does not meet that standard if it is first registered on the basis of an EC certificate of conformity which indicates that that level is Euro 6d-TEMP)."

(5) In sections 139(7)(a) and 140(5)(a) of ITEPA 2003 (appropriate percentage), before "diesel" insert " certain ".

(6) The amendments made by this section have effect in relation to the tax year 2018-19 and subsequent tax years.

## 10 Termination payments: foreign service U.K.

(1) Chapter 3 of Part 6 of ITEPA 2003 (payments, and other benefits, on termination of employment etc) is amended as follows.

(2) In section 413 (exception from charge on termination etc payment where employee's work history includes sufficient foreign service), before subsection (1) insert—

"(A1) This section applies to a payment or other benefit if—

(a) the payment or other benefit is within section 401(1)(a), and the employee or former employee is non-UK resident for the tax year in which the employment terminates, or

(b) the payment or other benefit is within section 401(1)(b) or (c)."

(3) In section 414(1) (reduction of termination etc payment where foreign service insufficient for section 413 exception)—

(a) before paragraph (a) insert—

"(za) either—

(i) the payment or other benefit is within section 401(1)(a), and the employee or former employee is non-UK resident for the tax year in which the employment terminates, or

(ii) the payment or other benefit is within section 401(1)(b) or (c),", and

(b) for paragraph (b) substitute—

"(b) section 413(1) does not except the payment or other benefit from the application of this Chapter."

(4) After section 414A insert—

### "414B Exception in certain cases of foreign service as seafarer

(1) This section applies to a payment or other benefit if—

(a) the payment or other benefit is within section 401(1)(a), and

(b) the employee or former employee is UK resident for the tax year in which the employment terminates.

(2) This Chapter does not apply if the service of the employee or former employee in the employment in respect of which the payment or other benefit is received included foreign seafaring service comprising—

(a) three-quarters or more of the whole period of service ending with the date of the termination in question, or

(b) if the period of service ending with that date exceeded 10 years, the whole of the last 10 years, or

(c) if the period of service ending with that date exceeded 20 years, one-half or more of that period, including any 10 of the last 20 years.

(3) In subsection (2) "foreign seafaring service" means service to which subsection (4), (5) or (7) applies.

(4) This subsection applies to service in or after the tax year 2003-04 such that a deduction equal to the whole amount of the earnings from the employment

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was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings).

(5) This subsection applies to service before the tax year 2003-04 and after the tax year 1973-74 such that a deduction equal to the whole amount of the emoluments from the employment was or would have been allowable under a seafarers' earnings deduction provision.

(6) In subsection (5) "seafarers' earnings deduction provision" means—
- (a) paragraph 1 of Schedule 2 to FA 1974 so far as relating to employment as a seafarer,
- (b) paragraph 1 of Schedule 7 to FA 1977 so far as relating to employment as a seafarer,
- (c) section 192A of ICTA, or
- (d) section 193(1) of ICTA so far as relating to employment as a seafarer.

(7) This subsection applies to service before the tax year 1974-75 in an employment as a seafarer 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.

(8) In this section "employment as a seafarer" is to be read in accordance with section 384.

### 414C Reduction in other cases of foreign service as seafarer

(1) This section applies if—
- (a) the payment or other benefit is within section 401(1)(a),
- (b) the employee or former employee is UK resident for the tax year in which the employment terminates,
- (c) the service of the employee or former employee in the employment in respect of which the payment or other benefit is received includes foreign service, and
- (d) section 414B(2) does not except the payment or other benefit from the application of this Chapter.

(2) The taxable person may claim relief in the form of a proportionate reduction of the amount that would otherwise—
- (a) be treated as earnings by section 402B(1), or
- (b) count as employment income as a result of section 403.

(3) The proportion is that which the length of the foreign seafaring service bears to the whole length of service in the employment before the date of the termination in question.

(4) A person's entitlement to relief under this section is limited as mentioned in subsection (5) if the person is entitled—
- (a) to deduct, retain or satisfy income tax out of a payment which the person is liable to make, or
- (b) to charge any income tax against another person.

(5) The relief must not reduce the amount of income tax for which the person is liable below the amount the person is entitled so to deduct, retain, satisfy or charge.

(6) In this section "foreign seafaring service" has the same meaning as in section 414B(2)."

(5) The amendments made by this section have effect—

(a) where the date of the termination or change in question is, or is after, 6 April 2018, and

(b) the payment, or other benefit, is received after 13 September 2017.

*Disguised remuneration*

**11 Employment income provided through third parties** U.K.

Schedule 1 contains provision about employment income provided through third parties.

**12 Trading income provided through third parties** U.K.

Schedule 2 contains provision amending Schedule 12 to F(No.2)A 2017 (trading income provided through third parties: loans etc outstanding on 5 April 2019).

*Pensions*

**13 Pension schemes** U.K.

Schedule 3 contains provision about pension schemes.

*Investments*

**14 EIS, SEIS and VCT reliefs: risk to capital** U.K.

(1) In Part 5 of ITA 2007 (enterprise investment scheme)—

(a) in section 157 (eligibility for EIS relief), in subsection (1), before paragraph (a) insert—

"(za) the risk-to-capital condition is met (see section 157A),", and

(b) after that section insert—

"**157A Risk-to-capital condition**

(1) The risk-to-capital condition is met if, having regard to all the circumstances existing at the time of the issue of the shares, it would be reasonable to conclude that—

(a) the issuing company has objectives to grow and develop its trade in the long-term, and

(b) there is a significant risk that there will be a loss of capital of an amount greater than the net investment return.

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(2) For the purposes of subsection (1)(b)—

(a) the risk is to be determined by reference to a loss of capital, and the net investment return, for the investors generally,

(b) the reference to a loss of capital is to a loss of some or all of the amounts subscribed for the shares by the investors, and

(c) the reference to the net investment return is to the net investment return to the investors (whether by way of income or capital growth) taking into account the value of EIS relief.

(3) For the purposes of subsection (1) the circumstances to which regard may be had include—

(a) the extent to which the company's objectives include increasing the number of its employees or the turnover of its trade,

(b) the nature of the company's sources of income, including the extent to which there is a significant risk of the company not receiving some or all of the income,

(c) the extent to which the company has or is likely to have assets, or is or could become a party to arrangements for acquiring assets, that could be used to secure financing from any person,

(d) the extent to which the activities of the company are sub-contracted to persons who are not connected with it,

(e) the nature of the company's ownership structure or management structure, including the extent to which others participate in or devise the structure,

(f) how any opportunity for investment in the company is marketed, and

(g) the extent to which arrangements are in place under which opportunities for investments in the company are or may be marketed with, or otherwise associated with, opportunities for investments in other companies or entities.

(4) If the issuing company is a parent company—

(a) any reference in this section to the company's trade is to what would be the trade of the group if the activities of the group companies taken together were regarded as one trade, and

(b) any reference in subsection (3)(a) to (e) to the company is to any group company."

(2) In Part 5A of ITA 2007 (seed enterprise investment scheme)—

(a) in section 257AA (eligibility for SEIS relief), before paragraph (a) insert—

"(za) the risk-to-capital condition is met (see section 257AAA),", and

(b) after that section insert—

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"**257AAA Risk-to-capital condition**

(1) The risk-to-capital condition is met if, having regard to all the circumstances existing at the time of the issue of the shares, it would be reasonable to conclude that—

(a) the issuing company has objectives to grow and develop its trade in the long-term, and

(b) there is a significant risk that there will be a loss of capital of an amount greater than the net investment return.

(2) For the purposes of subsection (1)(b)—

(a) the risk is to be determined by reference to a loss of capital, and the net investment return, for the investors generally,

(b) the reference to a loss of capital is to a loss of some or all of the amounts subscribed for the shares by the investors, and

(c) the reference to the net investment return is to the net investment return to the investors (whether by way of income or capital growth) taking into account the value of SEIS relief.

(3) For the purposes of subsection (1) the circumstances to which regard may be had include—

(a) the extent to which the company's objectives include increasing the number of its employees or the turnover of its trade,

(b) the nature of the company's sources of income, including the extent to which there is a significant risk of the company not receiving some or all of the income,

(c) the extent to which the company has or is likely to have assets, or is or could become a party to arrangements for acquiring assets, that could be used to secure financing from any person,

(d) the extent to which the activities of the company are sub-contracted to persons who are not connected with it,

(e) the nature of the company's ownership structure or management structure, including the extent to which others participate in or devise the structure,

(f) how any opportunity for investment in the company is marketed, and

(g) the extent to which arrangements are in place under which opportunities for investments in the company are or may be marketed with, or otherwise associated with, opportunities for investments in other companies or entities.

(4) If the issuing company is a parent company—

(a) any reference in this section to the company's trade is to what would be the trade of the group if the activities of the group companies taken together were regarded as one trade, and

(b) any reference in subsection (3)(a) to (e) to the company is to any group company."

(3) In Part 6 of ITA 2007 (venture capital trusts)—

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(a) in section 286 (qualifying holdings), in subsection (3), before paragraph (za) insert—

"(1za) risk to capital (see section 286ZA),", and

(b) before section 286A insert—

"286ZA **The risk-to-capital requirement**

(1) The requirement of this section is that, having regard to all the circumstances existing at the time of the issue of the relevant holding, it would be reasonable to conclude that—

(a) the relevant company has objectives to grow and develop its trade in the long-term, and

(b) there is a significant risk that, for the investing company, there will be a loss of capital of an amount greater than its net investment return.

(2) For the purposes of subsection (1)(b)—

(a) the reference to a loss of capital is to a loss of some or all of the amounts given in consideration for the relevant holding, and

(b) the reference to the net investment return is to the net investment return to the investing company irrespective of whether the return takes the form of income, capital growth, fees or other payments or anything else.

(3) For the purposes of subsection (1) the circumstances to which regard may be had include—

(a) the extent to which the company's objectives include increasing the number of its employees or the turnover of its trade,

(b) the nature of the company's sources of income, including the extent to which there is a significant risk of the company not receiving some or all of the income,

(c) the extent to which the company has or is likely to have assets, or is or could become a party to arrangements for acquiring assets, that could be used to secure financing from any person,

(d) the extent to which the activities of the company are sub-contracted to persons who are not connected with it,

(e) the nature of the company's ownership structure or management structure, including the extent to which others participate in or devise the structure,

(f) how any opportunity for investment in the company is marketed, and

(g) the extent to which arrangements are in place under which opportunities for investments in the company are or may be marketed with, or otherwise associated with, opportunities for investments in other companies or entities.

(4) If the relevant company is a parent company—

(a) any reference in this section to the company's trade is to what would be the trade of the group if the activities of the group companies taken together were regarded as one trade, and

(b) any reference in subsection (3)(a) to (e) to the company is to any group company."

(4) The amendments made by this section come into force in accordance with provision made by the Treasury by regulations.

(5) Regulations under subsection (4)—

(a) may make different provision for different purposes;

(b) may provide for any of those amendments to have effect in relation to shares, or shares or securities, issued on or after a day that is—

(i) earlier than the day on which the regulations are made, but

(ii) not earlier than the day on which this Act is passed.

**Commencement Information**

**I1** S. 14(1)(2) in force at 15.3.2018 for the purposes of the amendments made by those subsections by S.I. 2018/931, **reg. 2(a)**

**I2** S. 14(3) in force at 15.3.2018 for the purposes of the amendments made by that subsection by S.I. 2018/931, **reg. 2(b)**

## 15 EIS, SI and VCT reliefs: relevant investments U.K.

(1) Nothing in the specified EIS and VCT transitional provisions (see subsection (2)) prevents any shares or other investments constituting relevant investments (within the meaning given by section 173A(3), 280B(4) or 292A(3) of ITA 2007) for the purposes of determining entitlement to—

(a) EIS income tax relief,

(b) income tax relief for social investments, or

(c) VCT income tax relief,

in respect of shares issued or investments made on or after 1 December 2017.

(2) The specified EIS and VCT transitional provisions are—

(a) paragraph 8 of Schedule 16 to FA 2007;

(b) paragraph 22 of Schedule 7 to FA 2012;

(c) paragraphs 18 and 19 of Schedule 8 to FA 2012.

(3) In this section—

"EIS income tax relief" means relief under Part 5 of ITA 2007 (enterprise investment scheme);

"income tax relief for social investments" means relief under Part 5B of ITA 2007;

"VCT income tax relief" means relief under Part 6 of ITA 2007 (venture capital trusts).

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### 16 EIS and VCT reliefs: knowledge-intensive companies U.K.

Schedule 4 contains provision about EIS and VCT reliefs in relation to knowledge-intensive companies.

### 17 VCTs: further amendments U.K.

Schedule 5 contains further amendments about venture capital trusts.

*Partnerships*

### 18 Partnerships U.K.

Schedule 6 contains provision relating to the taxation of partnerships.

*Corporation tax*

### 19 Research and development expenditure credit U.K.

(1) In section 104M of CTA 2009 (amount of R&D expenditure credit), in subsection (3), for "11%" substitute " 12% ".

(2) The amendment made by subsection (1) has effect in relation to expenditure incurred on or after 1 January 2018.

### 20 Intangible fixed assets: realisation involving non-monetary receipt U.K.

(1) In section 739 of CTA 2009 (meaning of "proceeds of realisation") after subsection (1) insert—

"(1A) But if the realisation involved the receipt of something other than money, subsection (1) has effect as if the reference to the amount recognised for accounting purposes as the proceeds of realisation were a reference to the amount that would have been so recognised had the receipt been a receipt of a sum of money equal to the price the thing concerned might reasonably have been expected to fetch on a sale in the open market."

(2) The amendment made by this section applies in relation to a realisation which takes place on or after 22 November 2017, unless it takes place pursuant to an obligation, under a contract, that was unconditional before that date.

(3) For the purposes of subsection (2), an obligation is "unconditional" if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

### 21 Intangible fixed assets: transactions between related parties U.K.

(1) In section 844 of CTA 2009 (overview of Chapter 13 of Part 8: transactions between related parties) after subsection (2) insert—

"(2ZA) Sections 849AB to 849AD make provision for the grant of a licence or other right by a company to a related party, or vice versa, to be treated as being at market value."

(2) After section 849A of that Act insert—

*"Grants treated as being at market value*

**849AB Grant of licence or other right treated as at market value**

(1) This section applies if—
  (a) a company which holds an intangible asset grants a licence or other right in respect of the asset to a related party, or
  (b) a company is granted a licence or other right in respect of an intangible asset by a related party that holds the asset.

(2) The grant of the licence or other right is treated for all purposes of the Taxes Acts as being at market value as respects the grantor if—
  (a) the licence or other right was actually granted at less than market value, and
  (b) condition A or B is met.

(3) The grant of the licence or other right is treated for all purposes of the Taxes Acts as being at market value as respects the grantee if—
  (a) the licence or other right was actually granted at more than market value, and
  (b) condition A or B is met.

(4) Condition A is that the asset is a chargeable intangible asset in relation to the grantor immediately before the licence or right in respect of it is granted.

(5) Condition B is that the licence or right is a chargeable intangible asset in relation to the grantee immediately after it is granted.

(6) This section is subject to—
  (a) section 849AC (grants not at arm's length), and
  (b) section 849AD (grants involving other taxes).

(7) References in subsection (1) to a related party in relation to a company are to be read as including references to a person in circumstances where the participation condition is met as between that person and the company.

(8) References in subsection (7) to a company include a firm in a case where, for the purposes of section 1259, references in subsection (1) to a company are read as references to the firm.

(9) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (7) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.

(10) Subsection (11) applies where—
  (a) a gain on the grant by a firm of a licence or other right in respect of an intangible fixed asset is a gain to be taken into account for the purposes of section 1259, and
  (b) for those purposes, references in subsection (1) to a company are read as references to the firm.

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(11) Where this subsection applies, the gain referred to in subsection (10)(a) is to be treated for the purposes of this section as if it were a chargeable realisation gain for the purposes of section 741(1) (meaning of "chargeable intangible asset").

(12) In this section—

"market value" means the price the licence or right might reasonably be expected to fetch on a sale in the open market, and

"the Taxes Acts" means the enactments relating to income tax, corporation tax or chargeable gains.

**849AC Grants not at arm's length**

(1) This section applies if the consideration for the grant of a licence or other right would, but for this section, fall to be adjusted as respects one of the parties to the grant ("the relevant party") under both—

(a) section 849AB, and

(b) Part 4 of TIOPA 2010 (provision not at arm's length).

(2) The consideration for the grant is not to be adjusted as respects the relevant party under Part 4 of TIOPA 2010 if the adjustment that falls to be made under section 849AB is greater than the adjustment that would otherwise fall to be made under that Part.

(3) The consideration for the grant is not to be adjusted under section 849AB if the adjustment that falls to be made as respects the relevant party under Part 4 of TIOPA 2010 is greater than or equal to the adjustment that would otherwise fall to be made under that section.

**849AD Grants involving other taxes**

(1) This section applies if—

(a) in a case where section 849AB applies and the licence or other right is granted by the company to a related party, the grant is at less than its market value,

(b) in a case where that section applies and the licence or other right is granted to the company by a related party, the grant is at more than its market value, and

(c) conditions A and B apply.

(2) Condition A is that the related party—

(a) is not a company, or

(b) is a company in relation to which—

(i) in a case within subsection (1)(a), the licence or other right is not a chargeable intangible asset immediately after the grant to it, or

(ii) in a case within subsection (1)(b), the relevant asset is not a chargeable intangible asset immediately before the grant by it.

(3) Condition B is that the grant of the licence or right—

(a) gives rise to an amount to be taken into account in calculating any person's income, profits or losses for tax purposes because of a relevant provision, or

(b) would do so apart from section 849AB(2) or (3).

(4) If this section applies, section 849AB(2) and (3) does not apply in relation to the calculation referred to in subsection (3) for the purposes of any relevant provision.

(5) In this section "relevant provision" means—

(a) Chapter 2 of Part 23 of CTA 2010 (matters which are distributions), except section 1000(2), and

(b) Part 3 of ITEPA 2003 (employment income: earnings and benefits etc treated as earnings)."

(3) The amendments made by this section apply in relation to a grant of a licence or other right made on or after 22 November 2017, unless it is made pursuant to an obligation, under a contract, that was unconditional before that date.

(4) For the purposes of subsection (3), an obligation is "unconditional" if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

## 22 Oil activities: tariff receipts etc U.K.

(1) Chapter 4 of Part 8 of CTA 2010 (oil activities: calculation of profits) is amended as follows.

(2) In section 291 (corporation tax treatment of oil activities: tariff receipts etc), for subsection (9) substitute—

"(9) In this section, "tariff receipt" has the meaning given by section 291A.

(10) So far as it would not otherwise be the case, anything that constitutes a tariff receipt or a tax-exempt tariffing receipt for the purposes of the Oil Taxation Act 1983 is to be treated as a "tariff receipt" for the purposes of this section."

(3) After section 291 (but before the italic heading preceding section 292) insert—

"**291A Meaning of "tariff receipt"**

(1) A "tariff receipt" of a participator in an oil field is the amount or value of any consideration received or receivable by the person in respect of—

(a) the use of a ring fence asset, or

(b) the provision of services or other business facilities (of whatever kind) in connection with the use, otherwise than by the participator, of a ring fence asset.

(2) "Ring fence asset" means a qualifying asset which is, or has been, used wholly or partly for the purposes of a ring fence trade.

(3) "Qualifying asset" means an asset other than—

(a) land or an interest in land, or

(b) a building or structure which—

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(i) is situated on land, and

(ii) does not fall within any of sub-paragraphs (i) to (iv) of paragraph (c) of section 3(4) of OTA 1975 (allowable expenditure: exclusions).

(4) But an amount does not constitute a tariff receipt if the amount—

(a) is, in relation to the person giving it, expenditure in respect of interest or any other pecuniary obligation incurred in obtaining a loan or any other form of credit,

(b) is referable to the use of a qualifying asset for, or the provision of services or facilities in connection with, deballasting, or

(c) is referable to other use of an asset, except use wholly or partly for an oil purpose.

(5) Any consideration which includes an amount within subsection (4)(a) to (c) is to be apportioned in a just and reasonable manner.

(6) In subsection (4)(c), the reference to use of an asset for an oil purpose is a reference to—

(a) use in connection with an oil field (including use giving rise to receipts which, for the purposes of this Part, are tariff receipts), and

(b) use for any other purpose (apart from a purpose falling within section 3(1)(b) of OTA 1975 (allowable expenditure: payment in connection with a relevant licence)) of a separate trade consisting of oil-related activities.

**291B Tariff receipts: counteraction of avoidance arrangements**

(1) Subsection (2) applies if an arrangement has been entered into, the main purpose or one of the main purposes of which is to obtain a tax advantage by reference to section 291.

(2) The relevant tax advantage is to be counteracted by the making of such adjustments as are just and reasonable.

(3) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of—

(a) an assessment,

(b) the modification of an assessment,

(c) amendment or disallowance of a claim,

or otherwise.

(4) In this section—

"arrangement" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"tax advantage" has the meaning given by section 1139."

(4) In section 291—

(a) in subsection (2), omit "or tax-exempt tariffing receipt",

(b) in subsection (6), omit "or tax exempt tariffing receipts", and

(c) in subsection (7), in both places, omit "or tax exempt tariffing receipt".

(5) The amendments made by subsections (1) to (4) have effect in relation to accounting periods beginning on or after 1 January 2018.

(6) In the Investment Allowance and Cluster Area Allowance Regulations (Investment Expenditure) Regulations 2017 (S.I. 2017/292), in regulation 3 (operating expenditure)—

(a) in paragraph (2)(e), omit "or tax-exempt tariffing receipts",

(b) in paragraph (6), for the definition of "tariff receipts" substitute—

> ""tariff receipts" has the same meaning as it has for the purposes of section 291 of the Corporation Tax Act 2010 (corporation tax treatment of oil activities: tariff receipts etc); and", and

(c) in that paragraph, omit the definition of "tax-exempt tariffing receipts" (and the "and" following it).

(7) The amendments made by subsection (6) have effect in relation to any expenditure that is incurred on or after 1 January 2018.

(8) The amendments made by subsection (6) are to be treated as having been made by the Treasury under the applicable powers to make regulations conferred by sections 332BA and 356JE of CTA 2010.

### 23 Hybrid and other mismatches U.K.

Schedule 7 contains provision amending Part 6A of TIOPA 2010 (hybrid and other mismatches).

### 24 Corporate interest restriction U.K.

Schedule 8 contains provision relating to Part 10 of TIOPA 2010 (corporate interest restriction).

### 25 Education Authority of Northern Ireland U.K.

(1) In CTA 2010, after section 987A insert—

*"Education Authority of Northern Ireland*

**987B Education Authority of Northern Ireland**

The Education Authority of Northern Ireland is not liable to corporation tax."

(2) The amendment made by this section is to be treated as having come into force on 1 April 2015.

*Chargeable gains*

### 26 Freezing of indexation allowance for gains chargeable to corporation tax U.K.

(1) TCGA 1992 is amended as follows.

(2) In section 53 (indexation allowance), before subsection (2) insert—

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"(1B) Indexation allowance is not allowed in respect of changes shown by the retail prices indices for months after December 2017."

(3) In section 54 (calculation of indexation allowance)—

(a) in subsection (1), in the definition of "RD", for "the month in which the disposal occurs" substitute " December 2017 ";

(b) before subsection (2) insert—

"(1B) The references in subsection (1) to an item of allowable expenditure do not include any item of expenditure incurred on or after 1 January 2018."

(4) In section 110 (indexation for section 104 holdings for corporation tax)—

(a) in subsection (10), in the definition of "RE", for "the month in which the operative event occurs" substitute " December 2017 ";

(b) for subsection (11) substitute—

"(11) The indexed rise is nil if—

(a) RE, as defined in subsection (10), is equal to or less than RL, as so defined, or

(b) the month referred to in the definition of RL in subsection (10) is after December 2017."

(5) In section 114 (consideration for options: corporation tax)—

(a) in subsection (2), in the definition of "RO", for "the month in which falls the date on which the option is exercised" substitute " December 2017 ";

(b) for subsection (3) substitute—

"(3) The indexed rise is nil if—

(a) RO, as defined in subsection (2), is equal to or less than RA, as so defined, or

(b) the month referred to in the definition of RA in subsection (2) is after December 2017."

(6) Subject to subsection (7), the amendments made by this section have effect in relation to disposals on or after 1 January 2018.

(7) This section does not affect the computation of the amount of so much of any gain as—

(a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 1 January 2018, but

(b) is taken for those purposes to be equal to the whole or a part of a gain that—

(i) would, but for an enactment relating to the taxation of chargeable gains, have accrued on an actual disposal made before 1 January 2018, or

(ii) would have accrued on a disposal assumed under such an enactment to have been made before that date.

## 27 Assets transfer to non-resident company: reorganisations of share capital etc U.K.

(1) In section 140 of TCGA 1992 (postponement of charge on transfer of assets to non-resident company), after subsection (4A) insert—

"(4B) In determining whether a chargeable gain is deemed to accrue under subsection (4), any disapplication of section 127 by paragraph 4(3)(a) of Schedule 7AC in a case in which that section would otherwise have applied shall be disregarded."

(2) The amendment made by this section has effect in relation to disposals on or after 22 November 2017.

### 28 Depreciatory transactions within a group of companies U.K.

(1) In section 176(1) of TCGA 1992 (depreciatory transactions within a group of companies), for "within the period of 6 years ending with the disposal" substitute " on or after 31st March 1982 ".

(2) The amendment made by this section has effect in relation to disposals of shares in, or securities of, a company—
   (a) made on or after 22 November 2017, or
   (b) treated as made at an earlier time specified in a claim under section 24 of TCGA 1992 (negligible value claims) made on or after that date.

*Capital allowances*

### 29 First-year tax credits U.K.

(1) Schedule A1 to CAA 2001 (first-year tax credits) is amended as follows.

(2) In paragraph 2 (amount of first-year tax credit)—
   (a) in sub-paragraph (1)(a), for "19%" substitute " the applicable percentage ";
   (b) after sub-paragraph (1) insert—

"(1A) The applicable percentage is two-thirds of—
   (a) the rate of corporation tax chargeable on profits of the qualifying activity concerned for the chargeable period, or
   (b) if there is more than one rate, the average of the rates over that period.

(But see also sub-paragraph (3A) (ring fence profits).)";

   (c) after sub-paragraph (3) insert—

"(3A) Where the profits of the qualifying activity are ring fence profits, the applicable percentage is—
   (a) two-thirds of the rate of corporation tax (adjusted if necessary as a result of section 279B or 279C of CTA 2010 (marginal relief)) chargeable on those profits for the most recent previous chargeable period in which the company made a profit in carrying on the qualifying activity, or
   (b) if the company has never made a profit in carrying on the qualifying activity, two-thirds of the small ring fence profits rate for the chargeable period,

and in either case, if there is more than one rate, assuming tax was chargeable at the average of those rates over the period.

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(3B) In this paragraph, "ring fence profits" and "the small ring fence profits rate" have the same meaning as in Part 8 of CTA 2010 (see sections 276 and 279A(4) of that Act).

(3C) Where the applicable percentage given by sub-paragraph (1A) or (3A) would otherwise be a figure with more than 2 decimal places, it is to be rounded up to the nearest second decimal place.";

(d) omit sub-paragraphs (4) and (5).

(3) In paragraph 3(1)(b) (meaning of relevant first-year expenditure) for "31 March 2018" substitute " 31 March 2023 ".

(4) In paragraph 24(6) (clawback of first-year tax credit) for "percentage specified in" substitute " applicable percentage for the purposes of ".

(5) In consequence of subsection (2)(d), in F(No.2)A 2017, in Schedule 7, omit paragraph 28.

(6) The amendments made by subsections (2), (4) and (5) have effect in relation to chargeable periods beginning on or after 1 April 2018.

(7) Subsection (8) applies if a company has a chargeable period beginning before 1 April 2018 and ending on or after that date ("the straddling period").

(8) For the purposes of calculating the amount mentioned in paragraph 2(1)(a) of Schedule A1 to CAA 2001—

(a) so much of the straddling period as falls before 1 April 2018, and so much of that period as falls on or after that date, are treated as separate chargeable periods, and

(b) the company's surrenderable loss in the straddling period is to be apportioned between the two separate parts on a just and reasonable basis.

*Double taxation relief*

## 30 Reduction of relief in cases where losses relieved sideways etc U.K.

(1) Part 2 of TIOPA 2010 (double taxation relief) is amended as follows.

(2) After section 71 insert—

*"Adjustment of foreign tax on profits of overseas permanent establishment*

### 71A Circumstances in which section 71B applies

(1) Section 71B has effect in relation to an accounting period of a company resident in the United Kingdom which has an overseas permanent establishment ("the PE") if, in that or any earlier accounting period, condition A or B is met.

(2) Condition A is met in relation to an accounting period if, for the purposes of any tax chargeable under the law of the PE territory—

(a) a loss or other amount attributable to the PE is deducted from or otherwise allowed against amounts of any person other than the company, and

(b) as a result, there is a decrease in the tax chargeable in respect of a foreign taxable period ending in the accounting period.

(3) Condition B is met in relation to an accounting period if—

(a) tax is chargeable under the law of the PE territory in respect of the aggregate profits, or aggregate profits or gains, of the PE and persons other than the company,

(b) a loss or other amount attributable to the PE is deducted from or otherwise allowed against, or is brought into account as a deduction or other allowance in calculating, amounts other than amounts of the PE, and

(c) as a result, there is a decrease in the tax chargeable in respect of a foreign taxable period ending in the accounting period.

(4) In this section—

"foreign taxable period" means any period in respect of which the tax in question is chargeable under the law of the PE territory, and

"the PE territory" means the territory in which the PE is situated.

**71B Reduction of foreign tax paid on profits of overseas PE**

(1) For the purposes of allowing credit relief under this Part, the amount of foreign tax paid in respect of the company's qualifying income from the PE in the accounting period is reduced (but not below nil) by the relevant amount for that period.

(2) In calculating any amount chargeable to corporation tax, any deduction for an amount of foreign tax paid in respect of the company's qualifying income from the PE in the accounting period is reduced (but not below nil) by the relevant amount for that period.

(3) In this section "the relevant amount" for the accounting period means the total of—

(a) the amount of the decrease in the tax chargeable in respect of a foreign taxable period ending in the accounting period (if the accounting period is one in relation to which condition A or B in section 71A is met), and

(b) any excess tax carried forward to the accounting period.

(4) For this purpose excess tax is carried forward to the accounting period so far as the relevant amount for the previous accounting period exceeds the amount of foreign tax paid in respect of the company's qualifying income from the PE in that previous period.

(5) In determining the relevant amount, a deduction or allowance of the kind referred to in condition A or B in section 71A is to be ignored if it results in a deduction or other allowance that is reduced under section 259JC (counteraction where mismatch arises because of a relevant multinational and the UK is the parent jurisdiction).

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(6) If, for any accounting period, it becomes necessary for the relevant amount to be reduced or increased, an adjustment may be made (whether or not by an officer of Revenue and Customs)—

(a) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise, and

(b) despite any time limit imposed by or under any enactment.

(7) In this section "the company's qualifying income from the PE" means the profits of the PE which are profits chargeable under Chapter 2 of Part 3 of CTA 2009 of a trade carried on partly, but not wholly, outside the United Kingdom."

(3) In section 78(1) (meaning of "overseas permanent establishment")—

(a) for "72" substitute " 71A ", and

(b) after "means" insert " , in relation to a company, ".

(4) In section 112(4) (deduction from income for foreign tax instead of credit against UK tax), after paragraph (a) insert—

"(aa) has effect subject to section 71B(2) (reduction of foreign tax paid on profits of overseas permanent establishment),".

(5) Section 71B of TIOPA 2010 has effect in relation to accounting periods beginning on or after 22 November 2017.

(6) For the purposes of sections 71A and 71B of TIOPA 2010, if a company has an accounting period beginning before, and ending on or after, that date ("the straddling period")—

(a) so much of the straddling period as falls before that date, and so much of it as falls on or after that date, are treated as separate accounting periods, and

(b) any amounts brought into account for the purposes of calculating the credit relief of the company for the straddling period are apportioned to the two separate accounting periods—

(i) in accordance with section 1172 of CTA 2010 (time basis), or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(7) In determining whether or not section 71B of TIOPA has effect in relation to an accounting period of a company—

(a) it is to be assumed that the amendments made by this section were in force in relation to all previous accounting periods of the company except those beginning before 22 November 2011, and

(b) no account may be taken of any accounting period beginning before that date.

## 31 Countering effect of avoidance arrangements U.K.

(1) TIOPA 2010 is amended as follows.

(2) For section 81 (giving a counteraction notice) substitute—

"**81 Countering effect of avoidance arrangements**

(1) This section applies if each of conditions A to D of section 82 is met in relation to a person.

(2) The effects of a scheme or arrangement that are referable to the purpose referred to in condition B of that section are to be counteracted by the making of such adjustments as are necessary.

(3) Any adjustments required to be made by this section (whether or not by an officer of Revenue and Customs) may be made by way of—

(a) an assessment,

(b) the modification of an assessment, or

(c) amendment or disallowance of a claim,

or otherwise."

(3) In section 87 (section 83(2) and (4): schemes that would reduce a person's tax liability) —

(a) in subsection (1), after "person" insert " ("P") ",

(b) in subsection (3), for "the amount of UK tax payable by the person" substitute " the total amount of UK tax payable by P and such persons (if any) as are connected with P ",

(c) in subsection (4), for "the amount of UK tax that would be payable by the person" substitute " the total amount of UK tax that would be payable by P and such persons (if any) as are connected with P ", and

(d) at the end insert—

"(7) For the purposes of this section, whether a person is connected with P is determined in accordance with section 1122 of CTA 2010."

(4) Omit sections 89 to 95 (counteraction notices).

(5) In section 371SR (double taxation relief: counteraction notices)—

(a) in subsection (1), for "giving of counteraction notice" substitute " countering effect of avoidance arrangements ", and

(b) in the heading, for "counteraction notices" substitute " countering effect of avoidance arrangements ".

(6) The amendments made by subsections (2), (4) and (5) have effect in relation to any return under TMA 1970 or Schedule 18 to FA 1998 where the date by which the return is required to be made is after 31 March 2018.

(7) The amendments made by subsection (3) have effect in relation to a credit for foreign tax which relates to a payment of foreign tax on or after 22 November 2017.

## 32 Double taxation arrangements specified by Order in Council U.K.

(1) In section 2 of TIOPA 2010 (giving effect to arrangements made in relation to other territories) after subsection (1) insert—

"(1A) For the purposes of this section, arrangements made with a view to affording relief from double taxation include any arrangements which modify the effect of arrangements so made."

(2) In section 3 of that Act (arrangements may include retrospective or supplementary provision), in subsection (2)—

(a) in paragraph (b) omit the final "or";

(b) after paragraph (c) insert "or

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(d) provision conferring (with or without other functions) functions relating to the determination of matters arising under the arrangements on a public authority in the United Kingdom or in a territory outside the United Kingdom."

(3) In section 158 of IHTA 1984 (double taxation conventions), after subsection (1) insert—

"(1ZA) For the purposes of this section, arrangements made with a view to affording relief from double taxation include any arrangements which modify the effect of arrangements so made.

(1ZB) Arrangements to which effect is given under this section may include provision conferring (with or without other functions) functions relating to the determination of matters arising under the arrangements on a public authority in the United Kingdom or in a territory outside the United Kingdom."

(4) The amendments made by subsections (1) to (3) are to be regarded as always having had effect.

(5) The provision made by section 2(1A) and 3(2)(d) of TIOPA 2010 in relation to Orders under section 2 of that Act applies, and is to be regarded as always having applied, in relation to Orders in Council under any provision which that section replaces (directly or indirectly).

(6) The provision made by section 158(1ZA) and (1ZB) of IHTA 1984 in relation to Orders under section 158 of that Act applies, and is to be regarded as always having applied, in relation to Orders in Council under any provision which that section replaces (directly or indirectly).

*Miscellaneous*

### 33 Bank levy U.K.

Schedule 9 contains provision amending Schedule 19 to FA 2011 (the bank levy).

### 34 Debt traded on a multilateral trading facility U.K.

(1) In section 987 of ITA 2007 (meaning of "quoted Eurobond")—

(a) the current text becomes subsection (1);

(b) in paragraph (b) of that subsection, after "exchange" insert " or admitted to trading on a multilateral trading facility operated by an EEA-regulated recognised stock exchange ";

(c) after that subsection insert—

"(2) For the purposes of this section—

(a) a recognised stock exchange is an "EEA-regulated recognised stock exchange" if it is regulated in the European Economic Area, and

(b) "multilateral trading facility" has the same meaning as in Article 4.1.22 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments."

(2) In each of section 151N of TCGA 1992, section 564G of ITA 2007 and section 507 of CTA 2009 (investment bond arrangements)—

(a) in subsection (1)(h), after "exchange" insert " or admitted to trading on a multilateral trading facility operated by an EEA-regulated recognised stock exchange ";

(b) in subsection (2)—

(i) omit the "and" at the end of paragraph (h);

(ii) after paragraph (i) insert—

"(j) a recognised stock exchange is an "EEA-regulated recognised stock exchange" if it is regulated in the European Economic Area, and

(k) "multilateral trading facility" has the same meaning as in Article 4.1.22 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments."

(3) The amendments made by subsection (1) have effect in relation to payments made on or after 1 April 2018.

(4) The amendments made by subsection (2) have effect—

(a) for corporation tax purposes, in relation to accounting periods beginning on or after 1 April 2018;

(b) for income tax and capital gains tax purposes, for the tax year 2018-19 and subsequent tax years.

## 35 Settlements: anti-avoidance etc U.K.

Schedule 10 contains provision about capital gains tax and income tax in connection with settlements.

## 36 Fixed rate deduction for expenditure on vehicles etc U.K.

(1) Section 94E of ITTOIA 2005 (excluded vehicles) is amended in accordance with subsections (2) and (3).

(2) In subsection (3)(b)—

(a) for "the trade" substitute " any relevant trade or business ";

(b) for "section 25A" substitute " sections 25A and 271D ".

(3) After subsection (3) insert—

"(4) In this section "any relevant trade or business" means any trade or property business carried on by the person carrying on the trade mentioned in subsection (1)."

(4) In section 272 of that Act (application of trading income rules: GAAP), in subsection (2), in the table, at the appropriate place insert—

| | |
|---|---|
| ***"In Chapter 5A (deductions allowable at a fixed rate)*** | |
| section 94C | exclusion of provisions of Chapter 5A for firms with partner who is not an individual |

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| | |
|---|---|
| sections 94D to 94G | expenditure on vehicles” |

(5) In section 272ZA of that Act (application of trading income rules: cash basis), in subsection (1), in the table, at the appropriate place insert—

| | |
|---|---|
| *“**In Chapter 5A (deductions allowable at a fixed rate)*** | |
| section 94C | exclusion of provisions of Chapter 5A for firms with partner who is not an individual |
| sections 94D to 94G | expenditure on vehicles” |

(6) In section 59 of CAA 2001 (unrelieved qualifying expenditure)—

(a) in subsection (8)—

(i) at the end of paragraph (b), insert “ and ”;

(ii) omit paragraph (d) (and the “and” before it);

(b) after subsection (9) insert—

“(9A) Subsection (9B) applies if—

(a) a person carrying on a property business incurs expenditure in relation to a vehicle,

(b) at the end of a tax year, the person has unrelieved qualifying expenditure incurred in relation to the vehicle to carry forward from the chargeable period ending with that tax year (“the relevant chargeable period”), and

(c) in calculating the profits of a property business of a person for the following tax year, a deduction is made under section 94D of ITTOIA 2005 (as applied by section 271E of that Act) in respect of expenditure incurred in relation to the vehicle.

(9B) None of the unrelieved qualifying expenditure incurred in relation to the vehicle may be carried forward as unrelieved qualifying expenditure from the relevant chargeable period.”

(7) The amendments made by subsections (2), (3) and (6)(a) have effect for the tax year 2018-19 and subsequent tax years.

(8) The amendments made by subsections (4), (5) and (6)(b) have effect for the tax year 2017-18 and subsequent tax years.

(9) Section 94E of ITTOIA 2005 (meaning of “excluded vehicles”) has effect, in its application as a result of section 271E of that Act (profits of a property business: application of trading income rules), as if after subsection (2) there were inserted—

“(2A) But in determining whether condition A is met no account is to be taken of any claim for capital allowances made for the tax year 2013-14, the tax year 2016-17 or either of the intervening tax years.”

## 37 Carried interest U.K.

(1) In the following provisions of F(No.2)A 2015 (which relate to carried interest) omit the words from “unless” to “that date”—

(a) section 43(2);

(b) section 43(4);

(c) section 45(3)(b).

(2) The amendments made by subsection (1) have effect in relation to carried interest arising on or after 22 November 2017.

(3) For the purposes of subsection (2) "carried interest" and "arising" have the same meaning as in the provisions amended.

## PART 2 U.K.

INDIRECT TAXES

*Value added tax*

### 38 Online marketplaces U.K.

(1) VATA 1994 is amended as follows.

(2) In section 69(1) (breaches of regulatory provisions) after paragraph (g) insert "or—

(h) section 77E (display of VAT registration numbers on online marketplaces),".

(3) Before section 77B insert— " Online marketplaces ".

(4) In section 77B (joint and several liability: operators of online marketplaces)—

(a) in the heading for "operators of online marketplaces" substitute " sellers identified as non-compliant by the Commissioners ";

(b) in subsection (1) omit "who is not UK-established";

(c) omit subsection (10);

(d) in subsection (12) omit ", and

"UK-established"".

(5) After section 77B insert—

"**77BA Joint and several liability: non-UK sellers in breach of Schedule 1A registration requirement**

(1) This section applies where—

(a) a person ("P") who makes taxable supplies of goods through an online marketplace is in breach of a Schedule 1A registration requirement, and

(b) the operator of the online marketplace knows, or should know, that P is in breach of a Schedule 1A registration requirement.

(2) If the operator of the online marketplace does not secure the result in subsection (3), subsection (4) applies.

(3) The result referred to in subsection (2) is that P does not offer goods for sale through the online marketplace in any period between—

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(a) the end of the period of 60 days beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 1A registration requirement, and

(b) P ceasing to be in breach of a Schedule 1A registration requirement.

(4) The operator is jointly and severally liable to the Commissioners for the amount of VAT payable by P in respect of all taxable supplies of goods made by P through the online marketplace in the relevant period.

(5) The relevant period is the period—

(a) beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 1A registration requirement, and

(b) ending with P ceasing to be in breach of a Schedule 1A registration requirement.

(6) But if the operator has been given a notice under section 77B in respect of P, the relevant period does not include—

(a) any period for which the operator is jointly and severally liable for the amount mentioned in subsection (4) by virtue of section 77B, or

(b) if the operator secures the result mentioned in section 77B(3), the period beginning with the day on which the operator is given the notice and ending with the day on which the operator secures that result.

(7) P is in breach of a Schedule 1A registration requirement if P is liable to be registered under Schedule 1A to this Act, but is not so registered.

(8) In this section "online marketplace" and "operator", in relation to an online marketplace, have the same meaning as in section 77B."

(6) In section 77C (assessments)—

(a) in the heading after "section 77B" insert " or 77BA ";

(b) in subsection (1) after "section 77B" insert " or 77BA ";

(c) for subsection (9) substitute—

"(9) In this section "online marketplace" and "operator", in relation to an online marketplace, have the same meaning as in section 77B."

(7) In section 77D (interest)—

(a) in the heading after "section 77B" insert " or 77BA ";

(b) for subsection (8) substitute—

"(8) In this section "online marketplace" and "operator", in relation to an online marketplace, have the same meaning as in section 77B."

(8) After section 77D insert—

"**77E Display of VAT registration numbers**

(1) This section applies where a person ("P") offers, or proposes to offer, goods for sale through an online marketplace.

(2) The operator of the online marketplace must take reasonable steps to check that—

(a) any number provided to the operator (by P or another person) as P's VAT registration number is valid, and

(b) any number displayed on the online marketplace as P's VAT registration number (under subsection (3) or otherwise) is valid.

(3) If a number is provided to the operator (by P or another person) as P's VAT registration number and the number is valid, the operator must secure that it is displayed on the online marketplace as P's VAT registration number no later than the time mentioned in subsection (4).

(4) The time is—

(a) the end of the period of 10 days beginning with the day on which the operator is provided with the number, or

(b) if the number is provided before P offers goods for sale through the online marketplace, the later of—

(i) the end of the period in paragraph (a), and

(ii) the end of the day on which P first offers goods for sale through the online marketplace.

(5) If the operator becomes aware that a number displayed on the online marketplace as P's VAT registration number (under subsection (3) or otherwise) is not valid, the operator must secure that it is removed from the online marketplace before the end of the relevant period.

(6) The relevant period is the period of 10 days beginning with the day on which the operator first became aware that the number was not valid.

(7) A number is provided or displayed as P's VAT registration number only if it is provided or displayed in connection with P offering, or proposing to offer, goods for sale through the online marketplace.

(8) A number provided or displayed as P's VAT registration number is valid only if—

(a) P is registered under this Act, and

(b) the number is P's VAT registration number.

(9) In this section—

"online marketplace" and "operator", in relation to an online marketplace, have the same meaning as in section 77B;

"VAT registration number" means the number allocated by the Commissioners to a person registered under this Act."

## 39 VAT refunds to public authorities U.K.

(1) In section 33 of VATA 1994 (refunds of VAT in certain cases), subsection (3) is amended as follows.

(2) In paragraph (a) after "a local authority" insert " and a combined authority established by an order made under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009 ".

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

(3) After paragraph (a) insert—

"(aa) a fire and rescue authority under the Fire and Rescue Services Act 2004, if the authority does not fall within paragraph (a);

(ab) the Scottish Fire and Rescue Service;".

(4) In paragraph (f), omit "a police authority and".

(5) After paragraph (f) insert—

"(fa) the Scottish Police Authority;

(fb) the Police Service of Northern Ireland and the Northern Ireland Policing Board;".

(6) The amendments made by this section have effect in relation to supplies made, and acquisitions and importations taking place, on or after the day on which this Act is passed.

*Stamp duty land tax*

**40 Higher rates for additional dwellings** U.K.

Schedule 11 contains amendments to Schedule 4ZA to FA 2003 (stamp duty land tax: higher rates for additional dwellings and dwellings purchased by companies).

**41 Relief for first-time buyers** U.K.

(1) Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

(2) After section 57A insert—

"**57B First-time buyers**

(1) Schedule 6ZA provides relief for first-time buyers.

(2) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return."

(3) After Schedule 6 insert—

"SCHEDULE
6ZA U.K.

RELIEF FOR FIRST-TIME BUYERS

**PART 1** U.K.

ELIGIBILITY FOR RELIEF

*Eligibility for relief*

1 (1) Relief may be claimed for a chargeable transaction if the following conditions are met (but this is subject to sub-paragraph (7)).

(2) The first condition is that the main subject-matter of the transaction consists of a major interest in a single dwelling ("the purchased dwelling").

(3) The second condition is that the relevant consideration for the transaction (other than any consisting of rent) is not more than £500,000.

(4) The third condition is that the purchaser, or (if more than one) each of the purchasers, is a first-time buyer who intends to occupy the purchased dwelling as the purchaser's only or main residence.

(5) The fourth condition is that—

(a) the transaction is not linked to another land transaction, or

(b) the transaction is linked only to land transactions that are within sub-paragraph (6).

(6) A land transaction is within this sub-paragraph if the main subject-matter of the transaction consists of—

(a) an interest in land that is or forms part of the garden or grounds of the purchased dwelling, or

(b) an interest in or right over land that subsists for the benefit of—

(i) the purchased dwelling, or

(ii) land that is or forms part of the garden or grounds of the purchased dwelling.

(7) Relief may not be claimed under this paragraph for a chargeable transaction if it is a higher rates transaction for the purposes of paragraph 1 of Schedule 4ZA.

*Eligibility for relief: linked transactions within paragraph 1(6)*

2 (1) Where a land transaction ("the main transaction") is eligible for relief under paragraph 1 (or would be if it were a chargeable transaction), relief may also be claimed for any chargeable transaction that is linked to the main transaction.

(2) But relief may not be claimed under this paragraph for a chargeable transaction if the purchaser, or (if more than one) any of the purchasers in relation to the transaction is not a purchaser in relation to the main transaction.

*Eligibility for relief: alternative finance arrangements*

3 (1) This paragraph applies in relation to a land transaction which is the first transaction under an alternative finance arrangement entered into between a person and a financial institution.

(2) The person (rather than the institution) is to be treated as the purchaser in relation to the transaction for the purposes of paragraphs 1(4) and 2(2).

(3) In this paragraph—

"alternative finance arrangement" means an arrangement of a kind mentioned in section 71A(1) or 73(1),

"financial institution" has the meaning it has in those sections (see section 73BA), and

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"first transaction", in relation to an alternative finance arrangement, has the meaning given by section 71A(1)(a) or (as the case may be) section 73(1)(a)(i).

## PART 2 U.K.

THE RELIEF

*The relief*

4 If relief is claimed under paragraph 1 or 2 for a chargeable transaction, the amount of tax chargeable in respect of the transaction is to be determined as if in section 55(1B) (amount of tax chargeable: general) for Table A there were substituted—

"Table A: Residential

| ***Relevant consideration*** | ***Percentage*** |
|---|---|
| So much as does not exceed £300,000 | 0% |
| Any remainder (so far as not exceeding £500,000) | 5%" |

*Withdrawal of relief*

5 (1) This paragraph applies if—

(a) relief is claimed under paragraph 1 or 2 for a chargeable transaction ("the first transaction"), and

(b) the effect of another land transaction ("the later transaction") that is linked to the first transaction is that the first transaction ceases to be a transaction for which relief may be claimed under that paragraph.

(2) Tax or (as the case may be) additional tax is chargeable on the first transaction as if the claim had not been made.

## PART 3 U.K.

INTERPRETATION

*"First-time buyer"*

6 (1) In this Schedule "first-time buyer" means an individual who—

(a) has not previously been a purchaser in relation to a land transaction the main subject-matter of which was a major interest in a dwelling,

(b) has not previously acquired an equivalent interest in a dwelling situated in a country or territory outside England, Wales and Northern Ireland,

(c) has not previously been, or been one of the persons who was, "the person" for the purposes of section 71A or 73 in a case where the main subject-matter of the first transaction within the meaning of the section concerned was a major interest in a dwelling, and

(d) would not have been such a person for those purposes in such a case if the provisions mentioned in paragraph (c) had been in force, and had had effect in the country or territory concerned at all material times (subject, where required, to appropriate modifications).

(2) For the purposes of sub-paragraph (1)(b) and (d), ignore a lease which has less than 21 years to run at the beginning of the day after the date on which it is acquired.

*"Relevant consideration"*

7 In this Schedule "relevant consideration" means—

(a) in the case of a transaction that is not one of a number of linked transactions, the chargeable consideration for the transaction, and

(b) in the case of a transaction that is one of a number of linked transactions, the total of the chargeable consideration for all those transactions.

*"Major interest"*

8 The main subject-matter of a transaction is not a major interest for the purposes of this Schedule if it is a term of years absolute which has less than 21 years to run at the beginning of the day after the effective date of the transaction.

*What counts as a dwelling*

9 (1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.

(2) A building or part of a building counts as a dwelling if—

(a) it is used or suitable for use as a single dwelling, or

(b) it is in the process of being constructed or adapted for such use.

(3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on that land) is taken to be part of that dwelling.

(4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of that dwelling.

(5) The main subject-matter of a transaction is also taken to consist of a major interest in a dwelling if—

(a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,

(b) the main subject-matter of the transaction consists of a major interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and

(c) construction or adaptation of the building, or part of a building, has not begun by the time the contract is substantially performed.

(6) In sub-paragraph (5)—

"contract" includes any agreement,

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"relevant deeming provision" means any of sections 44 to 45A or paragraph 5(1) or (2) of Schedule 2A or paragraph 12 of Schedule 17A, and

"substantially performed" has the same meaning as in section 44.

(7) A building or part of a building used for a purpose specified in section 116(2) or (3) is not used as a dwelling for the purposes of sub-paragraphs (2) or (5).

(8) Where a building or part of a building is used for a purpose mentioned in sub-paragraph (7), no account is to be taken for the purposes of sub-paragraph (2) of its suitability for any other use."

(4) In section 110 (approval of regulations under general power) at the end insert—

"(7) This section does not apply to regulations containing only provision varying Schedule 6ZA or paragraph 16 of Schedule 9 which does not increase any person's liability to tax."

(5) In Schedule 9 (right to buy, shared ownership leases etc), at the end insert—

"**First-time buyers**

16 (1) This paragraph applies where—

(a) a lease is granted as mentioned in sub-paragraph (1)(a) of paragraph 2 and the conditions in sub-paragraph (2) of that paragraph are met but no election is made for tax to be charged in accordance with that paragraph,

(b) a lease is granted as mentioned in sub-paragraph (1)(a) of paragraph 4 and the conditions in sub-paragraph (2) of that paragraph are met but no election is made for tax to be charged in accordance with that paragraph,

(c) paragraph 4A applies in relation to the acquisition of an interest (but the acquisition is not exempt from charge by virtue of sub-paragraph (2) of that paragraph),

(d) a shared ownership trust is declared but no election is made for tax to be charged in accordance with paragraph 9, or

(e) an equity-acquisition payment is made under a shared ownership trust (but the equity-acquisition payment, and the consequential increase in the purchaser's beneficial interest, are not exempt from charge by virtue of paragraph 10).

(2) Schedule 6ZA (relief for first-time buyers) does not apply in relation to—

(a) the acquisition of the lease,

(b) the acquisition of the interest,

(c) the declaration of the shared ownership trust, or

(d) the equity-acquisition payment and the consequential increase in the purchaser's beneficial interest."

(6) The following provisions (which are spent provisions relating to first-time buyers) are repealed—

(a) section 57AA of FA 2003,

(b) section 73CA of that Act,

(c) section 110(6) of that Act,

(d) paragraph 15 of Schedule 9 to that Act, and

(e) section 6 of FA 2010.

(7) In Schedule 2 to the Wales Act 2014 (amendments relating to the disapplication of UK stamp duty land tax in relation to Wales), after paragraph 9 insert—

"9A (1) Paragraph 6 of Schedule 6ZA (relief for first-time buyers: definition of "first-time buyer") is amended as follows.

(2) In sub-paragraph (1)(b)—

(a) after "acquired" insert "—

(i)",

and

(b) at the end insert "or

(ii) an interest of a kind mentioned in section 117(2) in a dwelling situated in Wales,".

(3) In sub-paragraph (2) after "lease" insert " or, in the case of a dwelling situated in Wales, a term of years absolute "."

(8) The amendments made by subsections (1) to (5) have effect in relation to any land transaction of which the effective date is or is after 22 November 2017.

*Landfill tax*

**42 Landfill tax: disposals not made at landfill sites, etc** **U.K.**

(1) Schedule 12 makes provision about landfill tax, including provision for disposals of material elsewhere than at landfill sites to be chargeable.

(2) That Schedule has effect only in relation to disposals made in England or Northern Ireland.

*Excise duties*

**43 Air passenger duty: rates of duty from 1 April 2019** **U.K.**

(1) Chapter 4 of Part 1 of FA 1994 (air passenger duty) is amended as follows.

(2) In section 30(4A)(b) as amended by F(No.2)A 2017 (rate for long haul departures not from Northern Ireland: travel not in sole or lowest class, and higher rate does not apply), for "£156" substitute " £172 ".

(3) In section 30(4E)(d) (higher rate for long haul departures not from Northern Ireland is six times standard-class long haul rate), for "six" substitute " 6.6 ".

(4) In section 30A(5A)(c)(ii) (higher rate for long haul departures from Northern Ireland if not set by Act of the Northern Ireland Assembly is six times standard-class rate for long haul departures from Northern Ireland), for "six" substitute " 6.6 ".

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(5) The amendments made by this section have effect in relation to the carriage of passengers beginning on or after 1 April 2019.

**44 VED: rates for light passenger vehicles, light goods vehicles, motorcycles etc** **U.K.**

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

(2) In paragraph 1 (general rate)—

(a) in sub-paragraph (2) (vehicle not covered elsewhere in Schedule with engine cylinder capacity exceeding 1,549cc), for "£245" substitute " £255 ", and

(b) in sub-paragraph (2A) (vehicle not covered elsewhere in Schedule with engine cylinder capacity not exceeding 1,549cc), for "£150" substitute " £155 ".

(3) In paragraph 1B (rates for light passenger vehicles registered before 1 April 2017)—

(a) for the Table substitute—

| *"$CO_2$ emissions figure* | | *Rate* | |
|---|---|---|---|
| ***(1)*** | ***(2)*** | ***(3)*** | ***(4)*** |
| ***Exceeding*** | ***Not exceeding*** | ***Reduced rate*** | ***Standard rate*** |
| ***g/km*** | ***g/km*** | ***£*** | ***£*** |
| 100 | 110 | 10 | 20 |
| 110 | 120 | 20 | 30 |
| 120 | 130 | 110 | 120 |
| 130 | 140 | 130 | 140 |
| 140 | 150 | 145 | 155 |
| 150 | 165 | 185 | 195 |
| 165 | 175 | 220 | 230 |
| 175 | 185 | 240 | 250 |
| 185 | 200 | 280 | 290 |
| 200 | 225 | 305 | 315 |
| 225 | 255 | 530 | 540 |
| 255 | | 545 | 555"; |

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

"(a) in column (3), in the last two rows, "305" were substituted for "530" and " 545 ", and

(b) in column (4), in the last two rows, "315" were substituted for "540" and " 555 "."

(4) For paragraph 1GC (rates on first licence for light passenger vehicles registered on or after 1 April 2017) substitute—

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"1GC

(1) This paragraph applies for the purpose of determining the rate at which vehicle excise duty is to be paid on the first vehicle licence for a vehicle to which this Part of this Schedule applies.

(2) If the vehicle is not a higher rate diesel vehicle, the annual rate of duty applicable to the vehicle is determined in accordance with Table 1 by reference to—

(a) the applicable $CO_2$ emissions figure, and

(b) whether the vehicle qualifies for the reduced rate of duty or is liable to the standard rate of duty.

(3) If the vehicle is a higher rate diesel vehicle, the annual rate of duty applicable to the vehicle is determined in accordance with Table 2 by reference to the applicable $CO_2$ emissions figure.

Table 1 - vehicles other than higher rate diesel vehicles

| ***$CO_2$ emissions figure*** | | ***Rate*** | |
|---|---|---|---|
| ***(1)*** | ***(2)*** | ***(3)*** | ***(4)*** |
| ***Exceeding*** | ***Not exceeding*** | ***Reduced rate*** | ***Standard rate*** |
| ***g/km*** | ***g/km*** | ***£*** | ***£*** |
| 0 | 50 | | 10 |
| 50 | 75 | 15 | 25 |
| 75 | 90 | 95 | 105 |
| 90 | 100 | 115 | 125 |
| 100 | 110 | 135 | 145 |
| 110 | 130 | 155 | 165 |
| 130 | 150 | 195 | 205 |
| 150 | 170 | 505 | 515 |
| 170 | 190 | 820 | 830 |
| 190 | 225 | 1230 | 1240 |
| 225 | 255 | 1750 | 1760 |
| 255 | | 2060 | 2070 |

Table 2 - higher rate diesel vehicles

| ***$CO_2$ emissions figure*** | | ***Rate*** |
|---|---|---|
| ***(1)*** | ***(2)*** | ***(3)*** |
| ***Exceeding*** | ***Not exceeding*** | ***Rate*** |
| ***g/km*** | ***g/km*** | ***£*** |

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| | | |
|---|---|---|
| 0 | 50 | 25 |
| 50 | 75 | 105 |
| 75 | 90 | 125 |
| 90 | 100 | 145 |
| 100 | 110 | 165 |
| 110 | 130 | 205 |
| 130 | 150 | 515 |
| 150 | 170 | 830 |
| 170 | 190 | 1240 |
| 190 | 225 | 1760 |
| 225 | 255 | 2070 |
| 255 | | 2070 |

(4) For the purposes of this paragraph a vehicle is a higher rate diesel vehicle if it is constructed so as to be propelled by diesel and it does not meet the Euro 6d emissions standard.

(5) A vehicle meets the Euro 6d emissions standard only if it is first registered on the basis of an EU certificate of conformity which indicates that the exhaust emission level is Euro 6d (and it does not meet that standard if it is first registered on the basis of an EU certificate of conformity which indicates that that level is Euro 6d-TEMP).

(6) "Diesel" means any diesel fuel within Article 2 of Directive 98/70/EC of the European Parliament and of the Council."

(5) In paragraph 1J (rates for light goods vehicles) in paragraph (a) for "£240" substitute " £250 ".

(6) In paragraph 2(1) (rates for motorcycles)—

(a) in paragraph (a), for "£18" substitute " £19 ",
(b) in paragraph (b), for "£41" substitute " £42 ",
(c) in paragraph (c), for "£62" substitute " £64 ", and
(d) in paragraph (d), for "£85" substitute " £88 ".

(7) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2018.

## 45 Tobacco products duty: rates U.K.

(1) TPDA 1979 is amended as follows.

(2) For the table in Schedule 1 substitute—

"TABLE

| | |
|---|---|
| 1 Cigarettes | An amount equal to the higher of— |

| | |
|---|---|
| | (a) 16.5% of the retail price plus £217.23 per thousand cigarettes, or<br>(b) £280.15 per thousand cigarettes. |
| 2 Cigars | £270.96 per kilogram |
| 3 Hand-rolling tobacco | £221.18 per kilogram |
| 4 Other smoking tobacco and chewing tobacco | £119.13 per kilogram” |

(3) The amendment made by this section is treated as having come into force at 6pm on 22 November 2017.

## PART 3 U.K.

MISCELLANEOUS AND FINAL

*Customs enforcement powers*

### 46 Power to enter premises and inspect goods U.K.

(1) Section 24 of FA 1994 (power to enter premises and inspect goods) is amended as follows.

(2) The existing text becomes subsection (1).

(3) In that subsection—
  (a) at the beginning insert “ This section applies ”;
  (b) omit the words after paragraph (b).

(4) After that subsection insert—

“(2) The officer may at any reasonable time enter and inspect the premises.

(3) The officer may inspect, examine and take account of any goods found on the premises.

(4) The officer may require a relevant person to provide any assistance that is reasonable for the purpose of exercising the power in subsection (3).

(5) For example, the officer may require a relevant person to move, open or unpack goods and containers.

(6) The officer may, for the purpose of exercising the power in subsection (3)—
  (a) move, open, or unpack goods and containers;
  (b) search containers and anything in them;
  (c) mark goods and containers.

(7) The Commissioners are not to bear any costs incurred by a relevant person in complying with a requirement under subsection (4).

(8) But the Commissioners are to bear the costs of anything done by the officer under subsection (6).

(9) In this section “relevant person” means—

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(a) the person to whom this Chapter applies;
(b) the occupier of the premises;
(c) a person who has (or appears to have) possession or control of the goods;
(d) a person who is (or appears to be) acting on behalf of a person within any of paragraphs (a) to (c).

(10) Section 159(2) of the Customs and Excise Management Act 1979 (examinations of goods to be at a place appointed by the Commissioners) does not apply to an examination under subsection (3).”

### 47 Power to search vehicles or vessels U.K.

In section 163 of CEMA 1979 (power to search vehicles or vessels), after subsection (1) insert—

“(1A) The officer, constable or member may use reasonable force if necessary for the purpose of exercising the power in subsection (1).”

*Updating of statutory references*

### 48 $CO_2$ emissions figures etc U.K.

(1) Schedule 1 to VERA 1994 (annual rates of duty) is amended in accordance with subsections (2) to (5).

(2) In paragraph 1A(2) (meaning of “light passenger vehicle”), at the end insert “ or, as the case may be, within Category M1 of Annex II to Directive 2007/46/EC (vehicle designed and constructed primarily for the carriage of passengers and comprising no more than 8 seats in addition to the driver's seat) ”.

(3) In paragraph 1G(1) (meaning of “EU certificate of conformity”), for “issued by a manufacturer under any provision of the law of a Member State implementing Article 6 of Council Directive 70/156/EEC, as amended” substitute “ within the meaning of Council Directive 70/156/EEC or Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 ”.

(4) In paragraph 1GA (vehicles to which Part 1AA applies etc)—
(a) in sub-paragraph (2), for “has the meaning given by paragraph 1A(2)” substitute “ means a vehicle within Category M1 of Annex II to Directive 2007/46/EC (vehicle designed and constructed primarily for the carriage of passengers and comprising no more than 8 seats in addition to the driver's seat) ”,
(b) omit sub-paragraph (3)(a),
(c) for sub-paragraph (3)(d) substitute—
“(d) paragraph 1G(2) (meaning of “UK approval certificate”).”, and
(d) after sub-paragraph (3) insert—

“(4) References in this Part of this Schedule to an “EU certificate of conformity” are to a certificate of conformity within the meaning of Directive 2007/46/EC.

(5) Sub-paragraphs (3) and (4) of paragraph 1A of this Schedule (meaning of "the applicable $CO_2$ emissions figure") apply for the purposes of this Part of this Schedule as they apply for the purposes of Part 1A of this Schedule, but—

(a) any reference to an EU certificate of conformity in paragraph 1A(3) or (4) is to be construed in accordance with sub-paragraph (4) of this paragraph, and

(b) for the purpose of determining the applicable $CO_2$ emissions figure, ignore any WLTP (worldwide harmonised light-duty vehicles test procedures) values specified in an EU certificate of conformity."

(5) In paragraph 1H(2) (meaning of "light goods vehicle"), at the end insert " or, as the case may be, within Category N1 of Annex II to Directive 2007/46/EC (vehicle designed and constructed primarily for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes) ".

(6) In Schedule 2 to VERA 1994 (exempt vehicles), in paragraph 25(4)(b), for "Schedule)" substitute " Schedule as read with paragraph 1GA(5) of that Schedule) ".

(7) The amendments made by subsections (2) to (6) have effect in relation to licences taken out on or after 29 November 2017.

(8) ITEPA 2003 is amended in accordance with subsections (9) to (11).

(9) In section 136 (car with a $CO_2$ emissions figure: post-September 1999 registration)—

(a) after subsection (2) insert—

"(2A) For the purpose of determining the car's $CO_2$ emissions figure, ignore any WLTP (worldwide harmonised light-duty vehicles test procedures) values specified in an EC certificate of conformity.", and

(b) in subsection (3), for "This" substitute " Subsection (2) ".

(10) In section 137 (car with a $CO_2$ emissions figure: bi-fuel cars)—

(a) after subsection (2) insert—

"(2A) For the purpose of determining the car's $CO_2$ emissions figure, ignore any WLTP (worldwide harmonised light-duty vehicles test procedures) values specified in an EC certificate of conformity.", and

(b) in subsection (3), for "This" substitute " Subsection (2) ".

(11) In section 171(1) (minor definitions: general)—

(a) in the definition of "EC certificate of conformity", for "issued by a manufacturer under any provision of the law of a Member State implementing Article 6 of Council Directive 70/156/EEC, as amended" substitute " within the meaning of Council Directive 70/156/EEC or Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 ", and

(b) in the definition of "EC type-approval certificate", for "Council Directive 70/156/EEC, as amended" substitute " Council Directive 70/156/EEC or an EC type-approval certificate within the meaning of Council Directive 2007/46/EC ".

(12) The amendments made by subsections (9) to (11) have effect for the tax year 2017-18 and subsequent tax years.

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

*Final*

**49 Interpretation** U.K.

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

| | |
|---|---|
| CAA 2001 | Capital Allowances Act 2001 |
| CEMA 1979 | Customs and Excise Management Act 1979 |
| CTA 2009 | Corporation Tax Act 2009 |
| CTA 2010 | Corporation Tax Act 2010 |
| FA, followed by a year | Finance Act of that year |
| F(No.2)A, followed by a year | Finance (No.2) Act of that year |
| F(No.3)A, followed by a year | Finance (No.3) Act of that year |
| 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 |
| TIOPA 2010 | Taxation (International and Other Provisions) Act 2010 |
| 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 |

**50 Short title** U.K.

This Act may be cited as the Finance Act 2018.

***Status:*** *Point in time view as at 15/03/2018. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

# SCHEDULES

## SCHEDULE 1 U.K.

Section 11

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

### PART 1 U.K.

ARRANGEMENTS RELATING TO EARNINGS CHARGED TO TAX

1 In section 554A of ITEPA 2003 (employment income provided through third parties: application of Chapter 2 of Part 7A), after subsection (5) insert—

"(5A) Subsections (5B) and (5C) apply where—

(a) a payment to a person other than A, or to A as a trustee, is of earnings from A's employment with B, and

(b) the earnings are, in whole or part, charged to tax under the employment income Parts otherwise than by virtue of this Part,

and for this purpose it does not matter whether all or some only or none of the tax is paid (but see sections 554Z5 and 554Z11B).

(5B) For the purposes of subsection (5C), an arrangement is a "redirected-earnings arrangement" if it (wholly or partly) covers or relates to redirected earnings; and for the purposes of this subsection and subsection (5C) "redirected earnings" means—

(a) the payment mentioned in subsection (5A)(a), or

(b) any sum or other property which (directly or indirectly)—

(i) represents, or

(ii) is derived from,

that payment.

(5C) The circumstances mentioned in subsection (5A)—

(a) do not prevent a redirected-earnings arrangement being within subsection (1)(b), and

(b) do not prevent rewards or recognition or loans being in connection with A's employment with B for the purposes of subsection (1)(c) where there is use of redirected earnings for the provision of the whole, or part, of the rewards or recognition or loans."

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## PART 2 U.K.

CLOSE COMPANIES

*Application of Chapter 2 of Part 7A to ITEPA 2003*

2 In Part 7A of ITEPA 2003 (employment income provided through third parties), after section 554A (application of Chapter 2) insert—

*"Application: close companies*

### 554AA Application of Chapter 2: close companies

(1) Chapter 2 applies if—

(a) there is an arrangement ("the relevant arrangement") to which an individual ("A") is a party or which otherwise (wholly or partly) covers or relates to A,

(b) it is reasonable to suppose that, in essence—

(i) the relevant arrangement, or

(ii) the relevant arrangement so far as it covers or relates to A,

is (wholly or partly) a means of providing, or is otherwise concerned (wholly or partly) with the provision of, A-linked payments or benefits or loans,

(c) a close company ("B") enters into a relevant transaction (see section 554AB),

(d) it is reasonable to suppose that, in essence—

(i) the relevant transaction is entered into (wholly or partly) in pursuance of the relevant arrangement, or

(ii) there is some other connection (direct or indirect) between the relevant transaction and the relevant arrangement,

(e) at the time B enters into the relevant transaction, or at any earlier time in the 3 years ending with the date of the transaction, A is a director or an employee of B,

(f) at the time B enters into the relevant transaction, or at any earlier time in the 3 years ending with the date of the transaction, A has a material interest in B (see section 554AE),

(g) a relevant step is taken by a relevant third person,

(h) it is reasonable to suppose—

(i) that the sum of money or asset which is the subject of the relevant step represents (directly or indirectly), or has arisen or derives from, the sum of money or asset which is the subject of the relevant transaction, or

(ii) that the sum of money or asset which is the subject of the relevant transaction represents (directly or indirectly), or has arisen or derives from, the sum of money or asset which is the subject of the relevant step, and

(i) there is a time in the relevant period when the main purpose, or one of the main purposes, of operating, implementing, maintaining or terminating the relevant arrangement so far as it covers or relates to—

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(i) the relevant transaction, and the relevant step so far as related to the relevant transaction, or

(ii) the relevant step, and the relevant transaction so far as related to the relevant step,

is the avoidance of? income tax, national insurance contributions, corporation tax or a charge to tax under section 455 of CTA 2010.

(2) In this section "close company" includes a company that would be a close company but for section 442(a) of CTA 2010 (exclusion of companies not resident in the United Kingdom).

(3) For the purposes of subsection (1)(b), a payment or benefit or loan is "A-linked" if—

(a) it is being provided to A, or a person chosen by A or within a class of persons chosen by A,

(b) it is being provided to a person on A's behalf, or at A's direction or request, or

(c) it is being provided to a person linked with A and it is reasonable to suppose that the main reason, or one of the main reasons, for it being provided is that the person is linked with A.

(4) For the purposes of subsection (1)(i), the "relevant period" consists of the time of the relevant transaction, the time of the relevant step, the times around each of those two times, and any other times between those two times.

(5) Subsections (6) and (7) apply where—

(a) a payment to a person other than A, or to A as a trustee, is of earnings from—

(i) A's employment with B, or

(ii) A's office as a director of B, and

(b) the earnings are, in whole or part, charged to tax under the employment income Parts otherwise than by virtue of this Part,

and for this purpose it does not matter whether all or some only or none of the tax is paid (but see sections 554Z5 and 554Z11B).

(6) For the purposes of subsection (7), an arrangement is a "redirected-earnings arrangement" if it (wholly or partly) covers or relates to redirected earnings; and for the purposes of this subsection and subsection (7) "redirected earnings" means—

(a) the payment mentioned in subsection (5)(a), or

(b) any sum or other property which (directly or indirectly)—

(i) represents, or

(ii) is derived from,

that payment.

(7) The circumstances mentioned in subsection (5)—

(a) do not prevent a redirected-earnings arrangement being within subsection (1)(a),

(b) do not prevent payments or benefits or loans being A-linked for the purposes of subsection (1)(b) where there is use of redirected earnings for the provision of the whole, or part, of the payments or benefits or loans, and

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(c) do not prevent the making of the payment mentioned in subsection (5)(a) being entry into a relevant transaction.

(8) In this section and in section 554AB "relevant third person" means—
(a) A acting as a trustee,
(b) B acting as a trustee, or
(c) any person other than A or B.

(9) See also sections 554AD to 554AF (further interpretation and supplementary provision).

**554AB Meaning of "relevant transaction"**

(1) For the purposes of section 554AA(1), B enters into a relevant transaction if—
(a) B enters into a transaction within subsection (2), and
(b) the transaction is not an excluded transaction (see section 554AC).

(2) B enters into a transaction within this subsection if B—
(a) pays a sum of money to a relevant third person (see section 554AA(8)),
(b) 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 third person, or
(ii) a transfer of assets to a relevant third person,
(c) releases or writes off the whole or a part of—
(i) a loan made to a relevant third person, or
(ii) an acquired right of the kind mentioned in paragraph (b),
(d) transfers an asset to a relevant third person,
(e) takes a step by virtue of which a third person acquires an asset within subsection (4),
(f) makes available a sum of money or asset for use, or makes it available under an arrangement which permits its use—
(i) as security for a loan made or to be made to a relevant third person, or
(ii) otherwise as security for the meeting of any liability, or the performance of any undertaking, which a relevant third person has or will have, or
(g) grants to a relevant third person a lease of any premises the effective duration of which is likely to exceed 21 years.

(3) For the purposes of subsection (2) "loan" includes—
(a) any form of credit, and
(b) a payment that is purported to be made by way of a loan.

(4) The following assets are within this subsection—
(a) securities,
(b) interests in securities, and

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(c) securities options,

as defined in section 420 for the purposes of Chapters 1 to 5 of Part 7; and in subsection (2)(e) "acquires" is to be read in accordance with section 421B(2)(a).

(5) For the purposes of subsection (2)(f)—

(a) references to making a sum of money or asset available are references to making it available in any way, however informal,

(b) it does not matter if the relevant third person has no legal right to have the sum of money or asset used as mentioned, and

(c) it does not matter if the sum of money or asset is not actually used as mentioned.

(6) Subsections (7) and (8) apply, for the purposes of subsection (2)(g), for the purpose of determining the likely effective duration of a lease of any premises granted to a relevant third person ("the original lease").

(7) If there are circumstances which make it likely that the original lease will be extended for any period, the effective duration of the original lease is to be determined on the assumption that the original lease will be so extended.

(8) Further, if—

(a) the relevant third person, A or a person linked with A is, or is likely to become, entitled to a later lease, or the grant of a later lease, of the same premises, or

(b) it is otherwise likely that the relevant third person, A or a person linked with A will be granted a later lease of the same premises,

the original lease is to be treated as continuing until the end of the later lease (and subsection (7) also applies for the purpose of determining the duration of the later lease).

(9) In this section "lease" and "premises" have the same meaning as they have in Chapter 4 of Part 3 of ITTOIA 2005.

**554AC Meaning of "excluded transaction"**

(1) In section 554AB "excluded transaction" means—

(a) a distribution made by B,

(b) a transaction that—

(i) is entered into by B in the ordinary course of B's business, and

(ii) is on terms that would have been made between persons not connected with each other dealing at arm's length, or

(c) a transaction entered into in order to facilitate the disposal, on terms that would have been made between persons not connected with each other dealing at arm's length, of shares in B.

(2) But the distribution or transaction is not an "excluded transaction" if the avoidance of tax is the main purpose, or one of the main purposes, of (as the case may be)—

(a) making the distribution, or

(b) the transaction.

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(3) Part 23 of CTA 2010 has effect for determining the meaning of "distribution" in this section as if—
  (a) section 1000(1) of CTA 2010 included a paragraph specifying any distribution made in a winding up of the company, and
  (b) sections 1030 to 1030B of that Act were omitted.

**554AD Section 554AA: meaning of "director"**

(1) For the purposes of section 554AA(1)(e) "director" means—
  (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that body,
  (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person, and
  (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,

  and includes any person in accordance with whose directions or instructions the directors of the company (as defined in this subsection) are accustomed to act.

(2) For the purposes of subsection (1) a person is not to be regarded as a person in accordance with whose directions or instructions the directors of the company are accustomed to act merely because the directors act on advice given by that person in a professional capacity.

(3) For the purposes of section 5 as it applies to this Part, a person who is a director within the meaning of subsection (1) is to be treated (where it would not otherwise be the case) as holding an office.

**554AE Section 554AA: meaning of "material interest"**

(1) Section 68 (meaning of "material interest" in a company) applies for the purposes of section 554AA and, subject to subsection (2), does so as it applies for the purposes of the benefits code.

(2) In section 68 as it applies for the purposes of section 554AA—
  (a) each of the following is to be treated as "an associate" of A—
    (i) a person ("the promoter") who, for the purposes of Part 5 of FA 2014, is carrying on business as a promoter in relation to the relevant arrangement, and
    (ii) where the promoter is a company, any company which is an associated company of the promoter;
  (b) "participator"—
    (i) in relation to a close company, means a person who is a participator in relation to the company for the purposes of section 455 of CTA 2010 (see sections 454 and 455(5) of that Act), and
    (ii) in relation to a company which would be a close company if it were a UK resident company, means a person who would be such a participator if the company were a close company.

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(3) In subsection (2)(a)(ii) "associated company" has the same meaning as it has for the purposes of Part 10 of CTA 2010 (see section 449 of that Act).

**554AF Section 554AA: supplementary**

(1) Section 554AA(1) is subject to subsection (2) and sections 554E to 554Y.

(2) Chapter 2 does not apply by reason of section 554AA(1) in relation to a relevant step taken on or after A's death 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.

(3) In section 554AA(1)(a) and (b) references to A include references to a person linked with A.

(4) For the purposes of section 554AA(1)(b) it does not matter if the relevant arrangement does not include details of the steps which will or may be taken in connection with providing, in essence, payments or benefits or loans as mentioned (for example, details of any sums of money or assets which will or may be involved or details of how or when or by whom or in whose favour any step will or may be taken).

(5) For the purposes of section 554AA(1)(b) and (d) in particular, all relevant circumstances are to be taken into account in order to get to the essence of the matter."

*Double taxation*

3 (1) In section 554Z2 of ITEPA 2003 (value of relevant step to count as employment income), after subsection (1) insert—

"(1AA) But subsection (1) is subject to section 554Z2A (close companies)."

(2) After section 554Z2 of ITEPA 2003, insert—

"**554Z2A Exception to section 554Z2(1): close companies**

(1) Section 554Z2(1) does not apply in the case of a relevant step if—

(a) this Chapter applies in the case of the relevant step only by reason of section 554AA (close companies),

(b) the relevant step is a step within section 554B, 554C or 554D,

(c) the relevant step gives rise to a charge to tax under either—

(i) section 455 of CTA 2010 by virtue of section 459 of that Act (loans treated as made to participator), or

(ii) section 415 of ITTOIA 2005 (release of loan to participator in a close company), and

(d) in a case within paragraph (c)(i), either the payment condition or the consent condition is met in relation to the charge under section 455 of CTA 2010.

(2) The payment condition is met in relation to a charge to tax under section 455 of CTA 2010 if—

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(a) the net section 455 charge is paid in full on or before the due date, or
(b) the net section 455 charge is nil.

(3) The "net section 455 charge" means the amount of the charge to tax under section 455 of CTA 2010 less the amount of section 458 relief from that charge.

(4) In subsection (3) "section 458 relief" means relief given under section 458 of that Act—
(a) in respect of a repayment made, or a release or writing-off occurring, on or before the due date, and
(b) on a claim made on or before the due date.

(5) The consent condition is met in relation to a charge to tax under section 455 of CTA 2010 if—
(a) the charge to tax is reported, in a company tax return of B's, as required under Schedule 18 to FA 1998 (company tax returns etc),
(b) the payment condition is not met in relation to that charge, and
(c) an officer of Revenue and Customs considers that section 554Z2(1) should not apply in the case of the relevant step concerned.

(6) In this section, references to the "due date" in relation to a charge to tax under section 455 of CTA 2010 are references to the day on which the tax is due and payable (see section 455(3) of CTA 2010)."

4 (1) Schedule 11 to F(No.2)A 2017 (employment income provided through third parties: loans etc outstanding on 5 April 2019) is amended as follows.

(2) Before paragraph 37 (but after the italic heading preceding that paragraph) insert—

"36A(1) Sub-paragraphs (2) to (8) apply if—
(a) a person ("P") would, apart from this paragraph, be treated as taking a relevant step by paragraph 1 by reason of a loan made to a relevant person, and
(b) the loan gives rise to a charge to tax under section 455 of CTA 2010 by virtue of section 459 of that Act (loans treated as made to participators).

(2) In this paragraph "the key date" means the later of—
(a) 5 April 2019, and
(b) the day on which the tax referred to in sub-paragraph (1)(b) is due and payable (see section 455(3) of CTA 2010).

(3) Paragraph 1(2) has effect as if it treated P as taking the relevant step immediately before the end of the key date, but this is subject to sub-paragraphs (4) and (5).

(4) Paragraph 1(1) does not apply in the case of the loan if the payment condition is met.

(5) Paragraph 1(1) does not apply in the case of the loan if—
(a) the payment condition is not met,
(b) the charge to tax mentioned in sub-paragraph (1)(b) is reported, in a company tax return of B's, as required under Schedule 18 to FA 1998 (company tax returns etc), and

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(c) an officer of Revenue and Customs considers that paragraph 1(1) should not apply in the case of the loan.

(6) The payment condition is met if—

(a) the net section 455 charge is paid in full on or before the key date, or

(b) the net section 455 charge is nil.

(7) The "net section 455 charge" is the amount of the tax referred to sub-paragraph (1)(b) less the amount of section 458 relief from that tax.

(8) In sub-paragraph (7) "section 458 relief" means relief given under section 458 of CTA 2010—

(a) in respect of a repayment made, or a release or writing-off occurring, on or before the key date, and

(b) on a claim made on or before the key date."

## PART 3 U.K.

### AMENDMENTS CONSEQUENTIAL ON PART 2

*ITEPA 2003*

5 (1) Part 7A of ITEPA 2003 (employment income provided through third parties) is amended in accordance with this paragraph.

(2) In the italic heading before section 554A, at the end insert " : main case ".

(3) In the heading of section 554A, at the end insert " : main case ".

(4) In section 554Z(2) (interpretation: "A" and "B") at the end insert " or, as the case may be, section 554AA(1) ".

*ITTOIA 2005*

6 In section 39(4) of ITTOIA 2005 (meaning of "employee benefit scheme"), for paragraph (a) (but not the "or" following it) substitute—

"(a) an arrangement (the "relevant arrangement") which is—

(i) an arrangement within subsection (1)(b) of section 554A of ITEPA 2003 to which subsection (1)(c) of that section applies, or

(ii) an arrangement within subsection (1)(b) of section 554AA of ITEPA 2003 to which subsection (1)(c) of that section applies,".

*CTA 2009*

7 In section 1291(4) of CTA 2009 (meaning of "employee benefit scheme"), for paragraph (a) (but not the "or" following it) substitute—

"(a) an arrangement (the "relevant arrangement") which is—

(i) an arrangement within subsection (1)(b) of section 554A of ITEPA 2003 to which subsection (1)(c) of that section applies, or

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(ii) an arrangement within subsection (1)(b) of section 554AA of ITEPA 2003 to which subsection (1)(c) of that section applies,".

*F(No.2)A 2017*

8 (1) Schedule 11 to F(No.2)A 2017 (employment income provided through third parties: loans etc outstanding on 5 April 2019) is amended in accordance with this paragraph.

(2) In paragraph 1 (relevant step)—

(a) in sub-paragraph (3), for "section 554A(1)(e)(i) and (ii)" substitute " sections 554A(1)(e)(i) and (ii) and 554AA(1)(h)(i) and (ii) ";

(b) in sub-paragraph (6)—

(i) for "Sub-paragraph (1) is" substitute " Sub-paragraphs (1) and (2) are ", and

(ii) at the end insert " and paragraph 36A (double taxation: close companies) ".

## PART 4 U.K.

LOANS ETC OUTSTANDING ON 5 APRIL 2019

*Information requirement*

9 Schedule 11 to F(No.2)A 2017 (employment income provided through third parties: loans etc outstanding on 5 April 2019) is amended in accordance with this Part.

10 After paragraph 35 insert—

## "PART 3A U.K.

DUTY TO PROVIDE LOAN CHARGE INFORMATION TO HMRC

*Duty to provide loan charge information*

35A (1) Paragraphs 35B and 35C apply if one of the following conditions is met.

(2) The first condition is that—

(a) a person ("P") is treated as taking a relevant step within paragraph 1 immediately before the end of 5 April 2019, and

(b) Chapter 2 of Part 7A of ITEPA 2003 applies by reason of that relevant step.

(3) The second condition is that—

(a) a person ("Q") has made a loan which is an approved fixed term loan on 5 April 2019,

(b) if that day were the approved repayment date in relation to the loan—

(i) Q would be treated as taking a relevant step within paragraph 1 immediately before the end of that day, and

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(ii) Chapter 2 of Part 7A of ITEPA 2003 would apply by reason of that relevant step, and

(c) A is living immediately before the end of—

(i) 30 September 2019, or

(ii) if earlier, the approved repayment date.

(4) The third condition is that—

(a) paragraph 24(1) applies by reference to a loan, or a quasi-loan, made by a person ("S") to a relevant person ("R"),

(b) R makes an application under paragraph 24(1) for S to be treated as mentioned in paragraph 24(1) in relation to the relevant step concerned,

(c) a favourable decision is made on the application before 6 April 2019,

(d) that decision is not revoked before 6 April 2019,

(e) the first condition is not met, and

(f) A is living immediately before—

(i) the end of 30 September 2019, or

(ii) if earlier, the time given by sub-paragraphs (i) and (ii) of paragraph 24(1)(b).

(5) The fourth condition is that—

(a) none of the first, second and third conditions is met, and

(b) if the date specified in paragraph 1(1)(c) and (2)(b) were 16 March 2016 (and if paragraph 1(2)(a), and the words "in any other case" in paragraph 1(2)(b), were omitted)—

(i) a person ("T") would be treated as taking a relevant step within paragraph 1 immediately before the end of 16 March 2016, and

(ii) Chapter 2 of Part 7A of ITEPA 2003 would apply by reason of that relevant step (using, for this purpose, the law that would be used to test whether that Chapter applies to a relevant step taken on 5 April 2019), and

(c) A is living immediately before the end of 5 April 2019.

(6) Paragraph 35C does not apply in a case where one of the first to fourth conditions is met if—

(a) a person agrees, with an officer of Revenue and Customs, terms for the discharge of liability for income tax,

(b) the terms cover all liability (if any) under Chapter 2 of Part 7A of ITEPA 2003 by reason of any loan-charge relevant step or result in there being no such liability, and

(c) the terms are agreed before 1 October 2019.

(7) In sub-paragraph (6)(b) "loan-charge relevant step" means (as the case may be)—

(a) the relevant step that P is treated as taking,

(b) any relevant step within paragraph 1 that Q is, or has yet to be, treated as taking by reference to the approved fixed term loan mentioned in sub-paragraph (3),

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(c) any relevant step within paragraph 1 that S is, or has yet to be, treated as taking by reference to the loan or quasi-loan mentioned in sub-paragraph (4), or

(d) any relevant step within paragraph 1 that T is, or has yet to be, treated as taking by reference to the loan or quasi-loan by reference to which T would be treated as taking the relevant step mentioned in sub-paragraph (5)(b)(i).

35B (1) In this paragraph "the appropriate third party" means P, Q, S or T (as the case may be: see paragraph 35A).

(2) Sub-paragraph (3) applies if the appropriate third party receives a request from A or A's personal representatives for information specified in the request that is reasonably required for the purpose of complying with paragraph 35C in the case concerned.

(3) The appropriate third party must provide A or A's personal representatives—

(a) with such of the information as is available to the appropriate third party, and

(b) if any of the information is not available to the appropriate third party, with a statement confirming that so much of the information as is not provided is information that is not available to the appropriate third party.

(4) The information, and any such statement, must be provided promptly and, in any event, before the end of 30 days beginning with date of receipt of the request.

35C (1) A, or A's personal representatives, must provide the loan charge information (see paragraph 35D(1)) to the Commissioners for Her Majesty's Revenue and Customs.

(2) The loan charge information must be provided—

(a) after 5 April 2019, and

(b) before 1 October 2019.

(3) The loan charge information must be provided in such form and manner as may be specified by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs.

*"Loan charge information"*

35D (1) For the purposes of paragraphs 35C and 36, the "loan charge information" consists of—

(a) A's name and, if A's personal representatives are providing the information, their names,

(b) the address and telephone number, and e-mail address (if any), of each person providing the information,

(c) A's national insurance number (if any),

(d) the unique taxpayer reference number (if any) allocated to A by HMRC,

(e) if the loan or quasi-loan that is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i), or the

loan mentioned in paragraph 35A(3)(a), is made to someone other than A, the name of the person to whom it is made,

(f) B's name,

(g) the name of the relevant arrangement,

(h) the reference number (if any) allocated to the relevant arrangement by HMRC under section 311 of FA 2004 (disclosure of tax avoidance schemes: arrangements to be given reference number),

(i) any other reference number allocated by HMRC in connection with the relevant arrangement or the relevant step,

(j) if a person has agreed terms with an officer of Revenue and Customs for the partial discharge of the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003 by reason of the relevant step that P, Q or S is treated as taking, the date of that agreement and the amount of the liability to which it relates,

(k) if a loan is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i), or in a case within paragraph 35A(3)(a), the loan payment information (see sub-paragraph (2)), and

(l) if a quasi-loan is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i), the quasi-loan payment information (see sub-paragraph (3)).

(2) The "loan payment information", in relation to a loan, consists of statements of the following—

(a) whether the loan is an approved fixed term loan,

(b) the initial principal amount of the loan,

(c) the amount that has become principal under the loan, otherwise than by capitalisation of interest, in each relevant tax year,

(d) the amount of principal under the loan repaid in each relevant tax year, ignoring any repayments not in money made on or after 17 March 2016,

(e) the details of any repayment that is to be disregarded under paragraph 4,

(f) the amount of principal under the loan that has been released or written off in each relevant tax year, and

(g) whether the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003, or section 188 of that Act, by reason of the release or writing-off has been paid.

(3) The "quasi-loan payment information", in relation to a quasi-loan, consists of statements of the following—

(a) the amount equal to the value of the acquired debt,

(b) the amount equal to the value of the additional debts acquired in each relevant tax year,

(c) the amount by which the initial debt amount has been reduced by way of repayment in each relevant tax year, ignoring any repayments not in money made on or after 17 March 2016,

(d) where the acquired debt or an additional debt is a right to a transfer of assets, and the assets have been transferred, the amount of the market value of the assets at the time of the transfer,

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

(e) the details of any repayment that is to be disregarded under paragraph 12,

(f) the amount by which the initial debt amount has been reduced by release or writing off in each relevant tax year, and

(g) whether the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003, or section 188 of that Act, by reason of the release or writing-off has been paid.

(4) In this paragraph "relevant tax year" in relation to a loan, or a quasi-loan, means—

(a) the tax year in which the loan or quasi-loan was made, and

(b) each subsequent tax year.

(5) In sub-paragraph (3), "acquired debt", "additional debt" and "initial debt amount" have the same meaning as in paragraph 11.

(6) In this paragraph and in paragraphs 35G to 35J, "HMRC" means Her Majesty's Revenue and Customs.

*Power to amend paragraph 35D*

35E The Commissioners for Her Majesty's Revenue and Customs may by regulations amend paragraph 35D so as to—

(a) add, remove or amend an entry in a list of information, and

(b) make incidental provision.

*Penalties for failure to comply*

35F (1) A person who fails to comply with paragraph 35C is liable to a penalty of £300.

(2) Sub-paragraph (3) applies if the failure continues after the date on which a penalty is imposed under sub-paragraph (1) in respect of the failure.

(3) The person is liable to a further penalty or penalties not exceeding £60 for each subsequent day, up to a maximum of 90 days, on which the failure continues.

*Penalties for inaccurate information and documents*

35G (1) This paragraph applies if—

(a) in complying with the duty under paragraph 35C, a person provides inaccurate information, and

(b) condition A, B or C is met.

(2) Condition A is that the inaccuracy is careless or deliberate.

(3) An inaccuracy is careless if it is due to a failure by the person to take reasonable care.

(4) Condition B is that the person knows of the inaccuracy at the time the information is provided but does not inform HMRC at that time.

(5) Condition C is that the person—

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(a) discovers the inaccuracy some time later, and
(b) fails to take reasonable steps to inform HMRC.

(6) The person is liable to a penalty not exceeding £3000.

(7) Where the information contains more than one inaccuracy, a penalty is payable for each inaccuracy.

*Reasonable excuse*

35H (1) Liability to a penalty under paragraph 35F does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure.

(2) For the purposes of this paragraph—
(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,
(b) where the person relies on any other person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure, and
(c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

*Assessment of a penalty*

35I (1) Where a person becomes liable for a penalty under paragraph 35F or 35G—
(a) HMRC may assess the penalty, and
(b) if they do so, they must notify the person.

(2) An assessment of a penalty under paragraph 35F must be made before 1 October 2021.

(3) An assessment of a penalty under paragraph 35G must be made before 1 October 2023.

*Appeals*

35J (1) A person may appeal against any of the following decisions of an officer of Revenue and Customs—
(a) a decision that a penalty is payable by that person under paragraph 35F or 35G, or
(b) a decision as to the amount of such a penalty.

(2) Notice of an appeal under this paragraph must be given—
(a) in writing,
(b) before the end of the period of 30 days beginning with the date on which the notification under paragraph 35I was issued, and
(c) to HMRC.

(3) Notice of an appeal under this paragraph must state the grounds of appeal.

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

(4) On an appeal under sub-paragraph (1)(a) that is notified to the tribunal, the tribunal may confirm or cancel the decision.

(5) On an appeal under sub-paragraph (1)(b) that is notified to the tribunal, the tribunal may—

(a) confirm the decision, or

(b) substitute for the decision another decision that the officer of Revenue and Customs had power to make.

*Enforcement*

35K (1) A penalty under paragraph 35F or 35G must be paid—

(a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 35I was issued, or

(b) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.

(2) A penalty under paragraph 35F or 35G may be enforced as if it were income tax charged in an assessment and due and payable."

11 (1) Paragraph 36 (duty to provide loan balance information to B) is amended in accordance with this paragraph.

(2) In sub-paragraph (2) for "loan balance information" substitute " loan charge information (see paragraph 35D) ".

(3) Omit sub-paragraphs (3), (5) and (6).

(4) In the italic heading preceding paragraph 36, for "balance" substitute " charge ".

*PAYE: employee of non-UK employer*

12 (1) Section 689 of ITEPA 2003 (PAYE: employee of non-UK employer) is amended in accordance with this paragraph.

(2) In subsection (4), in the words before paragraph (a), after "employee," insert " and if the case is not within subsection (4A), ".

(3) After subsection (4) insert—

"(4A) A case is within this subsection if—

(a) the section concerned is section 687A or 695A (employment income under Part 7A), and

(b) the relevant step concerned is within paragraph 1 of Schedule 11 to F(No. 2)A 2017 (loans etc outstanding on 5 April 2019).

(And this section does not apply in a case within this subsection.)"

## PART 5 U.K.

COMMENCEMENT

13 The amendment made by paragraph 1—

***Status:*** *Point in time view as at 15/03/2018. This version of this Act contains provisions that are not valid for this point in time.*
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(a) is to be treated as having come into force on 29 November 2017,

(b) has effect for the purposes of the operation of Part 7A of ITEPA 2003 in relation to relevant steps taken on or after 22 November 2017, and

(c) so has effect in the case of payments within the new subsection (5A)(a) whenever made (including ones made before 6 April 2011).

14 The amendments made by paragraphs 2, 3 and 5 of this Schedule in Part 7A of ITEPA 2003 have effect in relation to relevant steps taken on or after 6 April 2018.

15 The amendment made by paragraph 6 of this Schedule in section 39 of ITTOIA 2005 has effect in relation to employee benefit contributions (as defined in that section) made, or to be made, on or after 6 April 2018.

16 The amendment made by paragraph 7 of this Schedule in section 1291 of CTA 2009 has effect in relation to employee benefit contributions (as defined in that section) made, or to be made, on or after 1 April 2018.

## SCHEDULE 2 U.K.

Section 12

### TRADING INCOME PROVIDED THROUGH THIRD PARTIES: LOANS ETC OUTSTANDING ON 5 APRIL 2019

1 In Schedule 12 to F(No.2)A 2017 (trading income provided through third parties: loans etc outstanding on 5 April 2019), after paragraph 20 insert—

*"Duty to provide loan charge information to HMRC*

21 (1) Paragraph 22 applies if one of the following conditions is met.

(2) The first condition is that—

(a) a loan or quasi-loan in relation to which paragraph 1(2) applies is treated as a "relevant benefit" for the purposes of sections 23A to 23H of ITTOIA 2005, and

(b) section 23E of ITTOIA 2005 applies in relation to the relevant benefit (see section 23A of that Act).

(3) The second condition is that—

(a) an application is made under paragraph 20(1) by reference to a loan or quasi-loan in relation to which paragraph 1(2) applies,

(b) a favourable decision is made on the application before 6 April 2019, and

(c) the first condition is not met in relation to the loan or quasi-loan.

(4) Paragraph 22 does not apply in a case if—

(a) a person agrees, with an officer of Revenue and Customs, terms for the discharge of liability for income tax arising because of the application of section 23E of ITTOIA 2005,

(b) the terms cover all liability (if any) arising because of the application of that section by reference to a loan or quasi-loan in relation to which paragraph 1(2) applies, and

(c) the terms are agreed before 1 October 2019.

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22 (1) T, or T's personal representatives, must provide the loan charge information (see paragraph 23(1)) to the Commissioners for Her Majesty's Revenue and Customs.

(2) The loan charge information must be provided—

(a) after 5 April 2019, and

(b) before 1 October 2019.

(3) The loan charge information must be provided in such form and manner as may be specified by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs.

(4) In this paragraph and in paragraph 23, "T" is the person mentioned in section 23A(2) of ITTOIA 2005.

*"Loan charge information"*

23 (1) For the purposes of paragraph 22, the "loan charge information" consists of —

(a) T's name and, if T's personal representatives are providing the information, their names,

(b) the address and telephone number, and e-mail address (if any), of each person providing the information,

(c) T's national insurance number (if any),

(d) the unique taxpayer reference number (if any) allocated to T by HMRC,

(e) the name of the arrangement mentioned in section 23A(3)(a) of ITTOIA 2005,

(f) the reference number (if any) allocated to the arrangement by HMRC under section 311 of FA 2004 (disclosure of tax avoidance schemes: arrangements to be given reference number),

(g) any other reference number allocated by HMRC in connection with the arrangement or with the loan or quasi-loan mentioned in paragraph 21(2) or (3),

(h) if the loan or quasi-loan mentioned in paragraph 21(2) or (3) is made to someone other than T, the name of the person to whom it is made,

(i) if a person has agreed terms with an officer of Revenue and Customs for the partial discharge of the liability for income tax arising because of the application of section 23E of ITTOIA 2005 in relation to the loan or quasi-loan mentioned in paragraph 21(2) or (3), the date of that agreement and the amount of the liability to which it relates,

(j) if the condition in paragraph 21(2) or (3) is met by reference to a loan, the loan payment information (see sub-paragraph (2)), and

(k) if the condition in paragraph 21(2) or (3) is met by reference to a quasi-loan, the quasi-loan payment information (see sub-paragraph (3)).

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

(2) The "loan payment information", in relation to a loan, consists of statements of the following—

(a) whether the loan is an approved fixed term loan,

(b) the initial principal amount of the loan,

(c) the amount that has become principal under the loan, otherwise than by capitalisation of interest, in each relevant tax year,

(d) the amount of principal under the loan repaid in each relevant tax year, ignoring any repayments not in money made on or after 5 December 2016,

(e) the details of any repayment that is to be disregarded under paragraph 3(4),

(f) the amount of principal under the loan that has been released or written off in each relevant tax year,

(g) whether any liability for income tax arising because of the application of section 23E of ITTOIA 2005 by reason of the release or writing-off has been paid, and

(h) any amount released that has, in accordance with section 97 of ITTOIA 2005, been brought into account as a receipt in calculating the profits of the relevant trade.

(3) The "quasi-loan payment information", in relation to a quasi-loan, consists of statements of the following—

(a) the amount equal to the value of the acquired debt,

(b) the amount equal to the value of the additional debts acquired in each relevant tax year,

(c) the amount by which the initial debt amount has been reduced by way of repayment in each relevant tax year, ignoring any repayments not in money made on or after 5 December 2016,

(d) where the acquired debt or an additional debt is a right to a transfer of assets, and the assets have been transferred, the amount of the market value of the assets at the time of the transfer,

(e) the details of any repayment that is to be disregarded under paragraph 9(5),

(f) the amount by which the initial debt amount has been reduced by release or writing off in each relevant tax year,

(g) whether any liability for income tax arising because of the application of section 23E of ITTOIA 2005 by reason of the release or writing-off has been paid, and

(h) any amount released that has, in accordance with section 97 of ITTOIA 2005, been brought into account as a receipt in calculating the profits of the relevant trade.

(4) In this paragraph "relevant tax year" in relation to a loan, or a quasi-loan, means—

(a) the tax year in which the loan or quasi-loan was made, and

(b) each subsequent tax year.

(5) In sub-paragraph (3), "acquired debt", "additional debt" and "initial debt amount" have the same meaning as in paragraph 9.

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(6) In this paragraph and in paragraphs 26 to 29, "HMRC" means Her Majesty's Revenue and Customs.

24 The Commissioners for Her Majesty's Revenue and Customs may by regulations amend paragraph 23 so as to—

(a) add, remove or amend an entry in a list of information, and

(b) make incidental provision.

*Duty to provide loan charge information: penalties*

25 (1) A person who fails to comply with paragraph 22 is liable to a penalty of £300.

(2) Sub-paragraph (3) applies if the failure continues after the date on which a penalty is imposed under sub-paragraph (1) in respect of the failure.

(3) The person is liable to a further penalty or penalties not exceeding £60 for each subsequent day, up to a maximum of 90 days, on which the failure continues.

26 (1) This paragraph applies if—

(a) in complying with the duty under paragraph 22, a person provides inaccurate information, and

(b) condition A, B or C is met.

(2) Condition A is that the inaccuracy is careless or deliberate.

(3) An inaccuracy is careless if it is due to a failure by the person to take reasonable care.

(4) Condition B is that the person knows of the inaccuracy at the time the information is provided but does not inform HMRC at that time.

(5) Condition C is that the person—

(a) discovers the inaccuracy some time later, and

(b) fails to take reasonable steps to inform HMRC.

(6) The person is liable to a penalty not exceeding £3000.

(7) Where the information contains more than one inaccuracy, a penalty is payable for each inaccuracy.

*Penalties under paragraph 25: reasonable excuse*

27 (1) Liability to a penalty under paragraph 25 does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure.

(2) For the purposes of this paragraph—

(a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,

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

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

*Penalties under paragraphs 25 and 26: assessment, appeals and enforcement*

28 (1) Where a person becomes liable for a penalty under paragraph 25 or 26—
(a) HMRC may assess the penalty, and
(b) if they do so, they must notify the person.

(2) An assessment of a penalty under paragraph 25 must be made before 1 October 2021.

(3) An assessment of a penalty under paragraph 26 must be made before 1 October 2023.

29 (1) A person may appeal against any of the following decisions of an officer of Revenue and Customs—
(a) a decision that a penalty is payable by that person under paragraph 25 or 26, or
(b) a decision as to the amount of such a penalty.

(2) Notice of an appeal under this paragraph must be given—
(a) in writing,
(b) before the end of the period of 30 days beginning with the date on which the notification under paragraph 28 was issued, and
(c) to HMRC.

(3) Notice of an appeal under this paragraph must state the grounds of appeal.

(4) On an appeal under sub-paragraph (1)(a) that is notified to the tribunal, the tribunal may confirm or cancel the decision.

(5) On an appeal under sub-paragraph (1)(b) that is notified to the tribunal, the tribunal may—
(a) confirm the decision, or
(b) substitute for the decision another decision that the officer of Revenue and Customs had power to make.

30 (1) A penalty under paragraph 25 or 26 must be paid—
(a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 28 was issued, or
(b) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.

(2) A penalty under paragraph 25 or 26 may be enforced as if it were income tax charged in an assessment and due and payable.”

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# SCHEDULE 3 U.K.

Section 13

## PENSION SCHEMES

*Amendments of and relating to Part 4 of the Finance Act 2004*

1 (1) Part 4 of FA 2004 (pension schemes etc) is amended in accordance with sub-paragraphs (2) to (8).

(2) In section 150 (meaning of "pension scheme"), after subsection (5) insert—

"(5A) This Part applies in relation to certain pension schemes that are not occupational pension schemes as it applies in relation to occupational pension schemes (see section 274B and paragraph 1(4A) of Schedule 36)."

(3) In section 153 (registration of pensions schemes), in subsection (5), at the end insert ", or

(h) the pension scheme is an occupational pension scheme, and a sponsoring employer in relation to the scheme is a body corporate that has been dormant during a continuous period of one month that falls within the period of one year ending with the day on which the decision is made, or

(i) the pension scheme is an unauthorised Master Trust scheme."

(4) In section 158 (grounds for de-registration) in subsection (1), at the end insert ", or

(g) that the pension scheme is an occupational pension scheme, and a sponsoring employer in relation to the scheme is a body corporate that has been dormant during a continuous period of one month that falls within the period of one year ending with the day on which the decision to withdraw registration is made, or

(h) that the scheme is an unauthorised Master Trust scheme."

(5) At the beginning of Chapter 8 (supplementary) insert—

*"National Employment Savings Trust and Master Trust schemes*

**National Employment Savings Trust and Master Trust schemes**

274B (1) This Part applies in relation to a pension scheme that—

(a) is established under section 67 of the Pensions Act 2008, and

(b) is not an occupational pension scheme,

as it applies in relation to an occupational pension scheme.

(2) This Part applies in relation to a pension scheme that—

(a) is a Master Trust scheme, and

(b) is not an occupational pension scheme,

as it applies in relation to an occupational pension scheme."

(6) In section 279 (other definitions), after subsection (1A) insert—

"(1B) In this Part "Master Trust scheme" means a pension scheme—

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(a) that is a Master Trust scheme within the meaning of the Pension Schemes Act 2017 (see sections 1 and 2 of that Act) or corresponding provision in force in Northern Ireland, and

(b) whose operation would be unlawful under Part 1 of that Act (Master Trusts), or corresponding provision in force in Northern Ireland, were the scheme not authorised under that Part or that corresponding provision.

(1C) For the purposes of determining whether the condition in subsection (1B)(b) is met, the following are to be ignored—

(a) any regulations under section 40 of the Pension Schemes Act 2017 (regulations modifying application of Part 1 of that Act);

(b) any provision in force in Northern Ireland corresponding to regulations that could be made under that section.

(1D) For the purposes of this Part a Master Trust scheme is "unauthorised" if—

(a) it is not authorised under Part 1 of the Pension Schemes Act 2017 or corresponding provision in force in Northern Ireland, and

(b) its operation would be unlawful under that Part or that corresponding provision without such authorisation.

(1E) Section 1169 of the Companies Act 2006 (dormant companies) applies for the purposes of this Part."

(7) In section 280(2) (general index), in the table, insert at the appropriate places—

| | |
|---|---|
| "dormant (in relation to a body corporate) | section 279(1E)"; |
| "Master Trust scheme | section 279(1B) and (1C)"; |
| "unauthorised (in relation to a Master Trust scheme) | section 279(1D)". |

(8) In Schedule 36 (pension schemes etc: transitional provisions and savings), in paragraph 1 (deemed registration of existing schemes), after sub-paragraph (4) insert—

"(4A) This Part of this Act applies in relation to a pension scheme that—

(a) is a registered pension scheme by virtue of sub-paragraph (1)(a), and

(b) is neither a public service pension scheme nor an occupational pension scheme,

as it applies in relation to an occupational pension scheme."

(9) In consequence of the amendment made by sub-paragraph (5), in section 30 of F(No.3)A 2010 (pension scheme under section 67 of Pensions Act 2008), omit subsection (1).

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**Commencement Information**

**I3** Sch. 3 para. 1(1)(2)(5)(8)(9) in force at Royal Assent, Sch. 3 para. 1(3)(4)(6)(7) in force at Royal Assent for specified purposes and in force at 6.4.2018 for further specified purposes, see Sch. 3 para. 2

*Commencement*

2 (1) The following provisions of paragraph 1 come into force on the day on which section 3 of the Pension Schemes Act 2017 (prohibition on operating Master Trust scheme unless authorised) comes into force or, if later, the day on which this Act is passed—

(a) sub-paragraph (3) so far as it inserts section 153(5)(i) of FA 2004 and the "or" at the end of section 153(5)(h);

(b) sub-paragraph (4) so far as it inserts section 158(1)(h) of that Act and the "or" at the end of section 158(1)(g);

(c) sub-paragraph (6) so far as it inserts section 279(1D) of that Act (definition of "unauthorised Master Trust scheme");

(d) sub-paragraph (7) so far as it inserts an index entry relating to that definition.

(2) The following provisions of paragraph 1 come into force on 6 April 2018—

(a) sub-paragraph (3) so far as it inserts section 153(5)(h) of FA 2004 and the "or" at the end of section 153(5)(g);

(b) sub-paragraph (4) so far as it inserts section 158(1)(g) of that Act and the "or" at the end of section 158(1)(f);

(c) sub-paragraph (6) so far as it inserts section 279(1E) of that Act (definition of "dormant");

(d) sub-paragraph (7) so far as it inserts an index entry relating to that definition.

(3) So far as not brought into force by sub-paragraph (1) or (2), and subject to sub-paragraph (4), paragraph 1 comes into force on the day on which this Act is passed.

(4) Paragraph 1(8) is treated as always having had effect.

(5) For the purposes of section 153(5)(h) and (i) of FA 2004 (as inserted by paragraph 1(3)) it is immaterial when the application in question was made.

*Meaning of "Master Trust scheme": transitional provision*

3 Before the coming into force of section 3 of the Pension Schemes Act 2017 (prohibition on operating Master Trust scheme unless authorised), section 279 of FA 2004 has effect as if subsections (1B)(b) and (1C) (as inserted by paragraph 1(6)) were omitted.

*Master Trust schemes registered before the passing of this Act*

4 (1) Sub-paragraph (2) applies to a pension scheme that—

(a) is a Master Trust scheme,

(b) is not an occupational pension scheme, and

(c) was registered under Chapter 2 of Part 4 of FA 2004 before the passing of this Act.

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

(2) Section 274B(2) of FA 2004 (as inserted by paragraph 1(5)) is treated as always having had effect in relation to the pension scheme.

(3) In this paragraph, "Master Trust scheme" and "occupational pension scheme" have the same meaning as in Part 4 of FA 2004.

## SCHEDULE 4 U.K.

Section 16

## EIS AND VCT RELIEFS: KNOWLEDGE-INTENSIVE COMPANIES

### *Amount of EIS relief*

1 (1) Section 158 of ITA 2007 (form and amount of EIS relief) is amended as follows.

(2) In subsection (2)(a), after "EIS relief" insert " (qualifying shares) ".

(3) In subsection (2)(b), for "£1 million" substitute " the allowable amount ".

(4) After subsection (2) insert—

"(2ZA) The allowable amount is—

(a) if the qualifying shares do not include any KIC shares: £1 million;

(b) if the amount, or the sum of the amounts, subscribed for qualifying shares that are KIC shares is £1 million or more: £2 million;

(c) if neither paragraph (a) nor paragraph (b) applies: £1 million plus the amount, or the sum of the amounts, subscribed for qualifying shares that are KIC shares.

(2ZB) In subsection (2ZA) "KIC shares" means shares in a company which, or in companies each of which, is a knowledge-intensive company at the time the shares are issued (see section 252A and subsection (6))."

(5) In subsection (4), for "subsections (1) and (2)" substitute " subsections (1) to (2ZB) ".

(6) At the end insert—

"(6) If the issuing company began to carry on a trade less than three years before the date the relevant shares are issued, section 252A as it applies for the purposes of this section has effect with the substitution of the following subsections for subsections (2) to (4A)—

"(2) The first operating costs condition is that in at least one of the relevant three succeeding years at least 15% of the relevant operating costs constitute expenditure on research and development or innovation.

(3) The second operating costs condition is that in each of the relevant three succeeding years at least 10% of the relevant operating costs constitute such expenditure.

(4) In subsections (2) and (3)—

"relevant operating costs" means—

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(a) if the issuing company is a single company at the time the relevant shares are issued, the operating costs of that company, and

(b) if the issuing company is a parent company at the time the relevant shares are issued, the sum of—

(i) the operating costs of the issuing company, and

(ii) the operating costs of each company which is a qualifying subsidiary of the issuing company at that time, excluding a company's operating costs for any of the relevant three succeeding years during any part of which the company is not a qualifying subsidiary of the issuing company;

"the relevant three succeeding years" means the three consecutive years the first of which begins with the date the relevant shares are issued."

(7) In subsection (6) "trade" includes—

(a) any business or profession,

(b) so far as not within paragraph (a), the carrying on of research and development activities from which it is intended a trade will be derived or will benefit,

(c) preparing to carry on a trade."

*Maximum amount raised annually by knowledge-intensive company*

2 (1) Section 173A of ITA 2007 (the maximum amount raised annually through risk finance investments requirement for EIS relief) is amended as follows.

(2) In subsection (1), for "must not exceed £5 million" substitute "must not exceed—

(a) if the company is a knowledge-intensive company at that date (see section 252A and subsection (5A)), £10 million, and

(b) in any other case, £5 million."

(3) After subsection (5) insert—

"(5A) If the issuing company began to carry on a trade less than three years before the date the relevant shares are issued, section 252A as it applies for the purposes of this section has effect with the substitution of the following subsections for subsections (2) to (4A)—

"(2) The first operating costs condition is that in at least one of the relevant three succeeding years at least 15% of the relevant operating costs constitute expenditure on research and development or innovation.

(3) The second operating costs condition is that in each of the relevant three succeeding years at least 10% of the relevant operating costs constitute such expenditure.

(4) In subsections (2) and (3)—

"relevant operating costs" means—

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(a) if the issuing company is a single company at the time the relevant shares are issued, the operating costs of that company, and

(b) if the issuing company is a parent company at the time the relevant shares are issued, the sum of—

(i) the operating costs of the issuing company, and

(ii) the operating costs of each company which is a qualifying subsidiary of the issuing company at that time, excluding a company's operating costs for any of the relevant three succeeding years during any part of which the company is not a qualifying subsidiary of the issuing company;

"the relevant three succeeding years" means the three consecutive years the first of which begins with the date the relevant shares are issued.""

3 (1) Section 292A of ITA 2007 (the maximum amount raised annually through risk finance investments requirement for VCT relief) is amended as follows.

(2) In subsection (1), for "must not exceed £5 million" substitute "must not exceed—

(a) if the company is a knowledge-intensive company at that date (see section 331A and subsection (6A)), £10 million, and

(b) in any other case, £5 million."

(3) After subsection (6) insert—

"(6A) If the relevant company began to carry on a trade less than three years before the date the relevant holding is issued, section 331A as it applies for the purposes of this section has effect with the substitution of the following subsections for subsections (3) to (5A)—

"(3) The first operating costs condition is that in at least one of the relevant three succeeding years at least 15% of the relevant operating costs constitute expenditure on research and development or innovation.

(4) The second operating costs condition is that in each of the relevant three succeeding years at least 10% of the relevant operating costs constitute such expenditure.

(5) In subsections (3) and (4)—

"relevant operating costs" means—

(a) if the relevant company is a single company at the applicable time, the operating costs of that company, and

(b) if the relevant company is a parent company at the applicable time, the sum of—

(i) the operating costs of the relevant company, and

(ii) the operating costs of each company which is a qualifying subsidiary of the relevant

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company at that time, excluding a company's operating costs for any of the relevant three succeeding years during any part of which the company is not a qualifying subsidiary of the relevant company;

"the relevant three succeeding years" means the three consecutive years the first of which begins with the date the relevant holding is issued.""

4 In section 297B of ITA 2007 (the proportion of skilled employees requirement for VCT relief), in subsection (2)(a), after "sections" insert " 292A, ".

*Initial investing period: permitted age of knowledge-intensive company*

5 In section 175A of ITA 2007 (the permitted maximum age condition for EIS relief), in paragraph (a) of subsection (2), for "beginning with the relevant first commercial sale," substitute "beginning with—

(i) the relevant first commercial sale, or

(ii) if the issuing company so elects, the date by reference to which that company is treated as reaching an annual turnover of £200,000 (see section 252B),".

6 After section 252A of ITA 2007 insert—

"**252B Knowledge-intensive company reaching turnover of £200,000**

(1) This section has effect for the purposes of section 175A(2)(a)(ii) (alternative initial investing period in case of knowledge-intensive company).

(2) Where—

(a) the annual turnover of the issuing company in relation to an accounting period (see subsection (3)) is £200,000 or more, and

(b) the annual turnover for the company in relation to each previous accounting period is less than £200,000,

the company is treated as reaching an annual turnover of £200,000 or more by reference to the specified date (see subsection (4)).

(3) The annual turnover in relation to an accounting period is—

(a) the turnover for that accounting period (if the accounting period is for 12 months), or

(b) the turnover for the period of 12 months ending when that accounting period ends (if not).

(4) The specified date is—

(a) in the case of an accounting period of 12 months or less, the last day of that accounting period;

(b) in the case of an accounting period of more than 12 months, the last day of the period of 12 months beginning when that accounting period begins.

(5) The turnover of the issuing company for a period ("the period") is treated for the purposes of this section as including the relevant turnover of any

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company that is a member of the same group as the issuing company during the whole or any part of the period (a "group company").

(6) The relevant turnover of a group company is—

(a) its turnover for the period, if the group company is a member of the same group as the issuing company for the whole of the period;

(b) if the group company is a member of the same group as the issuing company for part of the period, its turnover for that part of the period.

(7) Any necessary apportionments of turnover are to be made, on a time basis according to the respective lengths of the periods in question, for the purposes of subsections (3)(b) and (6).

(8) In this section "turnover" has the meaning given by section 474(1) of the Companies Act 2006 and is to be determined by reference to—

(a) the accounts of the company, and

(b) amounts recognised for accounting purposes."

7 In section 280C of ITA 2007 (the permitted maximum age condition for VCT relief), in paragraph (a) of subsection (3), for "beginning with the relevant first commercial sale," substitute "beginning with—

(i) the relevant first commercial sale, or

(ii) if the relevant company so elects, the date by reference to which that company is treated as reaching an annual turnover of £200,000 (see section 331B),".

8 In section 294A of ITA 2007 (the permitted company age requirement for VCT relief), in paragraph (a) of subsection (2), for "beginning with the relevant first commercial sale," substitute "beginning with—

(i) the relevant first commercial sale, or

(ii) if the relevant company so elects, the date by reference to which that company is treated as reaching an annual turnover of £200,000 (see section 331B),".

9 After section 331A of ITA 2007 insert—

"**331B Knowledge-intensive company reaching turnover of £200,000**

(1) This section has effect for the purposes of sections 280C(3)(a)(ii) and 294A(2)(a)(ii) (alternative initial investing period in case of knowledge-intensive company).

(2) Where—

(a) the annual turnover of the relevant company in relation to an accounting period (see subsection (3)) is £200,000 or more, and

(b) the annual turnover for the company in relation to each previous accounting period is less than £200,000,

the company is treated as reaching an annual turnover of £200,000 or more by reference to the specified date (see subsection (4)).

(3) The annual turnover in relation to an accounting period is—

(a) the turnover for that accounting period (if the accounting period is for 12 months), or

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(b) the turnover for the period of 12 months ending when that accounting period ends (if not).

(4) The specified date is—

(a) in the case of an accounting period of 12 months or less, the last day of that accounting period;

(b) in the case of an accounting period of more than 12 months, the last day of the period of 12 months beginning when that accounting period begins.

(5) The turnover of the relevant company for a period ("the period") is treated for the purposes of this section as including the relevant turnover of any company that is a member of the same group as the relevant company during the whole or any part of the period (a "group company").

(6) The relevant turnover of a group company is—

(a) its turnover for the period, if the group company is a member of the same group as the relevant company for the whole of the period;

(b) if the group company is a member of the same group as the relevant company for part of the period, its turnover for that part of the period.

(7) Any necessary apportionments of turnover are to be made, on a time basis according to the respective lengths of the periods in question, for the purposes of subsections (3)(b) and (6).

(8) In this section "turnover" has the meaning given by section 474(1) of the Companies Act 2006 and is to be determined by reference to—

(a) the accounts of the company, and

(b) amounts recognised for accounting purposes."

*Commencement*

10 (1) The amendments made by this Schedule come into force in accordance with provision made by the Treasury by regulations.

(2) Regulations under sub-paragraph (1)—

(a) may make different provision for different purposes;

(b) may provide for any of those amendments to have effect in relation to shares issued, or investments made, on or after a day that is—

(i) earlier than the day on which the regulations are made, but

(ii) not earlier than 6 April 2018.

## SCHEDULE 5 U.K.

Section 17

### VENTURE CAPITAL TRUSTS: FURTHER AMENDMENTS

*Relaxation of restriction where there is a linked sale*

1 (1) Section 264A of ITA 2007 (restricting VCT relief where there is a linked sale) is amended as follows.

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(2) In subsection (5), at the beginning of paragraph (b) insert " if subsection (7A) applies, ".

(3) After subsection (7) insert—

"(7A) This subsection applies if—

(a) the date of the merger or restructuring referred to in subsection (7) ("D2") is before, or the same as, the date when the individual subscribes for the relevant shares ("D1"), or

(b) D2 is after D1 but no more than two years after, and either—

(i) the individual could reasonably be expected to know at the time of subscribing for the relevant shares that the merger or restructuring referred to in subsection (7) was likely to take place, or

(ii) the main purpose of the merger or restructuring, or one of its main purposes, is to enable individuals to obtain a tax advantage in connection with VCT relief.

(7B) For the purposes of subsection (7A)—

(a) the date of the merger or restructuring is the date of the issue of shares referred to in section 323(1)(a) or (2)(a) or section 326(2)(a) (or, if there is more than one such issue, the date of the first of them);

(b) a "tax advantage" includes—

(i) relief or increased relief from tax,

(ii) repayment or increased repayment of tax,

(iii) avoidance or reduction of a charge to tax or an assessment to tax, and

(iv) avoidance of a possible assessment to tax."

*The 70% qualifying holdings condition*

2 In section 274 of ITA 2007 (requirements for the giving of approval), in the fifth entry of the table in subsection (2) (the 70% qualifying holdings condition), for "70%" in the first and second columns substitute " 80% ".

3 In consequence of the amendment made by paragraph 2, in each of the following provisions of ITA 2007, for "70%", where it appears before "qualifying", substitute "80%"—

(a) in section 274, subsection (3)(c), (d) and (e);

(b) in section 275 (alternative requirements for the giving of approval), subsection (3)(b);

(c) in section 278 (conditions relating to value of investments: general), subsection (1);

(d) in section 280 (conditions relating to qualifying holdings and eligible shares), subsection (2);

(e) in section 280A (the 70% qualifying holdings condition: disposal of holding), in the heading and in subsection (2);

(f) in Schedule 4 (index of defined expressions), the entry for the qualifying holdings condition.

4 In section 280A of ITA 2007, in subsection (2)(a), for "6" substitute " 12 ".

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*The minimum investment on further issue condition*

5 (1) Section 274 of ITA 2007 is amended as follows.

(2) In the table in subsection (2), after the entry for "the investment limits condition" insert—

| | |
|---|---|
| "The minimum investment on further issue condition | The company has not breached and will not breach, in the relevant period, the minimum investment on further issue condition" |

(3) In subsection (3), after paragraph (f) insert—

"(fa) the minimum investment on further issue condition by section 280BA,"

6 After section 280B of ITA 2007 insert—

"**280BA The minimum investment on further issue condition**

(1) A company breaches the minimum investment on further issue condition where—

(a) there has been an issue of ordinary share capital of the company ("the first issue"),

(b) a VCT approval of the company has taken effect on or before the day of the making of the first issue,

(c) a further issue ("the further issue") of ordinary share capital of the company has been made since the making of the first issue, and

(d) the company does not, on or before the relevant deadline, invest at least 30% of the money raised by the further issue in shares or securities which when held by the company are comprised in the company's qualifying holdings.

(2) The relevant deadline is the last day of the period of 12 months immediately following the end of the accounting period in which the further issue is made."

*Non-qualifying loans*

7 (1) Section 285 of ITA 2007 (interpretation of Chapter 3 etc of Part 6) is amended as follows.

(2) In subsection (2)—

(a) omit "(whether secured or not)";

(b) at the end of paragraph (b) insert ", or

(c) any liability of the company in respect of a loan to which subsection (2A) applies that has been made to the company."

(3) After that subsection insert—

"(2A) This subsection applies to a loan if—

(a) the return on the loan represents more than a commercial rate of return, or

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(b) the loan is made on terms which grant to a person or allow a person to acquire—

(i) any security or preferential rights in relation to assets of the company, or

(ii) the ability to control the company.

In sub-paragraph (ii) "control" has the meaning given by sections 450 and 451 of CTA 2010.

(2B) The return on a loan is not to be treated as representing more than a commercial rate for the purposes of subsection (2A)(a) if—

(a) the return on the loan during the period of 5 years from the making of the loan does not exceed 50% of the amount lent, and

(b) the total return on the loan does not exceed—

$$N \times A \times 10\%$$

where—

N is the number of years (including any fraction) in the term of the loan;

A is the amount lent or, in a case where some of the loan is repaid during the term of the loan, the average amount outstanding during that term.

(2C) The Treasury may by regulations substitute a different figure for a figure that is at any time specified in subsection (2B)(a) or (b).

(2D) In subsections (2A)(a) and (2B) "return" means interest, fees, charges and other amounts payable in respect of the loan.

(2E) Where it is to any extent not known, before the end of the term of a loan, what amounts will be payable in respect of the loan—

(a) subsections (2A)(a) and (2B) apply, until the relevant matters are ascertained, on the basis of what amounts can reasonably be expected to be payable;

(b) when those matters are ascertained, any necessary adjustments must be made by making or amending assessments or by repayment or discharge of tax (regardless of any limitation on the time within which assessments or amendments may be made)."

**Commencement Information**

**I4** Sch. 5 para. 7 in force at 15.3.2018 for the purposes of the amendments made by that paragraph by S.I. 2018/931, **reg. 4(d)** (with reg. 5)

*Qualifying holdings: exclusions*

8 (1) Part 8 of Schedule 2 to ITA 2007 (transitional provision: venture capital trusts) is amended as follows.

(2) In paragraph 69 (the no guaranteed loan requirement), after "acquired" insert " before 6 April 2018 ".

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(3) In paragraph 70 (the proportion of eligible shares requirement), in sub-paragraph (2), after "acquired" insert " before 6 April 2018 ".

(4) In paragraph 81 (meaning of "excluded activities"), after "acquired" insert " before 6 April 2018 ".

9 In Part 1 of Schedule 16 to FA 2007 (venture capital trusts: limit on number of employees in company in which investment made), in paragraph 3(6)(b), after "("the investing company")" insert " before 6 April 2018 ".

10 In Schedule 11 to FA 2008 (venture capital trusts), in paragraph 12(b), after "("the investing company")" insert " before 6 April 2018 ".

11 (1) In Schedule 2 to F(No.3)A 2010 (venture capital trusts), in paragraph 6(2)(b), after "the investing company" insert " before 6 April 2018 ".

(2) The 30% eligible shares condition does not apply in relation to an accounting period ending on or after 6 April 2018.

(3) In sub-paragraph (2) "the 30% eligible shares condition" means the condition referred to as such in section 274(2) of ITA 2007 as originally enacted.

*Commencement*

12 The amendments made by paragraph 1 have effect in relation to claims for relief by reference to shares issued on or after 6 April 2014.

13 The other amendments made by this Schedule come into force in accordance with provision made by the Treasury by regulations.

14 Regulations under paragraph 13—

(a) may make different provision for different purposes;

(b) may provide for any of those amendments to come into force on or by reference to a day that is—

(i) earlier than the day on which the regulations are made, but

(ii) not earlier than the day on which this Act is passed.

## SCHEDULE 6 U.K.

Section 18

PARTNERSHIPS

### PART 1 U.K.

BARE TRUSTS

1 In ITTOIA 2005, after section 848 insert—

"**848A Bare trusts**

(1) This section applies if—

(a) a partner in a firm is partner as trustee for a beneficiary who is absolutely entitled to the partner's share of the profits of the firm, and

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(b) the beneficiary is chargeable to tax on those profits.

(2) References in this Part to a partner or member of the firm include references to the beneficiary."

2 In CTA 2009, after section 1258 insert—

"**1258A Bare trusts**

(1) This section applies if—

(a) a partner in a firm is partner as trustee for a beneficiary who is absolutely entitled to the partner's share of the profits of the firm, and

(b) the beneficiary is chargeable to tax on those profits.

(2) References in this Part to a partner or member of the firm include references to the beneficiary."

3 (1) TMA 1970 is amended as follows.

(2) In section 12AA (partnership returns), after subsection (10A) insert—

"(10B) If—

(a) a partner in a partnership is partner as trustee for a beneficiary who is absolutely entitled to the partner's share of the profits of the partnership, and

(b) the beneficiary is chargeable to tax on those profits,

references in this Act to the partner include references to the beneficiary."

(3) In section 118(1) (interpretation), at the appropriate place insert—

""partner" is to be construed in accordance with section 12AA(10B) of this Act;".

4 (1) The amendment made by paragraph 1 has effect in relation to the tax year 2018-19 and subsequent tax years.

(2) The amendment made by paragraph 2 has effect in relation to accounting periods beginning on or after 1 April 2018.

(3) The amendments made by paragraph 3 have effect in relation to partnership returns relating to the tax year 2018-19 or any subsequent tax year.

## PART 2 U.K.

### NOTIONAL TRADE AND BUSINESS OF INDIRECT PARTNER

5 (1) ITTOIA 2005 is amended as follows.

(2) In section 847 (general provisions), after subsection (3) insert—

"(4) For the purposes of this Part, a person is an indirect partner in a partnership ("the underlying partnership") if the person is a partner in—

(a) a partnership which is a partner in the underlying partnership, or

(b) any partnership which is an indirect partner in the underlying partnership by virtue of the preceding application of this subsection."

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(3) After section 852 insert—

"**852A Notional trades: indirect partners**

(1) This section applies in relation to the notional trade of a partner in a firm if—

(a) the firm consists of a partnership which is a partner or indirect partner in another partnership ("the underlying partnership"),

(b) the members of the underlying partnership carry on a trade (the "underlying trade"),

(c) the firm's trading profits or losses referred to in section 852(1) arise by virtue of profits or losses ("the underlying profits or losses") arising in the carrying on of the underlying trade, and

(d) the underlying profits or losses do not themselves arise by virtue of the underlying partnership's membership of a partnership.

(2) Section 852 (carrying on by partner of notional trade) has effect as if for subsections (2) to (5) there were substituted—

"(2) The partner starts to carry on the notional trade at the later of—

(a) when the partner becomes an indirect partner in the underlying partnership, and

(b) when the underlying partnership starts to carry on the underlying trade.

This is subject to subsection (3).

(3) If the partner carries on the actual trade (whether alone or in partnership) before the underlying partnership starts to carry on the underlying trade, the partner starts to carry on the notional trade when the partner starts to carry on the actual trade.

(4) The partner permanently ceases to carry on the notional trade at the earlier of—

(a) when the partner ceases to be an indirect partner in the underlying partnership, and

(b) when the underlying partnership permanently ceases to carry on the underlying trade.

This is subject to subsection (5).

(5) If the partner carries on the actual trade (whether alone or in partnership) after the underlying partnership permanently ceases to carry on the underlying trade, the partner permanently ceases to carry on the notional trade when the partner permanently ceases to carry on the actual trade.""

(4) After section 855 insert—

"**855A Notional business: indirect partners**

(1) This section applies in relation to the notional business of a partner in a firm if—

(a) the firm consists of a partnership which is a partner or indirect partner in another partnership ("the underlying partnership"),

(b) the members of the underlying partnership carry on a trade ("the underlying trade"),

(c) the firm's untaxed income or relievable losses referred to in section 854(1)(b) arise by virtue of untaxed income or relievable losses ("the underlying profits or losses") arising to members of the underlying partnership—

(i) from sources other than the carrying on of a trade, and

(ii) otherwise than by virtue of the underlying partnership's membership of a partnership.

(2) Section 854 (carrying on by partner of notional business) has effect as if—

(a) for subsection (2) there were substituted—

"(2) The partner starts to carry on the notional business at the later of—

(a) when the partner becomes an indirect partner in the underlying partnership, and

(b) when the underlying partnership starts to carry on the underlying trade.";

(b) for subsection (4) there were substituted—

"(4) The partner permanently ceases to carry on the notional business at the earlier of—

(a) when the partner ceases to be an indirect partner in the underlying partnership, and

(b) when the underlying partnership permanently ceases to carry on the underlying trade."

(3) Section 855 has effect as if for subsections (2) and (3) there were substituted—

"(2) If the partner carries on the actual trade (whether alone or in partnership) before the firm starts to carry it on, the partner starts to carry on the notional business when the firm starts to carry on the actual trade.

(3) If the partner carries on the actual trade (whether alone or in partnership) after the firm permanently ceases to carry it on, the partner permanently ceases to carry on the notional business when the firm permanently ceases to carry on the actual trade."

(4) In this section "untaxed income" has the same meaning as in section 854."

(5) The amendments made by this paragraph have effect in relation to the tax year 2018-19 and subsequent tax years.

## PART 3 U.K.

### RETURNS: INFORMATION TO BE INCLUDED

6 (1) TMA 1970 is amended as follows.

(2) In section 12AA (partnership returns) after subsection (1A) insert—

"(1B) Where a partnership to which subsection (1) applies ("the reporting partnership") includes a partner which is itself a partnership, references

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in subsections (1) and (1A) to a partner include an indirect partner in the reporting partnership.

(1C) For the purposes of this section, a person is an indirect partner in the reporting partnership if the person is a partner in—

(a) a partnership which is a partner in the reporting partnership, or

(b) any partnership which is an indirect partner in the reporting partnership by virtue of the preceding application of this subsection."

(3) In section 12AB (partnership statements), after subsection (1) insert—

"(1A) Where at any time in a period mentioned in subsection (1)(a) the reporting partnership is a partner in another partnership which carries on a trade, profession or business—

(a) income or loss that the reporting partnership accrues or sustains thereby is to be treated for the purposes of subsection (1)(a)(i) as from a source that is separate from any of its other sources of income or loss,

(b) consideration in respect of the disposal of partnership property that the reporting partnership accrues thereby is to be treated for the purposes of subsection (1)(a)(ia) as from a source that is separate from any of its other sources of consideration,

(c) income tax which has been deducted or treated as deducted from, or paid on, any income that the reporting partnership accrues thereby is to be treated for the purposes of subsection (1)(a)(ii) as being deducted or treated as deducted from, or paid on, a source of income that is separate from any of its other sources of income, and

(d) amounts specified in the partnership statement under subsection (1)(a) must include—

(i) each amount which is stated to be equal to the reporting partnership's share of income, loss, consideration or tax in any partnership statement made under this section in relation to the other partnership for the period for which the return is made or a period which includes that period or any part of it, and

(ii) a statement as to which of the assumptions in subsection (1B) was applied in calculating that amount.

(1B) If at any time in a period mentioned in subsection (1)(a) the reporting partnership includes a partner which is itself a partnership ("the participating partnership"), the amounts referred to in subsection (1)(b) must be calculated and included in the partnership statement applying each of the following assumptions to the participating partnership—

(a) that it is a UK resident individual;

(b) that it is a non-UK resident individual;

(c) that it is a UK resident company;

(d) that it is a non-UK resident company.

(1C) But subsection (1D) applies if the partnership return includes—

(a) the name of every person who was an indirect partner in the reporting partnership at any time in a period mentioned in subsection (1)(a), and

(b) at least some of the following information—

(i) whether a person named under paragraph (a) is an individual, company or partnership (or something else),

(ii) in the case of such a person who is an individual, whether the individual was or was not resident in the United Kingdom in the year of assessment for which the partnership return is made, and

(iii) in the case of such a person who is a company, whether the company was or was not resident in the United Kingdom for each accounting period of the company which includes all, or any part of, a period mentioned in subsection (1)(a).

(1D) In subsection (1B)—

(a) ignore either or both of paragraph (a) and (b) if it is apparent from information provided under subsection (1C) that none of the indirect partners of the reporting partnership is a person of a description specified in that paragraph at any time in the year of assessment for which the return is made, and

(b) ignore either or both of paragraph (c) and (d) if it is apparent from that information that none of the indirect partners is a company of a description specified in that paragraph at any time in any of its accounting periods which include all, or any part of, a period mentioned in subsection (1)(a).”

(4) In that section, in subsection (5), at the appropriate places insert—

““indirect partner”, in relation to the reporting partnership, is to be construed in accordance with section 12AA(1C);”;

““reporting partnership” means the partnership to which the partnership statement referred to in subsection (1) relates;”.

(5) The amendments made by this paragraph have effect in relation to partnership returns relating to the tax year 2018-19 or any subsequent tax year.

7 (1) F(No.2)A 2017 is amended as follows.

(2) In section 60, in paragraph 17 of Schedule A1 to be inserted into TMA 1970—

(a) the existing provision becomes sub-paragraph (1);

(b) after that sub-paragraph insert—

“(2) Where a partnership (“the reporting partnership”) includes a partner which is itself a partnership, references in this Schedule to a partner include an indirect partner in the reporting partnership.

Section 12AA(1C) (meaning of “indirect partner”) applies for the purposes of this sub-paragraph.”

(3) In Schedule 14 (amendments relating to digital reporting etc), after paragraph 10 insert—

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"10A In section 12AB(1C) (further information to be included in partnership return in certain cases), before "partnership return" insert " section 12AA "."

## PART 4 U.K.

RETURNS: OVERSEAS PARTNERS IN INVESTMENT PARTNERSHIPS ETC

8 (1) TMA 1970 is amended as follows.

(2) In section 12AA(6) (partnership return to include information about partners), at the end (and on a new line) insert—

"But see section 12ABZA."

(3) After section 12AB (partnership return to include partnership statement) insert—

"**12ABZA Partnership returns: overseas partners in investment partnerships etc**

(1) There is no requirement for a partnership return to include a declaration of the tax reference of a person (see section 12AA(6)(a)) if—

(a) the person is not chargeable to income tax or corporation tax for the period, or for a period which includes any part of the period, in respect of which the partnership return is made,

(b) the partnership does not carry on a trade or profession or a UK property business at any time during the period in respect of which the partnership return is made,

(c) the whole of that period is a period in respect of which the partnership is required to set out information about the person in one or more relevant returns, and

(d) the partnership return includes a statement that the condition in paragraph (c) is met.

(2) In subsection (1)(c) "relevant return" means a return under the International Tax Compliance Regulations 2015 (S.I. 2015/878).

(3) If, in reliance on this section, the partnership return does not include a declaration of the tax reference of a person but the partnership does not comply with the requirement mentioned in subsection (1)(c), the partner required to make and deliver the partnership return, or that partner's successor, must give notice to HMRC specifying the tax reference.

(4) The notice must be given within the period of 12 months beginning with the filing date for the partnership return.

(5) The Commissioners for Her Majesty's Revenue and Customs may by regulations made by statutory instrument amend the definition of "relevant return" in subsection (2).

(6) A statutory instrument containing regulations under subsection (5) is subject to annulment in pursuance of a resolution of the House of Commons.

(7) In this section "filing date" has the same meaning as in section 12ABA."

(4) In section 98 (special returns, etc), in column 2 of the Table, at the appropriate place insert " section 12ABZA(3) of this Act ".

(5) The amendments made by this paragraph have effect in relation to returns—
(a) made after the passing of this Act, and
(b) whether relating to periods before or after the passing of this Act.

9 In Schedule 14 to F(No.2)A 2017 (amendments relating to digital reporting etc), after paragraph 10A (as inserted by this Schedule) insert—

"10B In section 12ABZA (partnership returns: overseas partners in investment partnerships etc)—
(a) in the heading, before "Partnership returns" insert " Section 12AA ";
(b) in subsections (1), (3), and (4), before every "partnership return" insert " section 12AA "."

## PART 5 U.K.

RETURNS CONCLUSIVE AS TO SHARES OF PROFITS AND LOSSES

10 (1) TMA 1970 is amended as follows.

(2) After section 12ABZA (as inserted by this Act) insert—

"**12ABZB Partnership return conclusive as to partnership shares**

(1) A partnership return is conclusive for tax purposes as to—
(a) whether a person does or does not have a share in the profits or losses of the partnership for any period, and
(b) what the share of any person in those profits or losses is.

(2) That applies even where the person would not otherwise be chargeable to tax on profits of the partnership.

(3) If there is a dispute between the person mentioned in subsection (1)(a) or (b) and any one or more partners in the partnership about whether what is given in a partnership return is correct as to the matters mentioned in that subsection, a party to the dispute may refer it to the tribunal for determination.

(4) That does not include a dispute to the extent that it is in substance about the amount (before sharing) of the partnership's profits or losses for a period.

(5) A referral under subsection (3) must be made before the end of the period of 12 months beginning with the day after—
(a) the day on which the partnership return was delivered, or
(b) if the dispute relates to an amendment to the return made under section 12ABA (amendment of partnership return by taxpayer), the day on which the amendment was made.

(6) Where a dispute is referred to the tribunal under subsection (3)—

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(a) the party referring it must at the same time give notice of the referral to—
  (i) HMRC, and
  (ii) the reporting partner, and
(b) the reporting partner must give notice of the referral to—
  (i) every other partner in the partnership, and
  (ii) any other person appearing to the reporting partner to be a party to the dispute.

But notice need not be given under this subsection to anyone who referred the dispute.

(7) Where the tribunal determines that what is given in the partnership return as to the matters referred to in subsection (1)(a) or (b) is not correct—
(a) the tribunal must determine what the return should have given, and
(b) HMRC must amend the return accordingly.

(8) Where a partnership return is amended under subsection (7)(b), HMRC must by notice to any party to the proceedings or any partner in the partnership amend—
(a) their return under section 8 or 8A of this Act, or
(b) their company tax return,

if the amendments are necessary to give effect to the consequences of the amendment of the partnership return.

(9) Where at any time after a referral is made under subsection (3) but before the tribunal determines the dispute the reporting partner gives notice to HMRC that all the partners in the partnership (whether or not party to the proceedings) have agreed in writing that the partnership return—
(a) is correct without variation, or
(b) requires correcting in a particular manner,

the like consequences shall ensue for all purposes as would have ensued if, at the time the agreement was made, the tribunal had determined the dispute in accordance with the terms of the agreement.

(10) Subsection (9) does not apply if—
(a) within the period of 30 days beginning with the date of the agreement, a party to the agreement gives notice to the other parties to the agreement that the party wishes to repudiate or resile from the agreement, or
(b) within the period of 30 days beginning with the date on which it receives notice of the agreement, HMRC gives notice to the reporting partner of its objection to the agreement.

(11) A partnership return which has been the subject of a referral under subsection (3) may not be the subject of another referral under that subsection, unless that other referral—
(a) relates to a dispute arising in consequence of an amendment of the partnership return under section 12ABA (amendment of partnership return by taxpayer), and
(b) is the first referral following the amendment.

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(12) In this section—

"reporting partner" means the partner who made and delivered the partnership return or that partner's successor;

references to a partner in a partnership are to a person who was a partner in it at any time during the period in respect of which the partnership return was made."

(3) In section 12ABA(1) (amendment of partnership return by taxpayer), after "partnership return" insert " (including anything included in the return by virtue of section 12ABZB(7)(b) (amendment of partnership return following referral to tribunal)) ".

(4) In section 12AC (enquiry into partnership return)—

(a) in subsection (2), after paragraph (c) insert—

"(d) if a dispute in relation to the return is referred to a tribunal under section 12ABZB(3) of this Act, up to and including the quarter day next following the first anniversary of the day on which HMRC received notification of the referral.";

(b) in subsection (3), at the end insert " or in consequence of the referral of a dispute about the return under section 12ABZB(3) of this Act ";

(c) in subsection (4), for ", subject to the following limitation" substitute " and including anything included in the return by virtue of section 12ABZB(7)(b), subject to the following limitations ";

(d) after subsection (5) insert—

"(5A) If the notice of enquiry is given as a result of the referral of a dispute under section 12ABZB(3) of this Act—

(a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above,

(b) after a final closure notice has been issued in relation to an enquiry into the return, or

(c) after a partial closure notice has been issued in such an enquiry in relation to the matters to which the dispute relates or which are affected by it,

the enquiry into the return is limited to the matters to which the dispute relates or which are affected by it."

(5) In section 12AD (amendment of partnership return by taxpayer during enquiry)—

(a) in the heading, after "taxpayer" insert " , or referral of dispute, ";

(b) in subsection (1)—

(i) after "taxpayer)" insert " , or a dispute about the return is referred to the tribunal under section 12ABZB(3) of this Act, ";

(ii) after "the amendment", in both places it occurs, insert " or dispute ";

(c) in subsection (2), after "amendment" insert " or dispute ".

(6) In section 28B(2)(b) (completion of enquiry into partnership return), after "return" insert " (including anything included in the return by virtue of section 12ABZB(7)(b) (amendment of partnership return following reference to tribunal)) ".

(7) In section 30B(1) (amendment of partnership return where loss of tax discovered), in the words after paragraph (c), after "return" insert " (including anything included

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in the return by virtue of section 12ABZB(7)(b) (amendment of partnership return following reference to tribunal)) ".

(8) In section 55 (recovery of tax not postponed)—

(a) in subsection (8B), for "and (8D)" substitute " to (8E) ";

(b) in subsection (8C)—

(i) in paragraph (c), omit the final "or";

(ii) after paragraph (c) insert—

"(ca) any amount of tax specified in the notice by virtue of an amendment made under section 227(7A) of that Act, or";

(c) after subsection (8D) insert—

"(8E) If the payment of an amount of tax within subsection (8C)(ca) is postponed by virtue of this section immediately before notice of the amendment is given, it ceases to be so postponed with effect from the time that the notice of the amendment is given, and the tax is due and payable on or before—

(a) the last day of the period of 30 days beginning with the day on which the notice is given, or

(b) if later, the last day on which it would have been payable under subsection (8D) if it had been included in the amount specified in the accelerated payment notice or partner payment notice when that notice was given."

(9) In section 59B(5)(b) (payment of tax following amendment of self-assessment), after "section" insert " 12ABZB(8), ".

(10) In Schedule 3ZA (date by which payment to be made after amendment or correction of self-assessment), in paragraph 7 (amendment consequential on correction of partnership return by Revenue)—

(a) in the heading, at the end insert " or tribunal determination of partnership dispute ";

(b) in sub-paragraph (1), after "under" insert " section 12ABZB(8)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return corrected following reference to tribunal) or ";

(c) in sub-paragraph (2), after "section" insert " 12ABZB(8)(a) or ".

11 In section 850 of ITTOIA 2005 (allocation of firm's profits or losses between partners), in subsection (1), after "850D" insert " and section 12ABZB of TMA 1970 (partnership return is conclusive) ".

12 In section 1262 of CTA 2009 (allocation of firm's profits or losses between partners), in subsection (1), after "1264A" insert " and section 12ABZB of TMA 1970 (partnership return is conclusive) ".

13 (1) FA 2014 is amended as follows.

(2) In each of sections 220 and 221 (content of accelerated payment notice), at the end of subsection (3) insert " (and disregarding any dispute which has been referred to a tribunal under section 12ABZB(3) of TMA 1970 but not yet determined) ".

(3) In section 226 (penalty for failure to pay accelerated payment), after subsection (7) insert—

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"(8) Where an amendment to an accelerated payment notice made under section 227(7A) (amendment following tribunal determination about partnership return) increases the amount of the accelerated payment, the amount of the increase is to be ignored for the purposes of—

(a) this section, and

(b) any other enactment imposing a penalty or surcharge for non-payment or late payment of tax."

(4) In section 227 (withdrawal, modification or suspension of accelerated payment notice)—

(a) after subsection (7) insert—

"(7A) Where—

(a) an accelerated payment notice is given, and

(b) a partnership return (as defined in Schedule 32) to which the notice relates is amended under section 12ABZB(7)(b) of TMA 1970 (amendment following tribunal determination),

HMRC may by notice given to P make consequential amendments to the accelerated payment notice.";

(b) in subsection (13), after "subsection (2)(c)" insert " or an amendment made under subsection (7A) ";

(c) after subsection (13) insert—

"(13A) If, as a result of an amendment made under subsection (7A), an amount payable to HMRC under section 223(2) is increased, the amount of that increase must be paid before—

(a) the end of the period of 30 days beginning with the day on which notice of the amendment is given, or

(b) if later, the end the payment period (within the meaning given by section 223(5))."

(5) In Schedule 32 (accelerated payments and partnerships)—

(a) in paragraph 4(2), at the end insert " (and disregarding any dispute which has been referred to a tribunal under section 12ABZB(3) of TMA 1970 but not yet determined) ";

(b) in paragraph 7—

(i) in paragraph (b), omit the final "and";

(ii) after paragraph (b) insert—

"(ba) the reference in section 226(8) to an amendment to an accelerated payment notice made under section 227(7A) were to an amendment to a partner payment notice made under that section as applied by paragraph 8 of this Schedule, and";

(c) in paragraph 8(2)—

(i) after paragraph (a) insert—

"(aa) section 227(7A) has effect as if the reference to a partnership return to which the accelerated payment notice relates were a reference to the partnership return in relation to which the partner payment notice is given;";

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(ii) in paragraph (b), omit the final "and";

(iii) after paragraph (c) insert "and

(d) section 227(13A) has effect as if the reference to section 223(2) were to paragraph 6(2) of this Schedule and the reference to section 223(5) were to paragraph 6(5) of this Schedule."

14 The amendments made by paragraphs 10 to 13 have effect in relation to returns relating to the tax year 2018-19 or any subsequent tax year.

15 (1) Schedule 14 to F(No.2)A 2017 (amendments relating to digital reporting etc) is amended as follows.

(2) After paragraph 10B (as inserted by this Schedule) insert—

"10C In section 12ABZB (partnership return conclusive as to partnership shares)—

(a) in the heading, before "Partnership return" insert " Section 12AA ";

(b) in subsections (1), (3), (5), (7), (8), (9), (11) and (12), before every "partnership return" insert " section 12AA "."

(3) After paragraph 43 insert—

"43A In section 227(7A)(b) (withdrawal etc of accelerated payment notice), before "partnership return" insert " section 12AA "."

(4) In paragraph 46, at the end insert—

"(5) In paragraph 8(2)(aa) (withdrawal etc of partner payment notices), before "partnership return", in both places, insert " section 12AA "."

## SCHEDULE 7 U.K.

Section 23

### HYBRID AND OTHER MISMATCHES

*Introductory*

1 Part 6A of TIOPA 2010 (hybrid and other mismatches) is amended as follows.

*Meaning of "tax" etc and treatment of cases where tax charged at a nil rate*

2 In section 259B ("tax" means certain taxes on income and includes foreign tax etc)—

(a) after subsection (3) insert—

"(3A) The payment of any withholding tax in respect of any amount is to be ignored for the purposes of this Part.", and

(b) at the end insert—

"(5) In any case where—

(a) a person is resident in a territory outside the United Kingdom generally for the purposes of the law of the territory or for particular purposes under that law, and

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(b) the law of the territory has no provision for a person to be resident for tax purposes under its law,

any reference in Chapter 8 or 11 to a person's residence for tax purposes in the territory is to be read as a reference to the person's residence as mentioned in paragraph (a).”

3 In section 259BC (meaning of “ordinary income”), in subsection (3), for the words from “it is excluded” to the end substitute “—

(a) it is charged to the relevant tax at a nil rate, or

(b) it is excluded, reduced or offset by any exemption, exclusion, relief, or credit—

(i) that applies specifically to all or part of the amount of income (as opposed to ordinary income generally), or

(ii) that arises as a result of, or otherwise in connection with, a payment or quasi-payment that gives rise to the amount of income.”

4 In section 259FA (circumstances in which Chapter 6 applies), after subsection (7) insert—

“(7A) For the purposes of subsections (6) and (7) any increase in taxable profits or reduction of losses is to be ignored in any case where tax is charged at a nil rate under the law of the parent jurisdiction.”

5 In section 259GB (hybrid payee deduction/non-inclusion mismatches and their extent), in subsection (3)(b)(i), after “charged” insert “ at a higher rate than nil ”.

6 In section 259KB (meaning of “excessive PE deduction”), after subsection (4) insert—

“(4A) For the purposes of subsection (4) any increase in taxable profits or reduction of losses is to be ignored in any case where tax is charged at a nil rate under the law of the parent jurisdiction.”

*CFCs and foreign CFCs: qualifying CFC amounts*

7 (1) Section 259BD (chargeable companies in respect of CFCs and foreign CFCs) is amended as follows.

(2) After subsection (12) insert—

“(12A) For the purposes of subsection (2)—

(a) a qualifying CFC amount arising to C is treated as an amount of relevant income,

(b) a qualifying CFC amount arising to C, for a permitted taxable period, is “under taxed” if the highest rate at which tax is charged on the amount, taking into account on a just and reasonable basis the effect of any credit for underlying tax, is less than C's full marginal rate for that period,

(c) in determining C's “full marginal rate”, the reference to the taxable profits mentioned in subsection (9) includes any qualifying CFC amount, and

(d) in determining a “credit for underlying tax”, the reference to profits includes any qualifying CFC amount.

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(12B) For the purposes of subsection (12A) a "qualifying CFC amount" means an amount arising to C which is brought into account in calculating chargeable profits for the purposes of a foreign CFC charge.

(12C) But an amount is not regarded for this purpose as brought into account so far as—

(a) the amount is excluded, reduced or offset for the purposes of the foreign CFC charge by any exemption, exclusion, relief or credit that—

(i) applies specifically to all or part of the amount (as opposed to amounts brought into account for those purposes generally), or

(ii) arises as a result of, or otherwise in connection with, a payment or quasi-payment that gives rise to the amount, or

(b) the sum charged for the purposes of the foreign CFC charge is, or falls to be, refunded (and section 259BC(6) and (7) apply for the purposes of this paragraph with the necessary modifications)."

(3) In subsection (13), in paragraph (b) of the definition of "chargeable profits", after "Part" insert " (including any qualifying CFC amount within the meaning given by subsection (12B)) ".

*Hybrid and other mismatches from financial instruments: qualifying capital amounts*

8 In section 259CC (interpretation of section 259CB), at the end insert—

"(7) A qualifying capital amount arising to a payee is treated as an amount of ordinary income of a payee and references to tax include any qualifying capital tax.

(8) For the purposes of case 2—

(a) a qualifying capital amount arising to a payee, for a permitted taxable period, is "under taxed" if the highest rate at which tax is charged on the amount, taking into account on a just and reasonable basis the effect of any credit for underlying tax, is less than the payee's full marginal rate for that period,

(b) in determining the payee's "full marginal rate", the reference to the taxable profits mentioned in subsection (4) includes any qualifying capital amount, and

(c) in determining a "credit for underlying tax", the reference to profits includes any qualifying capital amount.

(9) If the rate at which a qualifying capital tax is charged on a qualifying capital amount of a payee exceeds the rate at which tax would be charged on an amount of income of the payee, the excess is to be ignored.

(10) For the purposes of subsections (7) to (9) a "qualifying capital amount" means an amount of a capital nature on which a qualifying capital tax is charged.

(11) A qualifying capital tax is not regarded for this purpose as charged on an amount so far as—

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(a) the amount is excluded, reduced or offset for the purposes of the tax by any exemption, exclusion, relief or credit that—

(i) applies specifically to all or part of the amount (as opposed to amounts of a capital nature generally), or

(ii) arises as a result of, or otherwise in connection with, a payment or quasi-payment that gives rise to the amount, or

(b) the tax is, or falls to be, refunded (and section 259BC(6) and (7) apply for the purposes of this paragraph with the necessary modifications).

(12) For the purposes of subsections (7) to (11) a "qualifying capital tax" means—

(a) capital gains tax or the charge to corporation tax in respect of chargeable gains, or

(b) any tax chargeable under the law of a territory outside the United Kingdom that corresponds to a United Kingdom tax mentioned in paragraph (a),

but does not include any tax chargeable at a nil rate."

*Hybrid transfer deduction/non-inclusion mismatches: qualifying capital amounts*

9 In section 259DB (meaning of "hybrid transfer arrangement", "underlying instrument" etc), at the end insert—

"(7) For the purposes of subsection (4) references to tax include any qualifying capital tax within the meaning given by section 259DD(11)."

10 In section 259DD (hybrid transfer deduction/non-inclusion mismatches: interpretation of section 259DC), at the end insert—

"(6) A qualifying capital amount arising to a payee is treated as an amount of ordinary income of a payee and references to tax include any qualifying capital tax.

(7) For the purposes of case 2—

(a) a qualifying capital amount arising to a payee, for a permitted taxable period, is "under taxed" if the highest rate at which tax is charged on the amount, taking into account on a just and reasonable basis the effect of any credit for underlying tax, is less than the payee's full marginal rate for that period,

(b) in determining the payee's "full marginal rate", the reference to the taxable profits mentioned in subsection (4) includes any qualifying capital amount, and

(c) in determining a "credit for underlying tax", the reference to profits includes any qualifying capital amount.

(8) If the rate at which a qualifying capital tax is charged on a qualifying capital amount of a payee exceeds the rate at which tax would be charged on an amount of income of the payee, the excess is to be ignored.

(9) For the purposes of subsections (6) to (8) a "qualifying capital amount" means an amount of a capital nature on which a qualifying capital tax is charged.

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(10) A qualifying capital tax is not regarded for this purpose as charged on an amount so far as—

(a) the amount is excluded, reduced or offset for the purposes of the tax by any exemption, exclusion, relief or credit that—

(i) applies specifically to all or part of the amount (as opposed to amounts of a capital nature generally), or

(ii) arises as a result of, or otherwise in connection with, a payment or quasi-payment that gives rise to the amount, or

(b) the tax is, or falls to be, refunded (and section 259BC(6) and (7) apply for the purposes of this paragraph with the necessary modifications).

(11) For the purposes of subsections (6) to (10) a "qualifying capital tax" means—

(a) capital gains tax or the charge to corporation tax in respect of chargeable gains, or

(b) any tax chargeable under the law of a territory outside the United Kingdom that corresponds to a United Kingdom tax mentioned in paragraph (a),

but does not include any tax chargeable at a nil rate."

*Hybrid payee deduction/non-inclusion mismatches*

11 In section 259GB (hybrid payee deduction/non-inclusion mismatches and their extent), after subsection (4) insert—

"(4A) In applying subsection (4)(b) in a case where the payee is a partnership, it is to be assumed that no amount of ordinary income arises to the payee, by reason of the payment or quasi-payment, if—

(a) a partner in the partnership is entitled to the amount, and

(b) having regard only to—

(i) the law of the territory where the partnership is established, and

(ii) the law of the territory where the partner is resident for tax purposes or, if the partner is not resident anywhere for tax purposes, where the partner is established,

the payee would not be regarded as a hybrid entity.

(4B) In subsection (4A) "partnership" has the meaning given by section 259NE(4)."

*Multinational payee deduction/non-inclusion mismatches*

12 In section 259HB (multinational payee deduction/non-inclusion mismatches and their extent), after subsection (2) insert—

"(2A) The excess is to be taken (so far as would not otherwise be the case) to arise for the purposes of subsection (1)(b) by reason of a payee being a multinational company so far as it would not arise if it is assumed—

(a) that the company is not regarded, under the law of the parent jurisdiction, the PE jurisdiction or any other territory, as carrying on

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a business in the PE jurisdiction through a permanent establishment in that jurisdiction, and

(b) that, for tax purposes under the law of the parent jurisdiction, all amounts of ordinary income arising, by reason of the payment or quasi-payment, to the company are regarded as arising to it in that jurisdiction and nowhere else."

*Hybrid entity double deduction mismatches: use of restricted deduction*

13 In section 259IC(4) (counteraction where the hybrid entity is within the charge to corporation tax), for the words from "unless" to the end substitute "unless it is deducted from—

(c) dual inclusion income for that period, or

(d) section 259ID income for that period."

14 After section 259IC insert—

"**259ID Section 259ID income for the purposes of section 259IC**

(1) This section applies where—

(a) section 259IC applies,

(b) the restricted deduction exceeds the dual inclusion income of the hybrid entity (if any) for the hybrid entity deduction period, and

(c) conditions A to D are met.

(2) Condition A is that—

(a) the investor in the hybrid entity makes a payment to the hybrid entity, and

(b) no amount is deductible, under the law of the investor jurisdiction, from the income of the investor in respect of the payment.

(3) Condition B is that, as a result of the payment, an amount of ordinary income arises to the hybrid entity for the hybrid entity deduction period.

(4) Condition C is that the payment is made in direct consequence of a payment made to the investor by a person ("the unrelated party") who is not related (see section 259NC) to the investor or the hybrid entity.

(5) Condition D is that, as a result of the payment made by the unrelated party, an amount of ordinary income arises to the investor.

(6) For the purposes of section 259IC "section 259ID income" is an amount of income of the hybrid entity equal to the lesser of—

(a) the amount of the payment made by the investor to the hybrid entity, and

(b) the amount of the payment made by the unrelated party to the investor."

*Imported mismatches: dual inclusion income*

15 In section 259K (overview of Chapter 11), after subsection (4) insert—

"(4A) Section 259KD provides for relief where an amount is deducted from dual inclusion income."

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

16 (1) Section 259KC (denial of the relevant deduction in relation to imported mismatch payments) is amended as follows.

(2) After subsection (2) insert—

"(2A) But any reduction under this section has effect subject to section 259KD (deductions from dual inclusion income)."

(3) In subsections (4)(a) and (7)(a), for "subsection (6)(a)" substitute " section 259KA(6)(a) ".

17 After section 259KC insert—

"**259KD Deductions from dual inclusion income**

(1) If—

(a) section 259KA(6)(a) applies as a result of any of sub-paragraphs (iii) to (vii), or

(b) section 259KA(6)(b) applies,

a reduction under section 259KC is not to exceed the relevant net amount.

(2) For the purposes of this section "the relevant net amount" means—

(a) if section 259KA(6)(a)(iii), (iv), (v) or (vi) applies, the amount which, if Chapter 5, 7, 8 or 9 applied to the tax treatment of any person in respect of the mismatch payment, could not be deducted from that person's income under that Chapter (ignoring the effect of any of the carry-forward provisions),

(b) if section 259KA(6)(a)(vii) applies, the amount by which the dual territory double deduction of the company mentioned in section 259KB(2) for a deduction period exceeds its dual inclusion income for that period, or

(c) if section 259KA(6)(b) applies, the amount by which the excessive PE deduction of the company mentioned in section 259KB(4) for the permitted taxable period mentioned there exceeds its dual inclusion income for that period.

(3) In subsection (2)(a) "the carry-forward provisions" means—

(a) section 259EC(3) (hybrid payer deduction/non-inclusion mismatches),

(b) section 259IB(3) to (5) (hybrid entity double deduction mismatches: investor within charge to corporation tax), and

(c) section 259IC(5) to (7) (hybrid entity double deduction mismatches: hybrid entity within charge to corporation tax).

(4) In subsection (2)(b) "dual inclusion income" of a company for a deduction period (that is to say, a period for which the dual territory double deduction is deducted as mentioned in section 259KB(2)(a)) means an amount that is both—

(a) ordinary income of the company for that period for the purposes of a tax charged as mentioned in section 259KB(2)(a), and

(b) ordinary income of the company for a permitted taxable period for the purposes of a tax charged as mentioned in section 259KB(2)(b).

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(5) A taxable period of the company is "permitted" for the purposes of subsection (4)(b) if—
  (a) the period begins before the end of 12 months after the end of the deduction period, or
  (b) where that period begins after that—
    (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
    (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.

(6) In subsection (2)(c) "dual inclusion income" of a company for a period means an amount that is both—
  (a) ordinary income of the company for that period for the purposes of a tax charged under the law of the PE jurisdiction, and
  (b) ordinary income of the company for a permitted taxable period for the purposes of a tax charged under the law of the parent jurisdiction.

(7) A taxable period of the company is "permitted" for the purposes of paragraph (b) of subsection (6) if—
  (a) the period begins before the end of 12 months after the end of the period mentioned in paragraph (a) of that subsection, or
  (b) where the period begins after that—
    (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
    (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period."

*Adjustments in light of subsequent events: accounting treatment*

18 After section 259LA insert—

"**259LB Adjustments in light of later treatment for accounting purposes**

(1) This section applies where—
  (a) a payment or quasi-payment gives rise to a debit of a company that is recognised for accounting purposes,
  (b) a relevant deduction of the company in respect of some or all of the debit is reduced by any provision of this Part,
  (c) there is a reversal of some or all of the debit by a credit of the company that is recognised for accounting purposes after the end of the payment period, and
  (d) the credit is brought into account for corporation tax purposes.

(2) Such consequential adjustments as are just and reasonable may be made in respect of so much of the debit as gives rises to the relevant deduction and as is reversed by the credit.

(3) The adjustments may be made (whether or not by an officer of Revenue and Customs) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

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(4) The power to make adjustments by virtue of this section may be exercised despite any time limit imposed by or under any enactment."

*Commencement*

19 (1) The amendments made by paragraphs 2(b), 3 to 6 and 12—

(a) have effect, in the case of their application to Chapter 6 of Part 6A of TIOPA 2010, in relation to excessive PE deductions in relation to which the relevant PE period begins on or after 1 January 2018,

(b) have effect, in the case of their application to Chapter 9 or 10 of that Part, in relation to accounting periods beginning on or after that date, and

(c) have effect, in the case of their application to any other Chapter of that Part, in relation to—

(i) payments made on or after date, or

(ii) quasi-payments in relation to which the payment period begins on or after that date.

(2) For the purposes of sub-paragraph (1)(a), (b) and (c)(ii), where there is a straddling period—

(a) so much of the straddling period as falls before 1 January 2018, and so much of it as falls on or after that date, are to be treated as separate accounting periods or separate taxable periods (as the case may be), and

(b) if it is necessary to apportion an amount for the straddling period to the two separate periods, it is to be apportioned—

(i) on a time basis according to the respective length of the separate periods, or

(ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(3) A "straddling period" means an accounting period or payment period (as the case may be) beginning before 1 January 2018 and ending on or after that date.

(4) Part 6A of TIOPA 2010 has effect, and is to be deemed always to have had effect, with the amendments set out in paragraphs 2(a), 7 to 11 and 13 to 18.

## SCHEDULE 8 U.K.

Section 24

CORPORATE INTEREST RESTRICTION

## PART 1 U.K.

AMENDMENTS OF PART 10 OF TIOPA 2010

*Introductory*

1 Part 10 of TIOPA 2010 (corporate interest restriction) is amended as follows.

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*Hedging of tax-interest expense amounts or tax-interest income amounts etc*

2 (1) Section 384 (relevant derivative contract debits) is amended as follows.

(2) In subsection (3), for paragraph (c) substitute—

"(c) it is in respect of a risk arising in the ordinary course of a trade (other than a risk arising in the ordinary course of a financial trade) where the derivative contract was entered into wholly for reasons unrelated to the capital structure of the worldwide group (or any member of the worldwide group)."

(3) After subsection (3) insert—

"(3A) For the purposes of subsection (3)(c) a debit is in respect of a risk arising in the ordinary course of "a financial trade" only so far as the risk relates to an amount which is or is likely to be—

(a) a tax-interest expense amount, or

(b) a tax-interest income amount,

of the company in any relevant accounting period."

3 (1) Section 387 (relevant derivative contract credits) is amended as follows.

(2) In subsection (3), for paragraph (c) substitute—

"(c) it is in respect of a risk arising in the ordinary course of a trade (other than a risk arising in the ordinary course of a financial trade) where the derivative contract was entered into wholly for reasons unrelated to the capital structure of the worldwide group (or any member of the worldwide group)."

(3) After subsection (3) insert—

"(3A) For the purposes of subsection (3)(c) a credit is in respect of a risk arising in the ordinary course of "a financial trade" only so far as the risk relates to an amount which is or is likely to be—

(a) a tax-interest expense amount, or

(b) a tax-interest income amount,

of the company in any relevant accounting period."

4 (1) Section 411 ("relevant expense amount" and "relevant income amount") is amended as follows.

(2) In subsection (1)(e), for sub-paragraph (iii) substitute—

"(iii) losses in respect of risks arising in the ordinary course of a trade (other than risks arising in the ordinary course of a financial trade) where the derivative contract was entered into wholly for reasons unrelated to the capital structure of the worldwide group (or any member of the worldwide group);".

(3) In subsection (2)(d), for sub-paragraph (iii) substitute—

"(iii) gains in respect of risks arising in the ordinary course of a trade (other than risks arising in the ordinary course of a financial trade) where the derivative contract was entered into wholly for reasons unrelated to the capital structure

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of the worldwide group (or any member of the worldwide group);".

5 In section 412 (section 411: interpretation), after subsection (3) insert—

"(3A) For the purposes of section 411(1)(e)(iii) and (2)(d)(iii) losses or gains are in respect of risks arising in the ordinary course of "a financial trade" only so far as the risks relate to amounts which are or are likely to be—

(a) relevant expense amounts, or

(b) relevant income amounts,

of the worldwide group for any period of account."

*Group ratio: leaving R&D expenditure credits out of account*

6 In section 416 (meaning of "the group-EBITDA"), after subsection (2) insert—

"(2A) An amount is not to be taken into account in calculating a worldwide group's profit before tax for the purposes of subsection (2) if it is, or relates to, an R&D expenditure credit within the meaning of section 104A of CTA 2009."

*Public infrastructure*

7 (1) Section 433 (meaning of "qualifying infrastructure company") is amended as follows.

(2) In subsection (1)(c), for "(see subsection (11))" substitute " (see subsections (11) and (12)) ".

(3) In subsection (11)(a), for "activity that the company carries on" substitute " source of income that the company has ".

(4) After subsection (11) insert—

"(12) In determining whether the condition in subsection (11)(a) is met in the case of a company not resident in the United Kingdom in an accounting period, a source of income of the company is ignored if, having regard to all the circumstances, it is reasonable to regard as insignificant the amount of income arising in the accounting period from the source."

8 (1) Section 434 (elections under section 433) is amended as follows.

(2) In subsection (1)(a), for "the beginning" substitute " the end ".

(3) In subsection (5), after paragraph (a) (but before the "and" at the end of it) insert—

"(ab) the time of the transfer falls in a period of account of a worldwide group of which both the transferor and transferee are members,".

9 (1) Section 436 (meaning of "qualifying infrastructure activity") is amended as follows.

(2) In subsection (2)(d), for "(see subsection (10))" substitute " (see subsections (10) and (10A)) ".

(3) After subsection (10) insert—

"(10A) In determining whether the condition in subsection (10)(b) is met in relation to a company not resident in the United Kingdom at any time, a source of income of the company is ignored if, having regard to all the circumstances,

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it is reasonable to regard as insignificant the amount of income arising from the source for the accounting period including that time."

10 In section 443 (interest capacity for group with qualifying infrastructure company etc), for subsection (2) substitute—

"(2) There is an exception to the general rule (see subsections (4) and (5)) which—

(a) applies if no tax-interest income amounts of any qualifying infrastructure company ("Q") which is a member of the group for the period are receivable from another qualifying infrastructure company which is not a member of the group for the period but is a related party of Q at any time in that period, and

(b) depends on the comparison set out in subsection (3),

and, for the purposes of paragraph (a), tax-interest income amounts are to be ignored if, having regard to all the circumstances, it is reasonable to regard the amounts as insignificant."

11 In section 444 (joint venture companies), in subsection (1), after "a qualifying infrastructure company ("the joint venture company")" insert " which is the ultimate parent of a worldwide group at all times in that period ".

*Identifying members of a worldwide group*

12 After section 454 insert—

*"Investment managers*

**454A Investments held by investment managers**

(1) This section applies where—

(a) an entity ("S") is a member of a worldwide group as a result of one or more other members of the group managing S and holding rights or interests in relation to S,

(b) the entity managing S does so in the ordinary course of carrying on a business of providing investment management services, and

(c) the management of S is not coordinated to any extent with the management by any person of any other entity.

(2) For the purposes of this Part—

(a) the group does not include entities that are subsidiaries of S, and

(b) accordingly, none of those entities is regarded as a consolidated subsidiary of any member of the group.

(3) In this section "subsidiary" has the meaning given by international accounting standards."

13 (1) Section 475 (meaning of "non-consolidated subsidiary" and "consolidated subsidiary") is amended as follows.

(2) In subsection (1)(b), at the end insert " or on the basis that X were an asset held for sale or held for distribution to owners ".

(3) For subsection (3) substitute—

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"(3) In this section each of the following expressions has the meaning given by international accounting standards—

"held for distribution to owners"

"held for sale"

"subsidiary"."

*Interest restriction returns*

14 (1) Paragraph 9 of Schedule 7A (extended period for submission of full return in place of abbreviated return) is amended as follows.

(2) In sub-paragraph (1)(a), omit "abbreviated".

(3) In sub-paragraph (2)—

(a) for "a full interest restriction return" substitute " an interest restriction return ", and

(b) after "paragraph 8" insert " which is a full interest restriction return ".

(4) In the italic heading before that paragraph, for "in place of abbreviated return" substitute " for period where no restriction ".

15 (1) Paragraph 70 of Schedule 7A (cases where company treated as amending return) is amended as follows.

(2) In sub-paragraph (1), for "is treated as having amended" substitute " must amend ".

(3) After that sub-paragraph insert—

"(1A) The amendment must be made before whichever is the later of—

(a) the end of the period of 3 months beginning with the day on which the interest restriction return was submitted, or

(b) the time limit given by paragraph 15(4) of Schedule 18 to FA 1998."

(4) For the italic heading before that paragraph substitute " Other cases where company must amend its return etc ".

16 After paragraph 70 of Schedule 7A insert—

*"Failure to comply with a requirement to amend company tax return*

70A (1) This paragraph applies if a company—

(a) is required, as a result of paragraph 69(2), (3) or (6) or 70(1), to make an amendment of its company tax return for an accounting period, and

(b) has failed to make the required amendment by the amendment deadline.

(2) The company is liable to a penalty of £500.

(3) At any time before the end of the period of 12 months beginning with the amendment deadline, an officer of Revenue and Customs may, to the best of the officer's information and belief, make the required amendments of the company tax return.

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(4) If an officer of Revenue and Customs amends the company tax return under sub-paragraph (3), the company may amend the return so as to correct the amendments made by the officer.

(5) An amendment under sub-paragraph (4) must be made before the end of the period of 3 months beginning with the day on which the officer amends the return under sub-paragraph (3) (and the time limit for amending a company tax return given by paragraph 15(4) of Schedule 18 to FA 1998 is subject to this sub-paragraph).

(6) Paragraph 29(3) to (7) apply in relation to a penalty under this paragraph as they apply in relation to a penalty under paragraph 29 but as if the reference in paragraph 29(4) to the filing date were to the amendment deadline.

(7) In this paragraph "the amendment deadline" means the end of the period for the making of the amendment given by paragraph 69(2), (4) or (6) or 70(1A)."

17 (1) Paragraph 71 of Schedule 7A (regulations for purposes of paragraph 70 etc) is amended as follows.

(2) In sub-paragraph (1)(a), for "paragraph 70" substitute " paragraph 70(2) ".

(3) In the italic heading before that paragraph, for "paragraph 70" substitute " paragraph 70(2) ".

*Other amendments*

18 In section 378 (disallowed tax-interest expense amounts carried forward), in subsections (3) and (6), omit "the later accounting period or".

19 In section 393(5)(a) (amount of interest allowance for a period that is "available" in a later period), for "is made" substitute " has effect ".

20 (1) Section 411 (meaning of "relevant expense amount" and "relevant income amount") is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), after "loan relationship" insert " or related transaction ", and

(b) in paragraph (h), after "debt factoring" insert " or any similar transaction ".

(3) In subsection (2)(f), after "debt factoring" insert " or any similar transaction ".

21 (1) Section 412 (section 411: interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the opening words, after "a loan relationship" insert " or related transaction ",

(b) after paragraph (a) insert—

"(ab) in entering into or giving effect to, or attempting to enter into or give effect to, the related transaction,",

(c) in paragraph (b), after "the loan relationship" insert " or as a result of the related transaction ", and

(d) in paragraph (c), after "the loan relationship" insert " or in accordance with the related transaction ".

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(3) In subsection (6)—

(a) in paragraph (a), for "(1)(c)" substitute " (1)(b) and (c) ", and

(b) in paragraph (b), for "(1)(e)" substitute " (1)(e) and (f) ".

*Commencement*

22 (1) The amendments made by paragraphs 2 to 5, 10 and 13 have effect in relation to periods of account of worldwide groups that begin on or after 1 January 2018.

(2) The following provisions apply if—

(a) financial statements of a worldwide group are drawn up by or on behalf of the ultimate parent in respect of a period that begins before, and ends on or after, 1 January 2018,

(b) the period in respect of which the financial statements are drawn up is 18 months or less, and

(c) the financial statements are drawn up before the end of the period of 30 months beginning with the period in respect of which they are drawn up.

(3) In this paragraph—

(a) "the group's actual financial statements" means the financial statements mentioned in sub-paragraph (2), and

(b) "the straddling period of account" means the period in respect of which those financial statements are drawn up.

(4) For the purposes of Part 10 of TIOPA 2010, the group's actual financial statements are treated as not having been drawn up.

(5) Instead, financial statements of the worldwide group are treated for those purposes as having been drawn up in respect of each of the following periods—

(a) the period beginning at the time the straddling period of account begins and ending with 31 December 2017, and

(b) the period beginning with 1 January 2018 and ending at the time the straddling period of account ends.

(6) If condition C or D in section 481 of TIOPA 2010 is met in relation to the group's actual financial statements, the financial statements treated as drawn up by sub-paragraph (5) are treated as drawn up in accordance with the generally accepted accounting principles and practice with which the group's actual financial statements were drawn up.

(7) If neither of those conditions is met in relation to the group's actual financial statements, the financial statements treated as drawn up by sub-paragraph (5) are IAS financial statements.

(8) If, for the purpose of determining amounts recognised in the financial statements treated as drawn up by sub-paragraph (5), it is expedient to apportion any amount that is recognised in the group's actual financial statements, the apportionment is to be made in accordance with section 1172 of CTA 2010 (apportionment on a time basis).

(9) But if it appears that apportionment in accordance with that section would work unjustly or unreasonably, the apportionment is to be made on a just and reasonable basis.

(10) Expressions used in this paragraph and in Part 10 of TIOPA 2010 have the same meaning in this paragraph as they have in that Part.

23 (1) Part 10 of TIOPA 2010 has effect, and is to be deemed always to have had effect, with the amendments set out in paragraphs 6 to 9, 12 and 18 to 21.

(2) But, in the case of the amendment set out in paragraph 6 or 12, the reporting company of the worldwide group for any period of account beginning before 1 January 2018 may make an election for the amendment to have no effect in relation to the period of account.

(3) Paragraph 12 of Schedule 7A to TIOPA 2010 applies to an election under sub-paragraph (2).

(4) Expressions used in this paragraph and in Part 10 of TIOPA 2010 have the same meaning in this paragraph as they have in that Part.

24 The amendment made by paragraph 11 has effect in relation to accounting periods beginning on or after 1 January 2018.

25 The amendments made by paragraph 15 have effect in relation to interest restriction returns whenever submitted.

26 The amendment made by paragraph 16 does not have effect in relation to any case where a company tax return is amended before the day on which this Act is passed.

## PART 2 U.K.

### OTHER AMENDMENTS

27 In section 9A of CTA 2010 (designated currency of a UK resident investment company), in subsection (7)—

(a) in the definition of "financial statements of the group", for "(within the meaning of section 351 of TIOPA 2010)" substitute " (and for this purpose "subsidiaries" has the meaning given by international accounting standards) ", and

(b) for the definition of "Y's group" substitute—

> ""Y's group" means a worldwide group of which Y is the ultimate parent within the meaning of Part 10 of TIOPA 2010,".

28 The amendment made by paragraph 27 has effect in relation to elections that are made on or after 1 January 2018.

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# SCHEDULE 9 U.K.

Section 33

## BANK LEVY

## PART 1 U.K.

### CHARGEABLE EQUITY AND LIABILITIES

*Introductory*

1 Part 4 of Schedule 19 to FA 2011 (bank levy: chargeable equity and liabilities) is amended as follows.

*Chargeable equity and liabilities: relevant groups and relevant entities*

2 For paragraphs 15 to 23 (and the italic heading preceding paragraph 15) substitute—

*"Chargeable equity and liabilities: relevant groups*

15 (1) This paragraph applies if the bank levy is charged as provided for by paragraph 4 (groups).

(2) The amount of the chargeable equity and liabilities of the relevant group is the total of—

(a) the UK-based equity and liabilities, as at the end of the chargeable period, of—

(i) each UK sub-group, and

(ii) each chargeable UK resident entity, and

(b) if a relevant foreign bank is a member of the relevant group, the UK allocated equity and liabilities of that bank as at the end of the chargeable period (see paragraph 24).

*Chargeable equity and liabilities: relevant entities*

15A (1) This paragraph applies if the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups).

(2) The amount of the chargeable equity and liabilities of the relevant entity is—

(a) in the case of a UK resident bank or building society, the amount of the UK-based equity and liabilities of the entity, as at the end of the chargeable period, or

(b) in the case of a relevant foreign bank, the amount of the UK allocated equity and liabilities of that bank as at the end of the chargeable period (see paragraph 24).

*Meaning of "UK sub-group"*

15B "UK sub-group" means a group of entities—

(a) which is a group for the purposes of those provisions of international accounting standards which relate to the preparation of consolidated financial statements,

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(b) which has as its parent or parent undertaking for the purposes of those provisions an entity which is—
  (i) if the relevant group is a relevant non-banking group, a UK resident bank, or
  (ii) in any other case, a UK resident entity,
(c) the members of which, for the purposes of those provisions, are all members of the relevant group,
(d) in respect of which consolidated financial statements for the chargeable period are prepared under international accounting standards, and
(e) the members of which are not members of any larger group of entities, in respect of which the conditions in paragraphs (a) to (c) are met, for which such financial statements are prepared.

*Meaning of "chargeable UK resident entity"*

15C (1) "Chargeable UK resident entity" means a UK resident entity which—
(a) is a member of the relevant group, but is not a member of a UK sub-group, and
(b) if the relevant group is a relevant non-banking group, is a banking entity.

(2) A UK resident entity is a "banking entity" for the purposes of sub-paragraph (1) if it is—
(a) a UK resident bank, or
(b) a subsidiary of a UK resident bank.

(3) In sub-paragraph (2)(b) "subsidiary" has the meaning given by those provisions of international accounting standards which relate to the preparation of consolidated financial statements.

*Election to disregard non-UK allocated equity and liabilities*

15D (1) This paragraph applies if—
(a) the bank levy is charged as provided for by paragraph 4 (groups), and
(b) a UK resident entity, which is a member of the relevant group, has a foreign permanent establishment.

(2) For the purposes of this Part of this Schedule, a UK resident entity "has a foreign permanent establishment" if the entity carries on a trade in a territory outside the United Kingdom through a permanent establishment (the "foreign permanent establishment") in that territory.

(3) The relevant group's responsible member may, for the purposes of determining the UK-based equity and liabilities of a UK sub-group or a chargeable UK resident entity, elect to disregard the non-UK allocated equity and liabilities attributable to—
(a) any or all of the foreign permanent establishments of any or all of the UK resident entities which are members of the UK sub-group;
(b) any or all of the foreign permanent establishments of the chargeable UK resident entity.

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(4) See paragraph 15Z1 for further provision about non-UK allocated equity and liabilities.

15E (1) This paragraph applies if—

(a) the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups), and

(b) the relevant entity is a UK resident entity which has a foreign permanent establishment.

(2) The relevant entity may, for the purposes of determining its UK-based equity and liabilities, elect to disregard the non-UK allocated equity and liabilities attributable to any or all of its foreign permanent establishments.

15F (1) An election made under paragraph 15D or 15E in respect of a UK resident entity—

(a) must be made in the form and manner specified by the Commissioners for Her Majesty's Revenue and Customs,

(b) must contain such information and declarations as the Commissioners may require, and

(c) may be revoked at any time—

(i) in the case of an election under paragraph 15D, by the relevant group's responsible member;

(ii) in the case of an election under paragraph 15E, by the relevant entity.

(2) In this Schedule, “designated FPE entity” means a UK resident entity in respect of which an election is made under paragraph 15D or 15E.

*Determining the assets, equity and liabilities of UK resident entities*

15G (1) This paragraph applies, in relation to a UK resident entity, for the purposes of paragraphs 15H(2), 15L(3) and 15Z1.

(2) The assets, equity and liabilities, as at the end of the chargeable period, of the entity are to be determined by reference to—

(a) the amounts recognised in the entity's financial statements for the chargeable period as prepared under international accounting standards, or

(b) if no such financial statements are prepared, the amounts which would have been so recognised had such financial statements been prepared under international accounting standards.

*Determining the UK-based equity and liabilities of UK resident entities*

15H (1) This paragraph applies in relation to a UK resident entity, other than a designated FPE entity, which is—

(a) where the bank levy is charged as provided for by paragraph 4 (groups), a chargeable UK resident entity;

(b) where the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups), the relevant entity.

(2) To determine the UK-based equity and liabilities of the UK resident entity, as at the end of the chargeable period—

(a) determine the amount of the entity's equity and liabilities, in accordance with paragraph 15G(2), and
(b) adjust that amount in accordance with paragraph 15N.

15I (1) This paragraph applies in relation to a designated FPE entity which is—
(a) where the bank levy is charged as provided for by paragraph 4 (groups), a chargeable UK resident entity;
(b) where the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups), the relevant entity.

(2) To determine the UK-based equity and liabilities of the entity, as at the end of the chargeable period, take Steps 1 to 5 in paragraph 15Z1.

*Determining the UK-based equity and liabilities of UK sub-groups*

15J (1) This paragraph applies in relation to a UK sub-group if—
(a) each member of the UK sub-group is a UK resident entity,
(b) none of those members is a designated FPE entity, and
(c) the relevant group's responsible member has not made an entity-by-entity election (see paragraph 15L) in relation to the UK sub-group.

(2) The assets, equity and liabilities, as at the end of the chargeable period, of the UK sub-group are to be determined by reference to the amounts recognised in the sub-group's consolidated financial statements for the chargeable period.

(3) To determine the UK-based equity and liabilities of the UK sub-group, as at the end of the chargeable period—
(a) determine the amount of the UK sub-group's equity and liabilities in accordance with sub-paragraph (2), and
(b) adjust that amount in accordance with paragraph 15N.

15K (1) This paragraph applies in relation to a UK sub-group if—
(a) at least one member of the UK sub-group is—
(i) a non-UK resident entity, or
(ii) a designated FPE entity, and
(b) the relevant group's responsible member has not made an entity-by-entity election (see paragraph 15L) in relation to the UK sub-group.

(2) In this Schedule, "residual UK sub-group" means, in relation to a UK sub-group to which this paragraph applies, the group of entities consisting of the members of the UK sub-group which—
(a) are UK resident entities, but
(b) are not designated FPE entities.

(3) The assets, equity and liabilities of the residual UK sub-group are to be determined by reference to the amounts which, if financial statements had been prepared for the residual UK sub-group for the chargeable period under international accounting standards, would have been recognised in those statements.

(4) The amount of the UK-based equity and liabilities of the UK sub-group, as at the end of the chargeable period, is the total amount of—

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(a) the equity and liabilities of the residual UK sub-group as at the end of that period, adjusted in accordance with paragraph 15N, and

(b) the adjusted equity and liabilities of each designated FPE entity which is a member of the UK sub-group (see Step 5 in paragraph 15Z1).

15L (1) If the relevant group's responsible member makes an election under this paragraph (an "entity-by-entity election") in relation to a UK sub-group, the UK-based equity and liabilities of the UK sub-group are to be determined in accordance with this paragraph.

(2) The amount of the UK-based equity and liabilities of the UK sub-group as at the end of the chargeable period is the total amount of—

(a) the adjusted equity and liabilities of each UK resident entity, other than a designated FPE entity, which is a member of the UK sub-group, and

(b) the adjusted equity and liabilities of each designated FPE entity which is a member of the UK sub-group (see Step 5 in paragraph 15Z1).

(3) To determine the "adjusted equity and liabilities" of a UK resident entity for the purposes of sub-paragraph (2)(a)—

(a) determine the amount of the entity's equity and liabilities in accordance with paragraph 15G(2), and

(b) adjust that amount in accordance with paragraph 15N.

(4) An election made under this paragraph has effect in relation to the chargeable period during which the election is made and each subsequent chargeable period (unless it is revoked under sub-paragraph (6)(c)).

(5) But an election under this paragraph has no effect in relation to a UK sub-group for a chargeable period if the purpose, or one of the main purposes, of making the election is to avoid or reduce a charge or assessment to the bank levy.

(6) An election made under this paragraph in respect of the relevant group—

(a) must be made in the form and manner specified by the Commissioners for Her Majesty's Revenue and Customs,

(b) must contain such information and declarations as the Commissioners may require, and

(c) may be revoked by the relevant group's responsible member at any time.

*Adjustments: general*

15M For the purposes of paragraphs 15N to 15Z, references to a "chargeable UK sub-group or entity" are references to—

(a) in a case to which paragraph 15H or 15L(3) applies, the UK resident entity,

(b) in a case to which paragraph 15J applies, the UK sub-group,

(c) in a case to which paragraph 15K applies, the residual UK sub-group, or

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(d) in a case to which paragraph 15Z1 applies, the designated FPE entity.

15N (1) To adjust the amount of the equity and liabilities of a chargeable UK sub-group or entity for the purposes of paragraph 15H(2)(b), 15J(3)(b), 15K(4)(a), 15L(3)(b) or Step 3 in paragraph 15Z1, take the following steps—

*Step 1* Take the amount of the equity and liabilities of the chargeable UK sub-group or entity, other than excluded equity and liabilities, as at the end of the chargeable period.

*Step 2* Adjust that amount in accordance with paragraphs 15O to 15U (so far as applicable).

*Step 3* If paragraph 15X (loss absorbing instruments issued by overseas subsidiaries) applies in relation to the chargeable UK sub-group or entity, reduce the adjusted amount (but not below nil) by the amount determined under that paragraph (subject to sub-paragraph (2)).

*Step 4* Subject to sub-paragraph (2), reduce the amount given by Step 3 (but not below nil) by—

(a) the amount of the chargeable UK sub-group or entity's high quality liquid assets as at the end of that period, other than—

(i) any asset which, for the purposes of an adjustment at Step 2, is an asset to which paragraph 15U(1) applies;

(ii) any asset which is taken into account in determining the amount of a reduction under paragraph 15X for the purposes of Step 3;

(iii) in a case where the bank levy is charged as provided for by paragraph 4 (groups) and a relevant foreign bank is a member of the relevant group, any asset which for the purposes of Step 3 of paragraph 24(1) is an asset to which paragraph 27D(1) applies; and

(b) if paragraph 15Z (high quality liquid assets) applies, the amount determined under that paragraph.

(2) Where any amount ("A") within Step 3, or within paragraph (a) or (b) of Step 4, is used to reduce short term liabilities, the amount of the reduction is determined as if A were an amount equal to half of A.

*Step 2 in paragraph 15N: equity and liability adjustments and netting*

15O (1) This paragraph applies if—

(a) the bank levy is charged as provided for by paragraph 4 (groups), and

(b) the members of a UK sub-group which are UK resident entities are also members of at least one larger unconsolidated sub-group.

(2) A group of entities is an "unconsolidated sub-group" if—

(a) the conditions in paragraph 15B(a) to (c) and (e) are met in respect of the group, but

(b) the condition in paragraph 15B(d) (consolidated financial statements) is not met in respect of the group.

(3) Any equity of the UK resident entities which are members of the UK sub-group is to be left out so far as it would have been eliminated under normal

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consolidation procedures, had consolidated financial statements for the larger or largest unconsolidated sub-group been prepared for the chargeable period under international accounting standards.

15P (1) This paragraph applies if the bank levy is charged as provided for by paragraph 4 (groups).

(2) Sub-paragraph (3) applies in relation to an entity if—

(a) it is a chargeable UK resident entity (whether or not a designated FPE entity), and

(b) it is a member of at least one unconsolidated sub-group (see paragraph 15O(2)).

(3) Any equity of the entity is to be left out so far as it would have been eliminated under normal consolidation procedures, had consolidated financial statements for the unconsolidated sub-group, or the largest unconsolidated sub-group of which the entity is a member, been prepared for the chargeable period under international accounting standards.

15Q (1) This paragraph applies if the bank levy is charged as provided for by paragraph 4 (groups).

(2) Sub-paragraph (3) applies in relation to a UK resident entity if—

(a) it is a member of a UK sub-group in respect of which an entity-by-entity election has been made under paragraph 15L (whether or not it is a designated FPE entity), or

(b) it is a designated FPE entity and a member of a UK sub-group in respect of which no entity-by-entity election has been made.

(3) Any equity of the entity is to be left out so far as it would have been eliminated under normal consolidation procedures under international accounting standards, but disregarding from the consolidation any non-UK resident entities.

15R (1) This paragraph applies if the bank levy is charged as provided for by paragraph 4 (groups).

(2) The following liabilities of a chargeable UK sub-group or entity are to be left out—

(a) UK connected liabilities to a chargeable UK resident entity which is a member of the relevant group,

(b) UK connected liabilities to a UK sub-group of the relevant group,

(c) UK connected liabilities to a relevant foreign bank which is a member of the relevant group, and

(d) in the case of an entity to which paragraph 15Q applies, UK connected liabilities of the entity to another UK resident entity which is a member of the same UK sub-group.

(3) For the purposes of sub-paragraph (2)(a) and (d), liabilities to a UK resident entity are “UK connected liabilities” except so far as the entity's assets corresponding to the liabilities are assets of a foreign permanent establishment in respect of which an election under paragraph 15D has been made (as determined at Step 2 in paragraph 15Z1).

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(4) For the purposes of sub-paragraph (2)(b), liabilities to a UK sub-group are "UK connected liabilities" except so far as the sub-group's assets corresponding to the liabilities are—

(a) assets of a non-UK resident entity, or

(b) assets of a foreign permanent establishment in respect of which an election under paragraph 15D has been made (as determined at Step 2 in paragraph 15Z1).

(5) For the purposes of sub-paragraph (2)(c), liabilities to a relevant foreign bank are "UK connected liabilities" so far as the bank's assets corresponding to the liabilities are assets of the permanent establishment through which the bank carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1).

15S (1) Paragraph 15U applies if—

(a) the bank levy is charged as provided for by paragraph 4 (groups),

(b) an entity ("M") within sub-paragraph (5) has liabilities to another entity ("N") not within that sub-paragraph ("M's liabilities"),

(c) M, or another member of the relevant group, recognises, as assets, amounts ("N's liabilities") that are due to any member of the relevant group from N or another entity not within sub-paragraph (5),

(d) there is in place an agreement which makes net settlement provision, and

(e) that provision is legally effective and enforceable.

(2) In sub-paragraph (1)(d), "net settlement provision" means provision for there to be a single net settlement—

(a) if a netting event occurs, or

(b) at the option of M or N, if a netting event occurs.

(3) The reference in sub-paragraph (2) to a "single net settlement" is a reference to a single net settlement of—

(a) all M's liabilities, and liabilities of other entities within sub-paragraph (5), to N or another entity which is not within that sub-paragraph (so far as covered by the provision mentioned in sub-paragraph (1)(d)), and

(b) all N's liabilities (so far as covered by that provision).

(4) But a provision for there to be single net settlement—

(a) at the option of M, but not at the option of N, if a netting event occurs, or

(b) at the option of N, but not at the option of M, if a netting event occurs,

is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(d).

(5) An entity is within this sub-paragraph if it is —

(a) a UK resident entity which is a member of a UK sub-group, or

(b) a chargeable UK resident entity.

(6) For the purposes of sub-paragraph (1)—

(a) "agreement" includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,

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(b) if N is a relevant foreign bank which is a member of the relevant group, liabilities of M to N are to be ignored so far as N recognises assets in respect of those liabilities as assets of the permanent establishment through which N carries on a trade in the United Kingdom as determined at Step 2 in paragraph 24(1),

(c) references to amounts due from N or another entity not within sub-paragraph (5) include securities provided by M, or another member of the relevant group, to N or another entity not within sub-paragraph (5) as collateral, but only where M or that other member recognises those securities in its balance sheet or statement of financial position, and

(d) "a netting event occurs"—

(i) in relation to M, if the insolvency or bankruptcy of M, or another entity within sub-paragraph (5) which has a liability covered by the provision mentioned in sub-paragraph (1)(d), gives rise to the termination of any arrangements under which such a liability arises, or

(ii) in relation to N, if the insolvency or bankruptcy of N, or another entity not within sub-paragraph (5) which has a liability covered by the provision mentioned in sub-paragraph (1)(d), gives rise to the termination of any arrangements under which such a liability arises.

(7) Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of sub-paragraph (6) and paragraph 15T(5) as it applies for the purposes of Chapter 10 of Part 6 of that Act.

15T (1) Paragraph 15U also applies if—

(a) the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups),

(b) the relevant entity ("M") is a UK resident entity,

(c) M has liabilities to another entity ("M's liabilities"),

(d) M recognises, as assets, amounts due from that other entity ("N") to M ("N's liabilities"),

(e) there is in place an agreement between M and N which makes net settlement provision, and

(f) that provision is legally effective and enforceable.

(2) In sub-paragraph (1)(e), "net settlement provision" means provision for there to be a single net settlement—

(a) if a netting event occurs, or

(b) at the option of M or N, if a netting event occurs.

(3) The reference in sub-paragraph (2) to a "single net settlement" is a reference to a single net settlement of—

(a) all M's liabilities (so far as covered by the provision mentioned in sub-paragraph (1)(e)), and

(b) all N's liabilities (so far as covered by that provision).

(4) But a provision for there to be single net settlement—

(a) at the option of M, but not at the option of N, if a netting event occurs, or

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(b) at the option of N, but not at the option of M, if a netting event occurs,

is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(e).

(5) For the purposes of sub-paragraph (1)—

(a) "agreement" includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,

(b) references to amounts due from N include securities provided by M to N as collateral, but only where M recognises those securities in its balance sheet or statement of financial position, and

(c) "a netting event occurs"—

(i) in relation to M, if the insolvency or bankruptcy of M gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(e) arises, or

(ii) in relation to N, if the insolvency or bankruptcy of N gives rise to the termination of any arrangements under which such a liability arises.

15U (1) The amount of M's net settlement liabilities is to be reduced (but not below nil) by the amount of M's net settlement assets.

(2) "M's net settlement liabilities" means M's liabilities so far as they—

(a) are covered by the provision mentioned in paragraph 15S(1)(d) or 15T(1)(e), and

(b) are not excluded liabilities.

(3) "M's net settlement assets" means the assets of—

(a) M, or

(b) in a case within paragraph 15S, another member of the relevant group,

so far as corresponding to N's net settlement liabilities.

(4) But, in a case within paragraph 15S—

(a) if N's net settlement liabilities include liabilities of a relevant foreign bank which is a member of the relevant group, X% (as determined at Step 2 in paragraph 24(1)) of the assets corresponding to the liabilities of the relevant foreign bank are to be disregarded for the purposes of sub-paragraph (3), and

(b) if sub-paragraph (1) applies in relation to more than one entity within paragraph 15S(5), no part of an asset may be included in the net settlement assets of more than one such entity, and

(c) if an asset, or part of an asset, is included for the purposes of paragraph 27D in the net settlement assets of a relevant foreign bank which is a member of the relevant group, the asset (or part) is not to be included in M's net settlement assets for the purposes of this paragraph.

(5) "N's net settlement liabilities" means N's liabilities so far as they are covered by the provision mentioned in paragraph 15S(1)(d) or 15T(1)(e).

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(6) If M's net settlement liabilities exceed M's net settlement assets, and a proportion (A%) of those liabilities is long term liabilities and a proportion (B%) of those liabilities is short term liabilities, under sub-paragraph (1)—
  (a) the long term liabilities are reduced by A% of M's net settlement assets, and
  (b) the short term liabilities are reduced by B% of those assets.

*Step 3 in paragraph 15N: loss absorbing instruments issued by overseas subsidiaries*

15V (1) This paragraph applies for the purposes of paragraphs 15W and 15X.

(2) References to "loss absorbing instruments" are references to—
  (a) tier one capital equity and liabilities, and
  (b) other instruments,
which satisfy a loss absorbing capacity or recapitalisation requirement.

(3) In this paragraph and paragraphs 15W and 15X, "tier one capital equity and liabilities" means—
  (a) equity and liabilities which are "tier one equity and liabilities" within the meaning of paragraph 30, and
  (b) equity and liabilities that are (or are of a description) specified, or meet such conditions as may be specified, in regulations made by the Treasury.

(4) A "loss absorbing capacity or recapitalisation requirement" is a requirement—
  (a) that is imposed, in relation to tier one capital equity and liabilities or other instruments issued by an entity, by an authority in the exercise of its regulatory functions under the law of the United Kingdom or of a country or territory outside the United Kingdom, and
  (b) that is (or is of a description) specified, or meets such conditions as may be specified, in regulations made by the Treasury.

15W (1) Paragraph 15X applies in relation to a chargeable UK sub-group or entity if Conditions A to C are met.

(2) Condition A is that the bank levy is charged as provided for by paragraph 4 (groups).

(3) Condition B is that, as at the end of the chargeable period, the assets of a relevant group member include—
  (a) qualifying loss absorbing instruments, or
  (b) assets representing qualifying loss absorbing instruments.

(4) A loss absorbing instrument is "qualifying" for the purposes of this paragraph and paragraph 15X if—
  (a) it is issued by a non-UK resident entity which is a subsidiary of a UK resident entity within sub-paragraph (5), and
  (b) such other conditions as may be specified in regulations made by the Treasury are met in respect of the instrument.

(5) A UK resident entity is within this sub-paragraph if—

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(a) the entity is a member of the relevant group, and
(b) if the relevant group is a relevant non-banking group, the entity is a UK resident bank or a subsidiary of a UK resident bank.

(6) For the purposes of Condition B, "relevant group member" means—
(a) the chargeable UK sub-group or entity,
(b) another UK sub-group of the relevant group, or
(c) a chargeable UK resident entity which is a member of the relevant group.

(7) Condition C is that, as at the end of the chargeable period, the liabilities of the chargeable UK sub-group or entity include—
(a) tier one capital equity and liabilities (other than tier one capital equity and liabilities excluded by paragraph 30), or
(b) loss absorbing instruments, other than tier one capital equity and liabilities,

in respect of which such conditions as may be specified in regulations made by the Treasury are met.

15X(1) The amount within Step 3 in paragraph 15N(1) is the total of—
(a) the amount of the relevant group member's assets which are, or represent, qualifying loss absorbing instruments within paragraph 15V(2)(a) as at the end of the chargeable period, so far as that amount does not exceed the liabilities amount within sub-paragraph (3), and
(b) the amount of the relevant group member's assets which are, or represent, qualifying loss absorbing instruments within paragraph 15V(2)(b) as at the end of the chargeable period, so far as that amount does not exceed the liabilities amount within sub-paragraph (4).

(2) Sub-paragraph (1) is subject to sub-paragraph (5).

(3) The "liabilities amount" within this sub-paragraph is the total amount of the chargeable UK sub-group or entity's equity and liabilities, adjusted in accordance with Steps 1 and 2 in paragraph 15N(1), that are tier one capital equity and liabilities within paragraph 15W(7)(a).

(4) The "liabilities amount" within this sub-paragraph is the total amount of the chargeable UK sub-group or entity's equity and liabilities, adjusted in accordance with Steps 1 and 2 in paragraph 15N(1), that are loss absorbing instruments within paragraph 15W(7)(b).

(5) An asset (or part of an asset) of the relevant group member is to be disregarded for the purposes of sub-paragraph (1) if—
(a) for the purposes of an adjustment at Step 2 in paragraph 15N(1), it is an asset (or part of an asset) to which paragraph 15U(1) applies,
(b) in a case where this paragraph applies in relation to more than one chargeable UK sub-group or entity, the asset (or part) is taken into account in determining the amount within Step 3 in paragraph 15N(1) in relation to another chargeable UK sub-group or entity, or

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(c) in a case where a relevant foreign bank is a member of the relevant group, it is an asset (or part) to which paragraph 27D(1) applies for the purposes of Step 3 of paragraph 24(1).

15Y (1) This paragraph makes provision about regulations under any provision of paragraph 15V or 15W.

(2) The regulations may include different provision for different purposes.

(3) The regulations are to be made by statutory instrument.

(4) A statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of the House of Commons.

*Step 4 in paragraph 15N: high quality liquid assets*

15Z (1) This paragraph applies where—

(a) as at the end of the chargeable period, the assets of the chargeable UK sub-group or entity include a financial asset in respect of an advance of cash made—

(i) in the case of a UK sub-group, by a member of that sub-group, or

(ii) in any other case, by the entity,

(b) that financial asset is not—

(i) an asset which, for the purposes of an adjustment at Step 2 in paragraph 15N, is an asset to which paragraph 15U(1) applies,

(ii) an asset which is taken into account in determining the amount of a reduction under paragraph 15X for the purposes of Step 3 in paragraph 15N in the application of those paragraphs in relation to any member of the relevant group, or

(iii) in a case where the bank levy is charged as provided for by paragraph 4 (groups) and a relevant foreign bank is a member of the relevant group, an asset which for the purposes of Step 3 of paragraph 24(1) is an asset to which paragraph 27D(1) applies, and

(c) underlying that asset, as collateral, is an item ("the collateral") which—

(i) in a case within paragraph (a)(i), is owned by the member and would form part of the sub-group's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the sub-group;

(ii) in a case within paragraph (a)(ii), is owned by the entity and would form part of the entity's high quality liquid assets as at the end of that period were the collateral, rather than the financial asset, an asset of the entity.

(2) The amount within paragraph (b) of Step 4 in paragraph 15N is—

(a) the amount of the financial asset as at the end of the chargeable period or, if lower, an amount equal to the fair value of the collateral as at that time, or

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(b) if this sub-paragraph applies in relation to more than one financial asset, the total of the amounts determined under paragraph (a) in respect of each of those assets.

*Designated FPE entities: non-UK allocated equity and liabilities etc*

15Z1 Take Steps 1 to 4 to determine the non-UK allocated equity and liabilities attributable to a foreign permanent establishment of a designated FPE entity as at the end of the chargeable period.

Take Step 5 to determine the UK-based equity and liabilities, or (in a case to which paragraph 15K or 15L applies) the adjusted equity and liabilities, of a designated FPE entity as at the end of the chargeable period.

Take Steps 6 and 7 to determine how much of the designated FPE entity's equity and liabilities is to be treated as long term equity and liabilities and how much as short term liabilities for the purposes of the determination at Step 3 in paragraph 6(2).

*Step 1* In accordance with paragraph 15G(2), determine the amount ("A") of the assets of the designated FPE entity as at the end of the chargeable period (subject to any adjustment under paragraph 15Z4(1)).

*Step 2* In accordance with paragraph 15Z2, determine the amount ("B") of the assets, as at the end of the chargeable period, of the foreign permanent establishment (subject to any adjustment under paragraph 15Z4(2)). The proportion which B is of A is "X%".

*Step 3* Determine the amount ("C") that would, if an election under paragraph 15D or 15E had not been made, be the amount of the UK-based equity and liabilities (or the adjusted equity and liabilities) of the entity, by—

(a) determining the amount of the equity and liabilities of the entity, as at the end of the chargeable period, under paragraph 15G(2), and

(b) adjusting that amount in accordance with paragraph 15N.

*Step 4* The amount of the non-UK allocated equity and liabilities attributable to the foreign permanent establishment is X% of C.

*Step 5* To determine the amount ("Z") of the UK-based equity and liabilities, or (in a case to which paragraph 15K or 15L applies) the adjusted equity and liabilities, of the designated FPE entity—

(a) determine, in accordance with Steps 1 to 4, the amount of the non-UK allocated equity and liabilities attributable to each of the entity's foreign permanent establishments in respect of which an election has been made under paragraph 15D or 15E, and

(b) reduce C by the total of those amounts.

*Step 6* Determine the proportion ("Y%") of C which is long term equity and liabilities.

*Step 7* For the purposes of Step 3 in paragraph 6(2) treat Y% of Z as long term equity and liabilities and the rest as short term liabilities.

15Z2(1) This paragraph applies for the purposes of Step 2 in paragraph 15Z1.

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

(2) The assets of the foreign permanent establishment are those which it would have were it a distinct and separate enterprise which—

(a) engaged in the same or similar activities under the same or similar conditions, and

(b) dealt wholly independently with the designated FPE entity.

(3) For the purposes of paragraph 15Z1 and this paragraph, any relevant provisions of Chapter 3A of Part 2 of CTA 2009 (UK resident companies: profits of foreign permanent establishments) are to be applied as they would be applied in determining profits attributable to the foreign permanent establishment for corporation tax purposes.

(4) But in determining the non-UK allocated equity and liabilities attributable to a foreign permanent establishment of a designated FPE entity which is a member of the relevant group, any assets within sub-paragraph (5) are to be left out.

(5) The assets within this sub-paragraph are any assets of the foreign permanent establishment (as otherwise determined under this paragraph) representing an excluded loan relationship.

(6) A loan relationship is "excluded" if—

(a) the designated FPE entity mentioned in sub-paragraph (4) is the creditor,

(b) the debtor ("D") is a UK resident bank, a building society or a relevant foreign bank—

(i) which is a member of the relevant group, and

(ii) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 79(a),

(c) the money which is the subject of the transaction giving rise to D's debt is money borrowed by the designated FPE entity mentioned in sub-paragraph (4) from another entity, and

(d) in borrowing that money the designated FPE entity was acting as the agent or intermediary of D.

(7) Section 302(1) of CTA 2009 (definition of "loan relationship") applies for the purposes of sub-paragraphs (5) and (6) as it applies for corporation tax purposes.

*Netting: non-UK allocated equity and liabilities*

15Z3(1) Paragraph 15Z4 applies for the purposes of Steps 1 and 2 in paragraph 15Z1 if—

(a) the designated FPE entity mentioned in paragraph 15Z1 ("E") has liabilities to another entity which (in a case where the bank levy is charged as provided for by paragraph 4 (groups)) is not within sub-paragraph (5) ("E's liabilities"),

(b) E recognises, as assets, amounts due from that other entity ("N") to E ("N's liabilities"),

(c) there is in place an agreement between E and N which makes net settlement provision, and

(d) that provision is legally effective and enforceable.

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(2) In sub-paragraph (1)(c), "net settlement provision" means provision for there to be a single net settlement—
  (a) if a netting event occurs, or
  (b) at the option of E or N, if a netting event occurs.

(3) The reference in sub-paragraph (2) to a "single net settlement" is a reference to a single net settlement of—
  (a) all E's liabilities (so far as covered by the provision mentioned in sub-paragraph (1)(c)) and
  (b) all N's liabilities (so far as covered by that provision).

(4) But a provision for there to be single net settlement—
  (a) at the option of E, but not at the option of N, if a netting event occurs, or
  (b) at the option of N, but not at the option of E, if a netting event occurs,

is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(c).

(5) An entity is within this sub-paragraph if it is—
  (a) a UK resident entity which is a member of a UK sub-group,
  (b) a chargeable UK resident entity, or
  (c) a relevant foreign bank which is a member of the relevant group.

(6) For the purposes of sub-paragraph (1)—
  (a) "agreement" includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
  (b) references to amounts due from N include securities provided by E to N as collateral, but only where E recognises those securities in its balance sheet or statement of financial position, and
  (c) "a netting event occurs"—
    (i) in relation to E, if the insolvency or bankruptcy of E gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(c) arises, or
    (ii) in relation to N, if the insolvency or bankruptcy of N gives rise to the termination of any arrangements under which such a liability arises.

(7) Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of sub-paragraph (6) as it applies for the purposes of Chapter 10 of Part 6 of that Act.

15Z4 (1) In determining the amount of E's assets at Step 1 in paragraph 15Z1, the amount of E's net settlement assets is to be reduced (but not below nil) by the amount of E's net settlement liabilities.

(2) In determining the amount of the foreign permanent establishment's assets at Step 2 in paragraph 15Z1—
  (a) the reduction in E's assets under sub-paragraph (1) is to be ignored, but
  (b) the amount of the foreign permanent establishment's net settlement assets is to be reduced by Z%.

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(3) For this purpose, "Z%" is the proportion by which E's net settlement assets are reduced under sub-paragraph (1).

(4) E's "net settlement liabilities" are E's liabilities so far as they—

(a) are covered by the provision mentioned in paragraph 15Z3(1)(c), and

(b) are not excluded liabilities.

(5) E's "net settlement assets" are E's assets so far as corresponding to N's net settlement liabilities.

(6) "N's net settlement liabilities" means N's liabilities so far as they are covered by the provision mentioned in sub-paragraph 15Z3(1)(c).

(7) The permanent establishment's "net settlement assets" are its assets so far as they are part of E's net settlement assets.

*Equity and liabilities: threshold amount*

15Z5 (1) If a relevant equity and liabilities amount is less than £50 million, that amount may be ignored for the purposes of determining the chargeable equity and liabilities of the relevant group under paragraph 15.

(2) But the total amount which may be ignored under sub-paragraph (1) may not exceed £200 million.

(3) In sub-paragraph (1), "relevant equity and liabilities amount" means—

(a) in the case of a chargeable UK resident entity, the amount of the equity and liabilities, as at the end of the chargeable period, of the entity,

(b) in the case of a UK sub-group to which paragraph 15J applies, the amount of the equity and liabilities, as at the end of the chargeable period, of the UK sub-group,

(c) in the case of a UK sub-group to which paragraph 15K applies, the total amount of—

(i) the equity and liabilities of the residual UK sub-group, and

(ii) the equity and liabilities of each designated FPE entity,

as at the end of the chargeable period,

(d) in the case of a UK sub-group to which paragraph 15L applies, the total amount of the equity and liabilities, as at the end of the chargeable period, of each UK resident entity (whether or not a designated FPE entity) which is a member of the UK sub-group, or

(e) in the case of a relevant foreign bank which is a member of the relevant group, the amount of the UK allocated equity and liabilities, as at the end of the chargeable period."

*Definition of "UK allocated equity and liabilities"*

3 In paragraph 24(1) (steps to determine UK allocated equity and liabilities), in Step 3, for "chargeable equity and liabilities" substitute " adjusted equity and liabilities ".

4 (1) Paragraph 25 (UK allocated equity and liabilities: netting) is amended as follows.

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(2) In sub-paragraph (1), in the words before paragraph (a), after "applies" insert " for the purposes of Steps 1 and 2 in paragraph 24(1) ".

(3) In sub-paragraph (1)(c), for the words from "makes provision" to "occurs" substitute " makes net settlement provision ".

(4) After sub-paragraph (1) insert—

"(1A) In sub-paragraph (1)(c), "net settlement provision" means provision for there to be a single net settlement—

(a) if a netting event occurs, or

(b) at the option of the bank or N, if a netting event occurs.

(1B) The reference in sub-paragraph (1A) to a "single net settlement" is a reference to a single net settlement of—

(a) all the bank's liabilities (so far as covered by the provision mentioned in sub-paragraph (1)(c)), and

(b) all N's liabilities (so far as covered by that provision).

(1C) But a provision for there to be single net settlement—

(a) at the option of the bank, but not at the option of N, if a netting event occurs, or

(b) at the option of N, but not at the option of the bank, if a netting event occurs,

is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(c)."

(5) For sub-paragraph (2) substitute—

"(2) If the UK allocated equity and liabilities of the bank are being determined for the purposes of paragraph 15(2)(b), this paragraph does not apply if N is—

(a) a UK resident entity which is a member of a UK sub-group,

(b) a chargeable UK resident entity (see paragraph 15C), or

(c) another relevant foreign bank which is a member of the relevant group."

(6) In sub-paragraph (3)(d), for " "the netting event occurs"" substitute " "a netting event occurs" ".

(7) Omit sub-paragraph (8).

(8) Omit sub-paragraph (13).

5 In paragraph 26(4), for "paragraph 17(17) or 19(17)" substitute " paragraph 15(2)(b) ".

6 (1) Paragraph 27 (UK allocated equity and liabilities: determining the amount of the foreign bank's chargeable equity and liabilities) is amended in accordance with this paragraph.

(2) In sub-paragraph (2)—

(a) in the words before paragraph (a), for "chargeable equity and liabilities" substitute " adjusted equity and liabilities ",

(b) in paragraph (b), for "paragraphs 25(8)" substitute " paragraph 27D(1) ", and

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(c) in paragraph (c), for sub-paragraph (i) (but not the "and" following it) substitute—

"(i) the amount of the entity's high quality liquid assets as at the end of that period, other than—

(a) any asset which for the purposes of an adjustment under paragraph (b) is an asset to which paragraph 27D(1) applies;

(b) in a case where the bank levy is charged as provided for by paragraph 4 (groups), any asset to which paragraph 15U(1) applies for the purposes of adjusting the amount of the equity and liabilities of another member of the relevant group (see Step 2 in paragraph 15N(1)),"

(3) In sub-paragraph (3), for paragraph (b) (but not the "and" following it) substitute—

"(b) that financial asset is not an asset which—

(i) for the purposes of an adjustment under sub-paragraph (2)(b), is an asset to which paragraph 27D(1) applies, or

(ii) in a case where the bank levy is charged as provided for by paragraph 4 (groups), is an asset to which paragraph 15U(1) applies for the purposes of adjusting the amount of the equity and liabilities of another member of the relevant group under Step 2 in paragraph 15N(1),".

(4) In sub-paragraph (5), in the words before paragraph (a), for "paragraph 17(7) or 19(17)" substitute " paragraph 15(2)(b) ".

(5) In sub-paragraph (5), for paragraphs (a) and (b) substitute—

"(a) UK connected liabilities to a chargeable UK resident entity which is a member of the relevant group,

(b) UK connected liabilities to a UK sub-group of the relevant group, and

(c) UK connected liabilities to any other relevant foreign bank which is a member of the relevant group."

(6) After sub-paragraph (5) insert—

"(5A) In sub-paragraph (5), references to "UK connected liabilities" have the same meaning as in paragraph 15R(2) (see paragraph 15R(3) to (5))."

7 After paragraph 27 insert—

"27A(1) Paragraph 27D applies for the purposes of paragraph 27(2)(b) if—

(a) the bank levy is charged as provided for by paragraph 4 (groups),

(b) the relevant foreign bank ("B") has liabilities to another entity ("N") which is not within sub-paragraph (5) ("B's liabilities"),

(c) B, or another member of the relevant group, recognises, as assets, amounts ("N's liabilities") that are due to any member of the relevant group from N,

(d) there is in place an agreement which makes net settlement provision, and

(e) that provision is legally effective and enforceable.

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(2) In sub-paragraph (1)(d), "net settlement provision" means provision for there to be a single net settlement—
  (a) if a netting event occurs, or
  (b) at the option of B or N, if a netting event occurs.

(3) The reference in sub-paragraph (2) to a "single net settlement" is a reference to a single net settlement of—
  (a) all B's liabilities (so far as covered by the provision mentioned in sub-paragraph (1)(d)), and
  (b) all N's liabilities (so far as covered by that provision).

(4) But a provision for there to be single net settlement—
  (a) at the option of B, but not at the option of N, if a netting event occurs, or
  (b) at the option of N, but not at the option of B, if a netting event occurs,

  is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(d).

(5) An entity is within this sub-paragraph if it is —
  (a) a UK resident entity which is a member of a UK sub-group,
  (b) a chargeable UK resident entity, or
  (c) another relevant foreign bank which is a member of the relevant group.

(6) For the purposes of sub-paragraph (1)—
  (a) "agreement" includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,
  (b) references to amounts due from N include securities provided by B, or another member of the relevant group, to N as collateral, but only where B or that other member recognises those securities in its balance sheet or statement of financial position, and
  (c) "a netting event occurs"—
    (i) in relation to B, if the insolvency or bankruptcy of B gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(d) arises, or
    (ii) in relation to N, if the insolvency or bankruptcy of N gives rise to the termination of any arrangements under which such a liability arises.

27B (1) Paragraph 27D also applies for the purposes of paragraph 27(2)(b) if—
  (a) the bank levy is charged as provided for by paragraph 5 (entities which are not members of groups),
  (b) the relevant foreign bank ("B") has liabilities to another entity ("B's liabilities"),
  (c) B recognises, as assets, amounts due from that other entity ("N") to B ("N's liabilities"),
  (d) there is in place an agreement between B and N which makes net settlement provision, and
  (e) that provision is legally effective and enforceable.

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(2) In sub-paragraph (1)(d), "net settlement provision" means provision for there to be a single net settlement—

(a) if a netting event occurs, or

(b) at the option of B or N, if a netting event occurs.

(3) The reference in sub-paragraph (2) to a "single net settlement" is a reference to a single net settlement of—

(a) all B's liabilities (so far as covered by the provision mentioned in sub-paragraph (1)(d)), and

(b) all N's liabilities (so far as covered by that provision).

(4) But a provision for there to be single net settlement—

(a) at the option of B, but not at the option of N, if a netting event occurs, or

(b) at the option of N, but not at the option of B, if a netting event occurs,

is not to be treated as a net settlement provision for the purposes of sub-paragraph (1)(d).

(5) For the purposes of sub-paragraph (1)—

(a) "agreement" includes an agreement which forms part of a multi-lateral agreement, arrangement or trading facility,

(b) references to amounts due from N include securities provided by B to N as collateral, but only where B recognises those securities in its balance sheet or statement of financial position, and

(c) "a netting event occurs"—

(i) in relation to B, if the insolvency or bankruptcy of B gives rise to the termination of any arrangements under which any liability covered by the provision mentioned in sub-paragraph (1)(d) arises, or

(ii) in relation to N, if the insolvency or bankruptcy of N gives rise to the termination of any arrangements under which such a liability arises.

27C Section 556 of CTA 2009 (meaning of securities and similar securities) applies for the purposes of paragraphs 27A(6) and 27B(5) as it applies for the purposes of Chapter 10 of Part 6 of that Act.

27D (1) The amount of B's net settlement liabilities is to be reduced (but not below nil) by the amount of B's net settlement assets.

(2) "B's net settlement liabilities" means B's liabilities so far as they—

(a) are covered by the provision mentioned in paragraph 27A(1)(d) or 27B(1)(d), and

(b) are not excluded liabilities.

(3) "B's net settlement assets" means the assets of—

(a) B, or

(b) in a case within paragraph 27A, another member of the relevant group,

so far as corresponding to N's net settlement liabilities.

(4) But, in a case within paragraph 27A—

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(a) if sub-paragraph (1) of this paragraph applies in relation to more than one relevant foreign bank, no part of an asset may be included in the net settlement assets of more than one of those relevant foreign banks, and

(b) if an asset, or part of an asset, is included for the purposes of paragraph 15U in the net settlement assets of a member of the relevant group, the asset (or part) is not to be included in B's net settlement assets for the purposes of this paragraph.

(5) "N's net settlement liabilities" means N's liabilities so far as they are covered by the provision mentioned in paragraph 27A(1)(d) or 27B(1)(d).

(6) If B's net settlement liabilities exceed B's net settlement assets, and a proportion (A%) of those liabilities is long term liabilities and a proportion (C%) of those liabilities is short term liabilities, under sub-paragraph (1)—

(a) the long term liabilities are reduced by A% of B's net settlement assets, and

(b) the short term liabilities are reduced by C% of those assets."

*Consequential amendments*

8 In consequence of the preceding provisions of this Schedule, Schedule 19 to FA 2011 is amended as follows.

9 In paragraph 30(2), at the beginning insert " For the purposes of this paragraph, ".

10 In paragraph 40(1), for the words from "paragraphs 16" to the end substitute " paragraphs 15S to 15U, 15Z3, 15Z4, 25 and 27A to 27D. "

11 (1) Paragraph 47 is amended in accordance with this paragraph.

(2) In sub-paragraph (11), for the words from "paragraph 16(1)(c) and (d)" to the end substitute " paragraph 15S(1)(d) and (e), 15T(1)(e) and (f), 15Z3(1)(c) and (d), 25(1)(c) and (d), 27A(1)(d) and (e) or 27B(1)(d) and (e). "

(3) In sub-paragraph (14)—

(a) in the words before paragraph (a), after " "relevant member"" insert " means ";

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

"(a) a chargeable UK resident entity which is a member of the relevant group;

(b) a UK sub-group of the relevant group;

(c) a relevant foreign bank which is a member of the relevant group."

12 In paragraph 53(4)—

(a) in paragraph (a), for "relevant UK banking sub-group" substitute " UK sub-group ",

(b) for paragraph (b) substitute—

"(b) is a chargeable UK resident entity which is a banking entity (see paragraph 15C(2)),",

(c) omit paragraph (c), and

(d) in paragraph (d), for "covered by paragraph 19(17)" substitute " which is a member of the relevant group ".

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13 (1) Paragraph 54 is amended in accordance with this paragraph.

(2) In sub-paragraph (5)(c)—

(a) in sub-paragraph (i), for "chargeable UK-based equity and liabilities" substitute " UK-based equity and liabilities or UK-allocated equity and liabilities ";

(b) in sub-paragraph (ii)—

(i) for "chargeable UK-based equity and liabilities" substitute " UK-based equity and liabilities or UK-allocated equity and liabilities ";

(ii) for "relevant UK sub-group or a relevant UK banking sub-group (as the case may be)" substitute " UK sub-group ".

(3) In sub-paragraph (6)—

(a) in the words before paragraph (a), after " "relevant member"" insert " means ";

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

"(a) a chargeable UK resident entity which is a member of the relevant group;

(b) a UK sub-group of the relevant group;

(c) a relevant foreign bank which is a member of the relevant group."

14 (1) Paragraph 70 is amended in accordance with this paragraph.

(2) After the definition of "contract of insurance" insert—

""designated FPE entity" is defined in paragraph 15F(2);".

(3) After the definition of "entity" insert—

""entity-by-entity election" is defined in paragraph 15L(1);".

(4) After the definition of "long term" insert—

""non-UK allocated equity and liabilities" is defined in paragraph 15Z1;".

(5) After the definition of "relevant regulated activity" insert—

""residual UK-sub-group" is defined in paragraph 15K(2);".

(6) After the definition of "UK allocated equity and liabilities" insert—

""UK-based equity and liabilities"—

(a) in relation to a UK resident entity, other than a designated FPE entity, is defined in paragraph 15H,

(b) in relation to a designated FPE entity (other than a member of a UK sub-group) is defined in paragraphs 15I and 15Z1, and

(c) in relation to a UK sub-group, is defined in paragraphs 15J, 15K and 15L;".

(7) In the definition of "UK sub-group" for "paragraph 17(4)" substitute " paragraph 15B ".

(8) Omit the definitions of—

(a) "relevant UK banking sub-group",

(b) "relevant UK sub-group", and

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(c) "UK banking sub-group".

15 In paragraph 77, after "subject to" insert " Step 7 in paragraph 15Z1 and ".

## PART 2 U.K.

### MISCELLANEOUS AMENDMENTS

*Introductory*

16 Schedule 19 to FA 2011 (the bank levy) is amended as follows.

*Joint ventures*

17 (1) In Part 5 (supplementary provision), omit paragraphs 43 and 44 (joint ventures).

(2) In paragraph 27(2)(b) (determining the amount of a relevant foreign bank's chargeable equity and liabilities: adjustments), omit "and 44".

*Joint and several liability*

18 In paragraph 53 (joint and several liability), after sub-paragraph (2) insert—

"(2A) But sub-paragraph (2) is subject to paragraph 53A (ring-fenced bodies)."

19 After paragraph 53, insert—

"53A(1) This paragraph applies where—

(a) an entity (the "ring-fenced entity") which is a member of the relevant group is—

(i) a ring-fenced body, or

(ii) a member of a ring-fenced body sub-group,

or both, and

(b) the entity is not the relevant group's responsible member.

(2) The ring-fenced entity is jointly and severally liable for the bank levy liability of the relevant group's responsible member under paragraph 53(2) only so far as the liability is—

(a) attributable to the ring-fenced body sub-group of which the ring-fenced entity is a member, or

(b) if the ring-fenced entity is not a member of a ring-fenced body sub-group, attributable to that entity.

(3) For the purposes of sub-paragraph (2)—

(a) the bank levy liability that is attributable to a ring-fenced body sub-group is the amount of the bank levy that would be charged for the chargeable period in relation to that sub-group if it were "the relevant group" for the purposes of this Part;

(b) the bank levy liability that is attributable to a ring-fenced entity is the amount of the bank levy that would be charged for the chargeable period in relation to that entity if it were "the relevant entity" for the purposes of this Part.

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(4) "Ring-fenced body" has the same meaning as in the Financial Services and Markets Act 2000 (see section 142A of that Act).

(5) A "ring-fenced body sub-group" is a group of entities consisting of—

(a) an RFB parent undertaking and its subsidiaries, or

(b) a ring-fenced body, which is not a subsidiary of an RFB parent undertaking, and the ring-fenced body's subsidiaries.

(6) "RFB parent undertaking" means a body corporate which is subject to rules made under section 192JA of the Financial Services and Markets Act 2000 (rules applying to parent undertakings of ring-fenced bodies)."

*Meaning of "the responsible member"*

20 (1) Paragraph 54 (meaning of "the responsible member") is amended in accordance with this paragraph.

(2) In sub-paragraph (3) (requirements), for paragraphs (c) and (d) substitute—

"(c) either—

(i) during the nomination period the parent entity, or another entity acting on behalf of the parent entity, nominated E to HMRC to be the responsible member, or

(ii) the renewal conditions are met in relation to E, and

(d) HMRC did not—

(i) in a case within paragraph (c)(i), reject E's nomination;

(ii) in a case within paragraph (c)(ii), make a determination under paragraph 55A."

(3) In sub-paragraph (3), in the words after paragraph (d)—

(a) for "paragraph 55" substitute " paragraphs 55 and 55A ";

(b) at the end insert " and renewals ".

(4) After sub-paragraph (3) insert—

"(3A) The renewal conditions are met in relation to E if—

(a) E was the relevant group's responsible member at the end of the immediately preceding chargeable period, and

(b) neither the parent entity, nor another entity acting on behalf of the parent entity, nominated an entity other than E during the nomination period.

(3B) In sub-paragraphs (3) and (3A), "nomination period" means the first 45 days of the chargeable period."

(5) After sub-paragraph (6) insert—

"(6A) Sub-paragraph (6B) applies if—

(a) HMRC rejects E's nomination (see sub-paragraph (3)(d)(i)), and

(b) within the period of 30 days after the day on which HMRC rejects the nomination, HMRC and the parent entity, or another entity acting on behalf of the parent entity, agree that another entity ("A") which is a chargeable member of the relevant group is to be the relevant group's responsible member.

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(6B) Where this sub-paragraph applies—

(a) A is the relevant group's responsible member, and

(b) sub-paragraphs (4) and (5) do not apply."

(6) In sub-paragraph (7), after "(as the case may be)," insert " and sub-paragraph (6B) does not apply, ".

21 After paragraph 55, insert—

"55A(1) This paragraph applies for the purposes of paragraph 54(3)(c)(ii) and (d)(ii).

(2) HMRC may from time to time publish requirements as to the information to be provided by, or on behalf of, the relevant group's responsible member before the end of the nomination period.

(3) In a case within paragraph 54(3)(c)(ii), HMRC may determine that E is not to be the relevant group's responsible member for the chargeable period.

(4) A determination under sub-paragraph (3) must be made within the period of 30 days from the end of the nomination period.

(5) HMRC may make a determination under this paragraph only if—

(a) information required under sub-paragraph (2) has not been provided to HMRC, or

(b) HMRC has reason to believe that E—

(i) has ceased to be a chargeable member of the relevant group,

(ii) no longer has an accounting period for corporation tax purposes which is the same as the chargeable period, or

(iii) will turn out not to have sufficient resources to pay the bank levy."

*International accounting standards*

22 In paragraph 4 (bank levy to be charged in relation to certain groups of entities), omit sub-paragraphs (5) to (7).

23 In paragraph 12 (definition of "banking group"), in sub-paragraph (7), omit paragraph (b) and the "or" preceding it.

24 In paragraph 13 (definition of "banking group": exempt activities condition)—

(a) in sub-paragraph (2)(b)(i), for "the applicable accounting standards" substitute " international accounting standards ",

(b) in sub-paragraph (4), omit the definition of "the applicable accounting standards", and

(c) in sub-paragraph (4), in the definition of "net-basis activities", for "the applicable accounting standards" substitute " international accounting standards ".

25 In paragraph 14 (definition of "assets", "equity" and "liabilities"), omit sub-paragraph (2).

26 In paragraph 24 (definition of "UK allocated equities and liabilities")—

(a) in sub-paragraph (2)(a), omit "or UK GAAP", and

(b) in sub-paragraph (2)(b), omit sub-paragraph (ii) and the "or" preceding it.

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27 In paragraph 35 (exclusion of relevant tax liabilities)—
(a) in sub-paragraph (2), in the words before paragraph (a), omit the words from "In relation to" to "international accounting standards,";
(b) omit sub-paragraph (3).

28 In paragraph 36 (exclusion of relevant retirement benefit liabilities)—
(a) in sub-paragraph (2), omit the words from "In relation to" to "international accounting standards,";
(b) omit sub-paragraph (3).

29 In paragraph 42 (financial statements etc)—
(a) in sub-paragraph (8), omit paragraphs (b) and (c), and
(b) omit sub-paragraphs (9) and (10).

30 In paragraph 70 (general definitions)—
(a) omit the definition of "UK GAAP", and
(b) omit the definition of "US GAAP".

31 In paragraph 71 (definition of "asset management activities"), in sub-paragraph (3), omit paragraph (b) and the "or" preceding it.

32 In paragraph 72 (definition of "capital resources condition"), in sub-paragraph (7), omit paragraph (b) and the "or" preceding it.

33 In paragraph 73 (definition of "excluded entity"), in sub-paragraph (3), omit paragraph (b) and the "or" preceding it.

34 In paragraph 81 (power to make consequential changes), in sub-paragraph (1)(c) omit ", UK GAAP or US GAAP".

## PART 3 U.K.

### COMMENCEMENT

35 The amendments made by Part 1, and by paragraphs 17 and 22 to 34 of Part 2, of this Schedule have effect in relation to chargeable periods ending on or after 1 January 2021.

36 The amendments made by paragraphs 18 and 19 of Part 2 of this Schedule have effect in relation to chargeable periods ending on or after 1 January 2018.

# SCHEDULE 10 U.K.

Section 35

## SETTLEMENTS: ANTI-AVOIDANCE ETC

## PART 1 U.K.

### CAPITAL GAINS TAX

*TCGA 1992*

1 (1) In TCGA 1992, after section 87C insert—

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"**87D Sections 87 and 87A: disregard of capital payments to non-residents**

(1) For the purposes of sections 87 and 87A as they apply in relation to a settlement, no account is to be taken of a capital payment (or a part of a capital payment) within subsection (2), but this—
  (a) is subject to subsection (3) and section 87E, and
  (b) does not affect the operation of sections 87I to 87L (see, in particular, sections 87K(2) and 87L(2) which apply sections 87 and 87A by reference to the payment mentioned in section 87I(1)(a)).

(2) A capital payment is within this subsection if (and to the extent that) it is in a tax year received from the trustees of the settlement by a beneficiary who at all times in that year is not resident in the United Kingdom, but this is subject to section 87F.

(3) Subsection (1) does not apply in relation to a capital payment (or a part of a capital payment) if—
  (a) the recipient beneficiary is a close member of the settlor's family (see section 87H) when the beneficiary receives (or is treated as receiving) the payment (or part),
  (b) the payment (or part) is received on or after 6 April 2018, and
  (c) the settlor is resident in the United Kingdom in the tax year in which the payment (or part) is received.

**87E Sections 87 and 87A: disregarded payments to temporary non-resident**

(1) If—
  (a) as a result of section 87D, no account is taken of a capital payment (or a part of a capital payment) for the purposes of sections 87 and 87A,
  (b) the recipient beneficiary is an individual who is temporarily non-resident, and
  (c) the payment (or part) is received in the beneficiary's temporary period of non-residence,

  the payment (or part) is treated for the purposes of sections 87 and 87A as received (by the beneficiary) in the beneficiary's period of return, and account is to be taken of it accordingly for those purposes.

(2) Part 4 of Schedule 45 to FA 2013 explains—
  (a) when an individual is to be regarded as "temporarily non-resident", and
  (b) what "the temporary period of residence" and "the period of return" mean.

**87F Sections 87 and 87A: disregarded payments in year settlement ends**

(1) This section applies in relation to a settlement if—
  (a) in a particular tax year, the settlement ceases to exist,
  (b) two or more beneficiaries ("the recipients") in the year receive capital payments from the trustees, and

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(c) at least one of the recipients is, and at least one is not, a non-resident beneficiary.

(2) Those capital payments, so far as received by such of the recipients as are non-resident beneficiaries, are not within section 87D(2).

(3) In this section "non-resident beneficiary" means a beneficiary who at all times in the year is not resident in the United Kingdom.

**87G Settlor liable if capital payment received by close family member**

(1) Subsection (2) applies if in the case of a settlement—

(a) a beneficiary of the settlement receives a capital payment from the trustees in a tax year,

(b) the settlor is resident in the United Kingdom at any time in that year, and

(c) the beneficiary ("the original recipient") is a close member of the settlor's family (see section 87H) at the time of receipt.

(2) Sections 87 and 87A have effect as if the capital payment—

(a) was received from the trustees by the settlor—

(i) as a beneficiary of the settlement (whether or not the settlor is otherwise a beneficiary of the settlement), and

(ii) at the time it was received by the original recipient, and

(b) was not received by the original recipient.

(3) Where any tax is chargeable on the settlor as a result of subsection (2) and is paid, the settlor is entitled to recover the full amount of the tax from the original recipient.

(4) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—

(a) the amount of tax paid, and

(b) the amount of the gains on which the tax is paid,

and any such certificate is conclusive evidence of the facts stated in it.

**87H Meaning of "close member of the settlor's family"**

(1) For the purposes of sections 87D, 87G and 87L as they apply in relation to a settlement, a person is a close member of the settlor's family at any time if the settlor is living at that time and—

(a) the person is the settlor's spouse or civil partner at that time, or

(b) the person—

(i) is a child of the settlor, or of a person who at that time is the settlor's spouse or civil partner, and

(ii) at that time has not reached the age of 18.

(2) For the purposes of subsection (1)—

(a) two people living together as if they were spouses of each other are treated as if they were spouses of each other, and

(b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.

**87I Non-UK resident settlements: recipients of onward gifts**

(1) Sections 87J and 87K apply if in the case of a settlement—

(a) a capital payment ("the original payment") is received in a tax year ("the payment year") by a person ("the original beneficiary") from the trustees of the settlement,

(b) at the time of receipt—

(i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole or part of the original payment, and

(ii) it is reasonable to expect that, in the event of the whole or part of the original payment being passed on to another person as envisaged by the arrangements or intention, that other person will be resident in the United Kingdom when they receive at least part of what is passed on to them,

(c) the original beneficiary makes, directly or indirectly, a gift ("the onward payment") to a person ("the subsequent recipient")—

(i) at the time the original payment is received, or at any later time in the 3 years beginning with the day containing the start time, or

(ii) at any time before the original payment is received and, it is reasonable to assume, in anticipation of receipt of the original payment,

(d) the gift is of or includes—

(i) the whole or part of the original payment,

(ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the original payment, or

(iii) any other property, but only if the original payment is made with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient,

(e) the subsequent recipient is resident in the United Kingdom in the tax year in which the onward payment is received by the subsequent recipient ("the gift year", but see subsection (4)), and

(f) in the period beginning with the start of the payment year and ending with the end of the gift year, there is at least one tax year—

(i) for which the otherwise-liable person is not resident in the United Kingdom, or

(ii) for which section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the otherwise-liable person.

(2) Where—

(a) there is a series of two or more gifts,

(b) the first gift in the series is made, directly or indirectly, by the original beneficiary—

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(i) at the time the original payment is received, or at any later time in the 3 years beginning with the day containing the start time, or

(ii) at any time before the original payment is received and, it is reasonable to assume, in anticipation of receipt of the original payment,

(c) the recipient of a gift in the series is the person who makes, directly or indirectly, the next gift in the series,

(d) the recipient of the last gift in the series is resident in the United Kingdom in the tax year in which that gift is received,

(e) as regards each earlier gift in the series, its recipient is not resident in the United Kingdom at any time in the tax year in which it is received, and

(f) the condition in subsection (1)(d) is met in relation to each gift in the series,

the last gift in the series is treated for the purposes of subsection (1)(c) as if its maker were the original beneficiary (and not its actual maker).

(3) For the purposes of subsections (1)(c)(i) and (2)(b)(i)—

(a) if the original payment is a capital payment other than one that is treated as received by section 87M, "the start time" is the time the original payment is received, and

(b) if the original payment is a capital payment that is treated as received by section 87M in connection with the operation of this section, and sections 87J and 87K, on a previous occasion, "the start time" is the time given by this subsection as the start time on that occasion

(4) Where the onward payment is made as mentioned in subsection (1)(c)(ii), the onward payment is to be treated—

(a) for the purposes of the provisions of this section following subsection (1)(c), and

(b) for the purposes of sections 87K to 87M,

as made and received immediately after the original payment is received (and in the payment year).

(5) Where this section provides for section 87K to apply in relation to two or more gifts received from the original beneficiary in the gift year by reference to the original payment—

(a) treat that section as applying in relation to a single gift equal in amount to the total of the amount or value of each of the gifts (and as not applying in relation to each gift separately), and

(b) apportion between the gifts (in proportion to their amounts or values)—

(i) any capital payments given by section 87K(2), and

(ii) any gains given by section 87K(3),

as a result of applying section 87K in accordance with paragraph (a).

(6) Where this section provides for sections 87J and 87K to apply in relation to a gift received in a tax year—

(a) take the steps required by section 87J before applying section 87K in relation to the gift, but

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(b) in taking the steps required by section 87J, have regard to the application of section 87K in relation to gifts made in earlier tax years.

(7) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"gift" includes any benefit,

"make", in relation to a gift that is a benefit, means confer, and

"the otherwise-liable person" means the original beneficiary unless section 87G(2) applies in relation to the original payment in which event the settlor is "the otherwise-liable person".

(8) Where subsection (1)(c) and (d) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(b) is also met in that case.

**87J Relevant parts of payment from which onward gift derived**

(1) Where this section applies (see section 87I), for the purposes of section 87K treat the original payment as divided into slices as follows—

(a) a slice consisting of the taxed part (if any) of each matched amount (if any),

(b) a slice ("U") consisting of the untaxed part (if any) of each matched amount (if any), and

(c) a slice ("R") consisting of the rest (if any) of the original payment.

(2) For the purposes of this section, if all or part of the original payment is, in a tax year ("the matching year") not later than the gift year, matched under section 87A with the section 2(2) amount for the matching year or any earlier tax year, so much of the original payment as is so matched is a "matched amount".

(3) For the purposes of subsection (1), if—

(a) as a result of there being a matched amount, gains are treated by section 87 as accruing to the otherwise-liable person,

(b) the otherwise-liable person is resident in the United Kingdom for the matching year, and

(c) none of sections 809B, 809D and 809E of ITA 2007 applies to the otherwise-liable person for the matching year,

the whole of the matched amount is its "taxed part" (and it has no "untaxed part").

(4) For the purposes of subsection (1), if—

(a) as a result of there being a matched amount, gains are treated by section 87 as accruing to the otherwise-liable person,

(b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the otherwise-liable person for the matching year, and

(c) the whole or part of those gains is remitted to the United Kingdom in a tax year—

(i) that is not later than the gift year, and

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(ii) in which the otherwise-liable person is resident in the United Kingdom,

so much of the matched amount as is equal to so much of the gains as is remitted as mentioned in paragraph (c) is the matched amount's "taxed part", and the rest of the matched amount is its "untaxed part".

(5) For the purposes of subsection (1), if all or part of the original payment is in a tax year ("the pool-matching year") not later than the gift year matched, under section 87A as applied by paragraph 8 of Schedule 4C, with the section 2(2) amount in the Schedule 4C pool for the pool-matching year or any earlier tax year—

(a) so much of the original payment as is so matched is a "matched amount", and

(b) the whole of the matched amount is its "taxed part" (and it has no "untaxed part").

**87K Attribution of gains or payments to recipient of onward gift**

(1) Where this section applies (see section 87I), G is—

(a) the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 87I(1)(d), or

(b) if lower, the amount of the original payment.

(For the meaning of R and U, see section 87J.)

(2) If R is greater than nil, sections 87 and 87A have effect for the gift year and later tax years—

(a) as if a capital payment was received from the trustees by the subsequent recipient—

(i) as a beneficiary of the settlement (whether or not the subsequent recipient is otherwise a beneficiary of the settlement), and

(ii) at the time the subsequent recipient received the onward payment,

(b) as if that capital payment consisted of—

(i) R, if G is greater than R, or

(ii) so much of R as is equal to G, if G is not greater than R, and

(c) as if so much of the original payment as is equal to that capital payment was not received by the otherwise-liable person.

(3) If G is greater than R, and if U is greater than nil—

(a) chargeable gains are treated as accruing to the subsequent recipient in the gift year (but see section 87L(3) and (4)),

(b) the amount of those gains is—

(i) U, if (G − R) is greater than U, or

(ii) so much of U as is equal to (G − R), if (G − R) is not greater than U, and

(c) the chargeable gains treated by section 87 as accruing to the otherwise-liable person by reason of the original payment are treated as from the end of the gift year as reduced by that amount, with that reduction being made from so much of those gains as has not by

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then been remitted to the United Kingdom in a tax year in which the otherwise-liable person is resident in the United Kingdom.

(4) If this section applies by reference to the original payment also in relation to a gift received from the original beneficiary in a tax year earlier than the gift year, this section applies in relation to the onward payment as if—
  (a) the amount given by section 87J for R were reduced by the amount of any capital payment given by subsection (2) in relation to that earlier year, and
  (b) the amount given by section 87J for U were reduced by the amount of any gains given by subsection (3) in relation to that earlier year.

**87L Cases where settlor liable following onward gift**

(1) Subsection (2) applies where—
  (a) ignoring this section and section 87M, a person is treated by section 87K(2) as receiving a capital payment from the trustees of a settlement at a time ("the time of receipt") in a tax year,
  (b) the settlor is resident in the United Kingdom at any time in that year, and
  (c) the person mentioned in paragraph (a) is a close member of the settlor's family (see section 87H) at the time of receipt.

(2) Sections 87 and 87A have effect for that year, and later tax years, as if the capital payment—
  (a) was received from the trustees by the settlor—
    (i) as a beneficiary of the settlement (whether or not the settlor is otherwise a beneficiary of the settlement), and
    (ii) at the time of receipt, and
  (b) was not received by the person mentioned in subsection (1)(a).

(3) Subsection (4) applies where—
  (a) in the case of a settlement, chargeable gains are (ignoring this section and section 87M) treated by section 87K(3) as accruing to a person in a tax year ("the subsequent recipient"),
  (b) the settlor is resident in the United Kingdom at any time in that year, and
  (c) the subsequent recipient is a close member of the settlor's family when the subsequent recipient receives the onward payment (see section 87I(1)(c)) by reference to which the chargeable gains are treated as accruing.

(4) Section 87K(3)(a) has effect as if its reference to the subsequent recipient were a reference to the settlor, and references (however expressed) to chargeable gains treated as accruing by this section are to chargeable gains treated by section 87K(3)(a) as accruing to the settlor as a result of the operation of this subsection.

(5) Where, in the case of a settlement, any tax is chargeable on the settlor as a result of this section and is paid, the settlor is entitled to recover the full amount of the tax from the person mentioned in subsection (1)(a) or (3)(a), as the case may be.

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(6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
  (a) the amount of tax paid, and
  (b) the amount of the gains on which the tax is paid,

and any such certificate is conclusive evidence of the facts stated in it.

**87M Cases where recipient of onward gift is user of remittance basis**

(1) Subsection (2) applies where—
  (a) ignoring this section, a person is treated by section 87K(2) as receiving a capital payment from the trustees of a settlement at a time ("the time of receipt") in a tax year,
  (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the person for that tax year, and
  (c) the payment is not treated by section 87L(2) as received by the settlor.

(2) Section 87I(1)(a) has effect as if the capital payment were received from the trustees by the person at the time of receipt, and section 87K(2)(a) and (b) do not have effect for the purposes of sections 87 and 87A in the case of the payment.

(3) The rules in subsection (4) apply where—
  (a) in the case of a settlement, chargeable gains are (ignoring this section) treated by section 87K(3), but not as a result of the operation of section 87L(4), as accruing to a person in a tax year by reference to a gift within section 87I(1)(d) made to the person,
  (b) section 809B, 809D or 809E of ITA 2007 applies to the person for that tax year, and
  (c) none, or part only, of the gains is remitted to the United Kingdom in that tax year.

(4) The rules are—
  (a) section 87I(1)(a) has effect—
    (i) as if a capital payment were received from the trustees by the person at the time the gift is made, and
    (ii) as if the capital payment were equal in amount to so much of the gains as is not remitted in the tax year mentioned in subsection (3)(a) of this section,
  (b) for the purposes of section 87J—
    (i) the whole of the capital payment is a "matched amount", and
    (ii) the whole of the matched amount is its "untaxed part" (and the matched amount has no "taxed part"), and
  (c) the amount of the gains treated by section 87K(3)(a) and (b) as accruing to the person by reference to the gift is reduced by the amount of the capital payment.

(5) Where the capital payment mentioned in section 87I(1)(a) is one treated as received by subsection (2) or (4) of this section in connection with the operation of sections 87I to 87K on a previous occasion, section 87I(1) has effect—

(a) with the omission of its paragraph (b),

(b) as if the reference in its paragraph (c) to the original payment were, instead, to what was the onward payment on that previous occasion, and

(c) as if the references in its paragraph (d) to the original payment were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of that paragraph.

(6) Section 87I(4) and (7) (interpretation of references to gifts and their making) apply also for the purposes of subsections (3) and (4) of this section.

**87N Sections 87 and 87A: disregard of payments to migrating beneficiary**

(1) For the purposes of sections 87 and 87A as they apply in relation to a settlement for a particular tax year, no account is to be taken of a capital payment (or part of a capital payment) within subsection (2), but this is subject to section 87P.

(2) A capital payment is within this subsection—

(a) if it is received by a beneficiary of the settlement before the particular tax year,

(b) if the relevant person is resident in the United Kingdom in the tax year in which it is received,

(c) if the relevant person is not resident in the United Kingdom in the particular tax year, and

(d) so far as it has not been matched (under section 87A as it applies for tax years before the particular tax year) with—

(i) the section 2(2) amount for any tax year before the particular tax year, but not earlier than the tax year 2018-19, in which the relevant person is resident in the United Kingdom, or

(ii) the section 2(2) amount for any tax year earlier than the tax year 2018-19.

(3) For the purposes of subsection (2), the beneficiary is "the relevant person" unless section 87G(2) applies in relation to the capital payment in which event the settlor is "the relevant person".

**87P Sections 87 and 87A: temporary migration after payment disregarded**

(1) If—

(a) as a result of section 87N, no account is taken of a capital payment (or a part of a capital payment) for the purposes of sections 87 and 87A as they apply in relation to a settlement for a particular tax year,

(b) the recipient beneficiary (where section 87G(2) does not apply in relation to the capital payment), or the settlor (where section 87G(2) does apply in relation to the capital payment), is an individual who is temporarily non-resident,

(c) the whole or part of the particular tax year constitutes, or forms part of, that individual's temporary period of non-residence,

(d) either—

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(i) that individual's temporary period of non-residence begins with the start of a tax year and the payment (or part) is received before that tax year, or

(ii) that individual's temporary period of non-residence begins otherwise than at the start of a tax year and the payment (or part) is received before, or at any time in, the tax year in which that individual's temporary period of non-residence begins, and

(e) the payment (or part) has not been matched (under section 87A as it applies for tax years before the particular tax year) with—

(i) the section 2(2) amount for any tax year before the particular tax year, but not earlier than the tax year 2018-19, in which that individual is resident in the United Kingdom, or

(ii) the section 2(2) amount for any tax year earlier than the tax year 2018-19,

the payment (or part) is treated for the purposes of sections 87 and 87A as received (by that individual) in that individual's period of return, and account is to be taken of it accordingly for those purposes.

(2) Part 4 of Schedule 45 to FA 2013 explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of residence" and "the period of return" mean."

(2) In sections 2(4) and (5), 16ZC(4) and 62(2A)(a) of TCGA 1992, after "87" insert " , 87K, 87L ".

(3) In section 86A(1) of TCGA 1992 (attribution of gains to settlor in temporary non-residence cases)—

(a) in paragraph (b)—

(i) for "beneficiaries of the settlement" substitute " , in the case of the settlement, individuals ", and

(ii) after "87" insert " , 87K, 87L ", and

(b) in paragraph (c) omit "by the beneficiaries".

(4) In section 87 of TCGA 1992 (non-UK resident settlements: attribution of gains to beneficiaries)—

(a) after subsection (2) insert—

"(2A) If the relevant tax year is a split year as respects the beneficiary, the gains are treated as accruing in the UK part of that year.", and

(b) omit subsection (7) (apportionment of gains where relevant year is a split year).

(5) In section 87B of TCGA 1992 (section 87: remittance basis)—

(a) in subsection (1)(a), after "87" insert " , 87K or 87L ",

(b) in subsection (1)(b) (which refers to sections 809B, 809D and 809E of ITA 2007), after "809E" insert " of ITA 2007 ", and

(c) in subsection (4), after "capital payment" insert " , or onward payment (see section 87I(1)(c)), ".

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(6) In section 89(3) of TCGA 1992 (application of sections 87 to 87C in relation to migrant settlements), for "87C" substitute " 87P ".

(7) In section 91 of TCGA 1992 (increase in tax payable under section 87 or 89(2))—
- (a) in subsection (1)(a)—
  - (i) after "87" insert " , 87K, 87L ", and
  - (ii) for "a beneficiary" substitute " an individual directly, or indirectly, ", and
- (b) in subsections (1)(b), (2) and (3), for "beneficiary" substitute " individual ".

(8) In sections 279A(7)(b) and 279C(6)(c) of TCGA 1992, after "87" insert " , 87K, 87L ".

(9) In paragraph 1A of Schedule 4C to TCGA 1992—
- (a) in Step 2 in sub-paragraph (1)—
  - (i) after "applies if," insert " directly or indirectly "
  - (ii) after "87" insert " , 87K, 87L ", and
  - (iii) for "a beneficiary" substitute " an individual ", and
- (b) in sub-paragraph (3)—
  - (i) for "a beneficiary" substitute " an individual ", and
  - (ii) for "the beneficiary" substitute " the individual ".

(10) In paragraph 8 of Schedule 4C to TCGA 1992, after sub-paragraph (5) insert—

"(6) Sections 87G(2), 87K(2) and 87L(2) (capital payment treated for purposes of sections 87 and 87A as received by someone other than actual recipient) apply also for the purposes of this paragraph, but this is subject to paragraph 9."

(11) In consequence of sub-paragraph (4)(b), in Schedule 45 to FA 2013 omit paragraph 101.

(12) The new sections 87D and 87E have effect—
- (a) except as provided by the new section 87D(3), in relation to payments received in the tax year 2018-19 or a later tax year, and
- (b) in the tax year 2018-19 and later tax years, also in relation to payments received before the tax year 2018-19 that have not been matched under section 87A of TCGA 1992 as it applies for tax years before the tax year 2018-19.

(13) The new sections 87F and 87G, and the amendments made by sub-paragraphs (4) and (11), have effect in relation to payments received in the tax year 2018-19 or a later tax year.

(14) The new sections 87I to 87M have effect in relation to onward payments made on or after 6 April 2018, and do so even in cases where the original payment is received before that date.

(15) The new sections 87N and 87P have effect where the particular tax year is the tax year 2018-19 or a later tax year.

(16) The amendment made in section 89 has effect for the tax year 2018-19 and later tax years.

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2 (1) Sub-paragraph (2) applies in a case where—

(a) section 10A of TCGA 1992 (temporary non-residents) as substituted by paragraph 119 of Schedule 45 to FA 2013 applies in relation to an individual,

(b) the period of temporary non-residence began before 8 July 2015, and

(c) a capital payment (or part of a capital payment) is treated by section 87E or 87P of TCGA 1992 as received by the individual in the period of return.

(2) For the purposes of capital gains tax in respect of any chargeable gain treated by section 87 of TCGA 1992 as accruing to the individual as a result of matching of the payment (or part), section 809B(1A) of ITA 2007 does not have effect in relation to the tax year which consists of or includes the period of return.

(3) Where by virtue of sub-paragraph (2) the individual makes a claim under section 809B of ITA 2007 for any of the tax years 2018-19 to 2020-21 inclusive, sections 809C, 809G and 809H of ITA 2007 do not apply to the individual for that tax year.

(4) Part 4 of Schedule 45 to FA 2013 explains what "temporary period of non-residence" and "period of return" mean.

## PART 2 U.K.

### INCOME TAX

### *ITTOIA 2005*

3 (1) Chapter 5 of Part 5 of ITTOIA 2005 (settlements: amounts treated as income of settlor) is amended as follows.

(2) In the Chapter heading, after "settlor" insert " or family ".

4 In section 619(1) (list of provisions in the Chapter charging tax)—

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

(b) after paragraph (d) insert—

"(e) benefits whose amount or value is treated as income of the settlor or a close family member as a result of section 643A (benefits provided out of protected foreign-source income), and

(f) amounts treated as income of the settlor or a close family member by section 643J or 643L (gifts provided out of benefits)."

5 In section 621 (income charged under the Chapter), for "income and capital sums" substitute " income, capital sums and benefits ".

6 In section 622 (person liable), at the end insert " , but this is subject to sections 643A and 643I to 643M. "

7 In section 623 (deductions and reliefs allowed when calculating liability under the Chapter)—

(a) for "a settlor" substitute " an individual ", and

(b) for "the settlor", in both places it occurs, substitute " the individual ".

8 In section 635 (amount of available income for section 633 purposes)—

(a) in subsection (3)(d)(i) (tax on certain income to be deducted when calculating available amount), before "income" insert " unprotected ", and

(b) in subsection (5) (meaning of "unprotected income"), for "subsection (2)" substitute " this section and sections 636 and 637 ".

9 In section 636 (amount of unprotected income that is undistributed for section 635 purposes)—

(a) in subsection (2) (deducting payments that are or would be taxable as recipients' income)—

(i) in the words before paragraph (a) omit "such",

(ii) in those words, for "as" substitute " that are payments of unprotected income, or sums treated as representing unprotected income, and that ", and

(iii) in paragraph (b), for "so treated" substitute " treated as mentioned in paragraph (a) ",

(b) in subsection (4) (deducting expenses properly chargeable to income), before "income" insert " unprotected ", and

(c) in subsection (6) (deducting amounts in respect of exempt income), in the definition of "A", before "income" insert " unprotected ".

10 In section 637 (qualifications to section 636)—

(a) in subsections (2), (3) and (4) (extent to which interest treated as deductible trust expenses), before "interest" insert " relevant ",

(b) in subsection (5) (the relevant fraction), in the definition of "A", before "income" insert " unprotected ", and

(c) after subsection (7) insert—

"(7A) In this section "relevant interest" means interest which, in the absence of any express provision of the settlement, would be properly chargeable to unprotected income."

11 After section 643 insert—

*"Benefits matched with protected foreign-source income*

**643A Deemed income because of benefits for settlor or close family member**

(1) If an individual has an untaxed benefits total for a settlement for a tax year (see section 643B), an amount equal to so much of that total as does not exceed the settlement's available protected income up to the end of the year (see section 643C) is—

(a) where the individual is UK resident for the year, treated for income tax purposes as income of the individual for the year, subject to subsections (2) to (5), and

(b) where the individual is non-UK resident for the year, treated for the purposes of subsection (2) and sections 643I to 643L (but no other purpose) as income of the individual for the year, subject to subsection (5).

(2) Subsections (3) and (4) apply if—

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(a) an amount ("the deemed income") is treated by subsection (1), before the application of subsections (3) and (4), as income of an individual for a tax year,

(b) the individual is not the settlor,

(c) either—

(i) the individual is non-UK resident for the year, or

(ii) the individual is UK resident for the year and one of sections 809B, 809D and 809E of ITA 2007 (remittance basis) applies to the individual for the year,

(d) the settlor is UK resident for the year,

(e) there is no time in the year when the settlor is domiciled in the United Kingdom, and

(f) there is no time in the year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.

(3) If the case is one—

(a) where the condition in subsection (2)(c)(i) is met, or

(b) where the condition in subsection (2)(c)(ii) is met and none of the deemed income is remitted to the United Kingdom in the year,

the deemed income is to be treated for income tax purposes as income of the settlor for the year and, in a case within paragraph (b), not as income of the individual for the year.

(4) If the case is one—

(a) where the condition in subsection (2)(c)(ii) is met, and

(b) part only of the deemed income is remitted to the United Kingdom in the year,

the remainder of the deemed income is to be treated for income tax purposes not as income of the individual for the year but as income of the settlor for the year.

(5) If there is a choice about the individuals in whose case income is to be treated as arising by subsection (1) (before the application of subsections (3) and (4))—

(a) income is to be treated as arising to such one or more of them as appears to an officer of Revenue and Customs to be just and reasonable, and

(b) if more than one, in such respective proportions as appears to the officer to be just and reasonable.

(6) Sections 809L to 809Z6 of ITA 2007 (remittance basis: rules about when income is remitted) apply for the purposes of this section.

(7) If—

(a) an enactment other than this section contains a reference (however expressed) to—

(i) income treated as arising by this section, or

(ii) an amount treated as income by this section, and

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(b) the reference mentions this section without mentioning any particular provision of this section,

the reference is (in accordance with subsection (1)(b)) to be read as not including amounts treated as income by subsection (1)(b) except so far as they are treated as income of the settlor of a settlement by subsection (3) or (4).

**643B Meaning of "untaxed benefits total" in section 643A**

(1) For the purposes of section 643A, whether an individual has an untaxed benefits total for a settlement for a tax year ("the current year"), and (if so) its amount, are determined as follows—

*Step 1* If the individual is the settlor, identify each benefit provided by the trustees to the individual at a time—

(a) when the individual is not relevantly domiciled, and

(b) in a tax year that is the current year or an earlier tax year.

If the individual is not the settlor, identify each benefit provided by the trustees to the individual at a time—

(a) when the individual is a close member of the settlor's family (see section 643H), and

(b) in a tax year that is the current year or an earlier tax year.

*Step 2* Identify the amount or value of each benefit identified in the individual's case at Step 1, and calculate the total of those amounts and values.

*Step 3* Take the total calculated at Step 2 and deduct from it the following—

(a) any part of it on which the individual is liable to income tax otherwise than under section 643A,

(b) any income treated by section 643A, 643J or 643L as arising, to a person for a tax year earlier than the current year, by reference to any of the benefits identified in the individual's case at Step 1,

(c) where the whole or part of a benefit identified in the individual's case at Step 1 is taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007, the amount or value of so much of the benefit as is taken into account in doing that, and

(d) any amount required to be deducted by section 643D(2) (gains treated as accruing in a year before the current year).

*Step 4* If the result of the calculation at Step 3 is an amount greater than nil, that amount is the individual's untaxed benefits total for the settlement for the current year.

(2) For the purposes of Step 1 in subsection (1), an individual is "relevantly domiciled" at any time if at that time—

(a) the individual is domiciled in the United Kingdom, or

(b) the individual is regarded for the purposes of section 809(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.

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(3) Sections 742C to 742E of ITA 2007 (value of certain benefits) apply for the purpose of calculating the value of a benefit for the purposes of this section as they apply for the purpose of calculating an income tax charge under Chapter 2 of Part 13 of ITA 2007.

(4) In this section and sections 643C to 643M, a reference to a benefit provided by trustees of a settlement is to—
- (a) a benefit treated by subsection (6) as provided by the trustees, or
- (b) any other benefit if it is provided by the trustees directly, or indirectly, out of—
  - (i) property comprised in the settlement, or
  - (ii) income arising under the settlement.

(5) In this section and sections 643C to 643M, a reference to a benefit provided by trustees of a settlement to an individual is to—
- (a) a benefit treated by subsection (6) as provided by the trustees to the individual, or
- (b) any other benefit if it is provided by the trustees to the individual directly, or indirectly, out of—
  - (i) property comprised in the settlement, or
  - (ii) income arising under the settlement.

(6) Where—
- (a) income arises under a settlement, and
- (b) the income, before being distributed, is the income of a person other than the trustees,

a benefit is for the purposes of subsection (4)(a) treated as provided by the trustees and is for the purposes of subsection (5)(a) treated as provided by the trustees to the person.

(7) A benefit treated as provided by subsection (6) is treated—
- (a) as consisting of the income mentioned in that subsection, but after any reduction in accordance with Chapter 8 of Part 9 of ITA 2007 for trustees' expenses, and
- (b) as provided at the time that income arises.

**643C Meaning of "available protected income" in section 643A**

(1) For the purposes of the application of section 643A(1) in the case of an individual and a settlement, the settlement has available protected income up to the end of a tax year if—

$$\text{PFSI} - \text{TOAA} > \text{TI}$$

and, if the settlement has available protected income up to the end of a tax year, its amount is given by—

$$\text{PFSI} - \text{TOAA} - \text{TI}$$

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(2) In this section—

PFSI is the total of—

(a) any protected foreign-source income—

(i) arising under the settlement in the year or in any earlier tax year,

(ii) that would be treated under section 624 as income of the settlor but for section 628A,

(iii) that can be used directly or indirectly to provide benefits for the individual, and

(iv) on which the individual is not liable to income tax (ignoring for this purpose any liability under section 643A), and

(b) any protected foreign-source income—

(i) arising under the settlement in the year or in any earlier tax year,

(ii) that would be treated under section 629 as income of the settlor but for section 630A, and

(iii) on which the relevant child concerned (see section 629) is not liable to income tax (ignoring for this purpose any liability under section 643A),

TOAA is so much of PFSI as is, in respect of benefits provided by the trustees in the year or in an earlier tax year, taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) for the year or any earlier tax year, and

TI is the total of—

(a) so much of PFSI as is, by reference to benefits provided by the trustees to the individual, treated by section 643A, 643J or 643L as income for any earlier tax year, and

(b) so much of PFSI as is, by reference to benefits provided by the trustees to other individuals, treated by section 643A, 643J or 643L as income for the year or any earlier tax year.

(3) As regards the definition of PFSI in subsection (2)—

(a) section 648(3) to (5) (relevant foreign income treated as arising under settlement only if and when remitted) do not apply for the purposes of that definition,

(b) that definition has effect as if section 648(3) to (5) do not apply for the purposes of sections 624 and 629, and

(c) in that definition "protected foreign-source income" has the meaning given by sections 628A(2) to (13) and 628B.

**643D Reduction in section 643A income: previous capital gains tax charge**

(1) Subsection (2) applies if—

(a) in the case of a settlement, benefits provided to an individual as mentioned at Step 1 in section 643B(1) are received in a tax year, and

(b) chargeable gains are treated by section 87, 87K, 87L or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing to a person

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in that or a subsequent tax year by reference (direct or indirect) to the whole or part of any benefits so provided.

(2) In the calculation under section 643B of the individual's untaxed benefits total for the settlement for any tax year after the one in which such chargeable gains are so treated, the amounts to be deducted at Step 3(d) of that calculation include the amount of those gains.

(3) References in this section to chargeable gains treated as accruing to an individual include offshore gains treated as arising to the individual (see regulations 20 and 22 to 24 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)).

**643E Reimbursement of tax paid by settlor because of section 643A**

(1) Where any tax for which the settlor of a settlement is liable as a result of section 643A(3) or (4) is paid, the settlor is entitled to recover the amount of the tax from the individual concerned.

(2) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—
   (a) the amount of the income concerned, and
   (b) the amount of tax paid,

   and any such certificate is conclusive evidence of the facts stated in it.

**643F Income attributed by section 643A to user of remittance basis**

(1) This section applies where—
   (a) in the case of a settlement, income ("the deemed income") is treated by section 643A as arising to an individual for a tax year, and
   (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.

(2) The deemed income is treated as relevant foreign income of the individual.

(3) In the application of section 832 to the deemed income, subsection (2) of that section has effect with the omission of paragraph (b).

(4) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat a benefit, or any protected income, that relates to any part of the deemed income as deriving from that part of the deemed income.

(5) In subsection (4) "relates" has the meaning given by section 643G.

(6) In this section and section 643G—

"protected income" means the income that forms PFSI in the calculation of the settlement's available protected income in the case of the relevant individual for the year, and

"the relevant individual"—
   (a) where the deemed income is treated as income of an individual by section 643A(1)(a) both before and after the application of section 643A(3) and (4), means that individual, and
   (b) where the deemed income is treated as income of the settlor by section 643A(3) or (4) after having been treated as income

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of another individual by section 643A(1), means that other individual.

**643G Section 643F(4): benefits and income "relating" to deemed income**

(1) In this section—

(a) references to a step are to a step under section 643B(1) as it applies in the case of the settlement, the year and the relevant individual,

(b) "protected income" and "the relevant individual" have the meaning given by section 643F(6), and

(c) "the settlement" and "the year" mean, respectively, the settlement and tax year mentioned in section 643F.

(2) For the purposes of section 643F(4)—

(a) place the benefits identified at Step 1 in the order in which they were received by the relevant individual (starting with the earliest benefit received),

(b) where a deduction is allowed by any of paragraphs (a), (c) and (d) of Step 3 by reference to the whole or part of any of those benefits, reduce the benefit by the amount of the deduction,

(c) place the protected income in the order in which it arose (starting with the earliest income to arise),

(d) where the whole or part of an item of the protected income is, in respect of benefits provided by the trustees in the year or in any earlier tax year, taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) for the year or any earlier tax year, reduce the item by so much of itself as is so taken into account,

(e) where the whole or part of an item of the protected income is, by reference to benefits provided by the trustees to individuals other than the relevant individual, treated by section 643A or 643J or 643L as income for the year or any earlier tax year, reduce the item by so much of itself as is so treated,"

(f) place the income treated by section 643A(1) (before the application of section 643A(3) and (4)) as arising to the relevant individual in respect of the benefits referred to in paragraph (a) in the order in which it is treated as arising (starting with the earliest income treated as having arisen), and

(g) treat the income mentioned in paragraph (f) as related to—

(i) the benefits referred to in paragraph (a), and

(ii) the protected income,

by matching the income mentioned in paragraph (f) with those benefits and the protected income (in the orders mentioned in paragraphs (a), (c) and (f)).

(3) For the purposes of subsection (2)(d), the whole or part of an item of the protected income is to be treated as taken into account in respect of a benefit so far as the item or part—

(a) is matched under section 735A of ITA 2007 with notional income with which the benefit is matched under that section, or

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(b) would be matched under that section (if it applied also for this purpose) with notional income with which the benefit would be matched under that section (if it applied also for this purpose),

and here "notional income" means income which is treated as arising under section 732 of ITA 2007.

### 643H Meaning of close member of settlor's family in sections 643B to 643M

(1) For the purposes of sections 643B to 643M, a person is a close member of the family of the settlor of a settlement at any time if the settlor is living at that time and—

(a) the person is the settlor's spouse or civil partner at that time, or

(b) the person—

(i) is a child of the settlor, or of a person who at that time is the settlor's spouse or civil partner, and

(ii) at that time has not reached the age of 18.

(2) For the purposes of subsection (1)—

(a) two people living together as if they were spouses of each other are treated as if they were spouses of each other, and

(b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.

### 643I Recipients of onward gifts

(1) Sections 643J to 643L apply if—

(a) in the case of a settlement, an amount—

(i) is treated by section 643A(1)(a), both before and after the application of section 643A(3) and (4), as income of an individual ("the original beneficiary") for a tax year ("the matching year"), or

(ii) having been treated by section 643A(1) before the application of section 643A(3) and (4) as income of an individual ("the original beneficiary") for a tax year ("the matching year"), is treated by section 643A(3) or (4) as income of the settlor for the matching year, or

(iii) is treated by section 643A(1)(b), before the application of section 643A(3) and (4), as income of an individual ("the original beneficiary") for a tax year ("the matching year") but is not treated by section 643A(3), and is not treated by section 643A(4), as income of the settlor for the matching year,

(b) under section 643G (if it applied also for this purpose) the amount would be matched with a benefit provided in the matching year, or an earlier tax year, to the original beneficiary,

(c) at the time the benefit is provided to the original beneficiary—

(i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole, or part, of the benefit to another person, and

(ii) it is reasonable to expect that, in the event of the whole or part of the benefit being passed on to another person as envisaged by the arrangements or intention, that other person will be UK resident when they receive at least part of what is passed on to them,

(d) the original beneficiary makes, directly or indirectly, a gift ("the onward payment") to a person ("the subsequent recipient")—

(i) at the time the benefit is provided to the original beneficiary, or at any later time in the 3 years beginning with the day containing the start time, or

(ii) at any time before the benefit is provided to the original beneficiary and, it is reasonable to assume, in anticipation of the benefit being provided,

(e) the gift is of or includes—

(i) the whole or part of the benefit,

(ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the benefit, or

(iii) any other property, but only if the benefit is provided with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient,

(f) in a case within paragraph (a)(i), either—

(i) the original beneficiary is non-UK resident for the matching year, or

(ii) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the original beneficiary for the matching year and none of the amount is relevantly remitted in the matching year or in any tax year later than the matching year but not later than the tax year in which the onward payment is made,

(g) in a case within paragraph (a)(ii), section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the settlor for the matching year and none of the amount is relevantly remitted in the matching year or in any tax year later than the matching year but not later than the tax year in which the onward payment is made, and

(h) the subsequent recipient—

(i) is the settlor, or

(ii) is a close member of the settlor's family (see section 643H) at the time the onward payment is made or, where that time is given by subsection (4), at either or both of the time so given and the actual time the onward payment is made.

(2) Where, in a case within subsection (1)(a)(i) and by reference to the amount mentioned in subsection (1)(a), income is treated by section 643J or 643L as arising to a person for a tax year, the original beneficiary is not liable to tax for any later tax year on so much of the amount mentioned in subsection (1)(a) as is equal to that income; and where, in a case within subsection (1)(a)(ii) and by reference to the amount mentioned in subsection (1)(a), income is treated by section 643J as arising to a person for a tax year, the settlor is not liable to tax for any later tax year on so much of the amount mentioned in subsection (1)(a) as is equal to that income.

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(3) The amount mentioned in subsection (1)(a) need not be—

(a) the whole amount that in the case of the settlement is treated by section 643A(1), before the application of section 643A(3) and (4), as income of the original beneficiary for the matching year;

(b) the whole amount that would be matched with the benefit mentioned in subsection (1)(b).

(4) Where the onward payment is made as mentioned in subsection (1)(d)(ii), the onward payment is to be treated—

(a) for the purposes of the provisions of this section following subsection (1)(d), and

(b) for the purposes of sections 643J to 643L,

as made immediately after, and in the tax year in which, the benefit is provided to the original beneficiary.

(5) For the purposes of subsection (1)(d)(i)—

(a) if the amount mentioned in subsection (1)(a) is not one that is treated as arising by section 643K, "the start time"—

(i) is the time the benefit mentioned in subsection (1)(b) is provided to the original beneficiary, or

(ii) where that benefit is one that section 643M(3) treats as provided, is the time the original benefit in that case (see section 643M(1)(a)) is provided, and

(b) if the amount mentioned in subsection (1)(a) is one that is treated as arising by section 643K in connection with the operation of this section and section 643K on a previous occasion, "the start time" is the time given by this subsection as the start time on that occasion.

(6) Where subsection (1)(d) and (e) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(c) is also met in that case.

(7) In this section (and sections 643J to 643L)—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"the charging year" means the gift year or, if later, the matching year,

"gift" includes any benefit,

"the gift year" means the tax year in which the onward payment is made (but see subsection (4)),

"make", in relation to a gift that is a benefit, means confer, and

"relevantly remitted" means remitted to the United Kingdom in a tax year for which the original beneficiary is UK resident but, in a case within subsection (1)(a)(ii), means remitted to the United Kingdom in a tax year for which the settlor is UK resident.

(8) Sections 742C to 742E of ITA 2007 (value of certain benefits)—

(a) apply for the purpose of calculating the value of the onward payment for the purposes of sections 643J to 643L as they apply for the purpose of calculating an income tax charge under Chapter 2 of Part 13 of ITA 2007, and

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(b) apply for that purpose as if their references to a benefit provided were references to a gift made.

(9) Sections 809L to 809Z6 of ITA 2007 (remittance basis: rules about when income is remitted)—

(a) apply for the purposes of this section and sections 643J to 643L, and

(b) apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were relevant foreign income of the subsequent recipient.

**643J Cases where income treated as arising to recipient of onward gift**

(1) Subsection (3) applies if—

(a) this section applies (see section 643I(1)), and

(b) the subsequent recipient is UK resident for the gift year, and

(c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and

(d) none of sections 809B, 809D and 809E of ITA 2007 (remittance basis) applies to the subsequent recipient for the charging year.

(2) Subsection (3) also applies if—

(a) this section applies (see section 643I(1)), and

(b) the subsequent recipient is UK resident for the gift year, and

(c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and

(d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year, and

(e) the whole, or part only, of the onward payment is remitted to the United Kingdom in the charging year.

(3) For income tax purposes, an amount of income—

(a) equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e), or

(b) where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of that part,

is treated as income of the subsequent recipient for the charging year, subject to subsection (4).

(4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—

(a) deduct any part of the amount on which the subsequent recipient is liable to income tax otherwise than under this section, and

(b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 643I(1)(a), deduct the excess.

**643K Cases where deemed income attributed to recipient of onward gift**

(1) Subsection (3) applies if this section applies (see section 643I(1)) and—

(a) the subsequent recipient is non-UK resident for the gift year, or

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(b) the matching year is later than the gift year and the subsequent recipient is UK resident for the gift year but non-UK resident for the matching year.

(2) Subsection (3) also applies if—

(a) this section applies (see section 643I(1)), and

(b) the subsequent recipient is UK resident for the gift year, and

(c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and

(d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year, and

(e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year.

(3) Section 643I(1)(a) has effect—

(a) as if the subsequent recipient were an individual to whom, in the case of the settlement, income is treated by section 643A(1)(a), both before and after the application of section 643A(3) and (4), as arising for the charging year, and

(b) as if, subject to subsection (4), the amount of that income—

(i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e) and is not treated as arising to the settlor as a result of the operation of section 643L, or

(ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.

(4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in section 643I(1)(a) in the case of the original beneficiary, deduct the excess.

(5) Where the amount mentioned in section 643I(1)(a) is treated as arising by this section in connection with the operation of section 643I and this section on a previous occasion, section 643I(1) has effect—

(a) with the omission of its paragraphs (b) and (c),

(b) as if the references in its paragraph (d) to the benefit mentioned in its paragraph (b) were, instead, to what was the onward payment on that previous occasion,

(c) as if the references in its paragraph (d) to when that benefit is provided were, instead, to when that onward payment was made, and

(d) as if the references in its paragraph (e) to that benefit were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of that paragraph.

### 643L Cases where settlor liable following onward gift

(1) Subsection (3) applies if—

(a) this section applies (see section 643I(1)),

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(b) the subsequent recipient is a close member of the settlor's family (see section 643H) when the onward payment is made,

(c) the subsequent recipient is UK resident for the charging year,

(d) section 809B, 809D or 809E of ITA 2007 applies to the subsequent recipient for the charging year,

(e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year,

(f) there is a time in the charging year when the settlor is UK resident,

(g) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and

(h) there is no time in the charging year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.

(2) Subsection (3) also applies if—

(a) this section applies (see section 643I(1)),

(b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,

(c) the subsequent recipient is non-UK resident for the charging year,

(d) there is a time in the charging year when the settlor is UK resident,

(e) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and

(f) there is no time in the charging year when the settlor is regarded for the purposes of section 809B(1)(b) of ITA 2007 as domiciled in the United Kingdom as a result of section 835BA of ITA 2007 having effect because of Condition A in that section being met.

(3) For income tax purposes, an amount of income—

(a) equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 643I(1)(e), or

(b) where this subsection applies because of subsection (1) in a case where part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment,

is treated as arising to the settlor for the charging year, subject to subsection (4).

(4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—

(a) deduct any part of the amount on which the settlor is liable to income tax otherwise than under this section, and

(b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 643I(1)(a), deduct the excess.

(5) Where any tax for which the settlor is liable as a result of subsections (3) and (4) is paid, the settlor is entitled to recover the amount of the tax from the subsequent recipient.

(6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—

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(a) the amount of the income concerned, and
(b) the amount of tax paid,

and any such certificate is conclusive evidence of the facts stated in it.

**643M Onward gift to settlor or close family member by other recipient**

(1) Subsection (3) applies if—

(a) the trustees of a settlement provide a benefit ("the original benefit") to an individual ("the original recipient"),
(b) the original recipient is not the settlor,
(c) at the time the original benefit is provided, the original recipient is not a close member of the settlor's family (see section 643H),
(d) the original recipient is not taxed on the original benefit (see subsection (7)),
(e) at the time the original benefit is provided—
    (i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole, or part, of the original benefit to another person, and
    (ii) it is reasonable to expect that, in the event of the whole or part of the original benefit being passed on to another person as envisaged by the arrangements or intention, that other person will be UK resident when they receive at least part of what is passed on to them,
(f) the original recipient makes, directly or indirectly, a gift ("the onward payment") to a person ("the subsequent recipient")—
    (i) at the time the original benefit is provided to the original recipient, or at any later time in the 3 years beginning with the day containing that time, or
    (ii) at any time before the original benefit is provided to the original recipient and, it is reasonable to assume, in anticipation of the original benefit being provided,
(g) the gift is of or includes—
    (i) the whole or part of the original benefit,
    (ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of the original benefit, or
    (iii) any other property, but only if the original benefit is provided with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient, and
(h) the subsequent recipient—
    (i) is the settlor, or
    (ii) is a close member of the settlor's family at the time the onward payment is made or, where that time is given by subsection (4), at either or both of the time so given and the actual time the onward payment is made.

(2) Where—

(a) there is a series of two or more gifts,

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(b) the first gift in the series is made, directly or indirectly, by the original recipient—

(i) at the time the original benefit is provided, or at any later time in the 3 years beginning with the day containing that time, or

(ii) at any time before the original benefit is provided and, it is reasonable to assume, in anticipation of the original benefit being provided,

(c) the recipient of a gift in the series is the person who makes, directly or indirectly, the next gift in the series,

(d) the recipient of the last gift in the series is the settlor or, at the time that last gift is made, is a close member of the settlor's family,

(e) as regards any earlier gift in the series, its recipient—

(i) is not the settlor, and

(ii) is not, at the time that earlier gift is made, a close member of the settlor's family, and

(f) the condition in subsection (1)(g) is met in relation to each gift in the series,

the last gift in the series is to be treated for the purposes of subsection (1)(f) as if its maker were the original recipient (and not its actual maker).

(3) So much of the onward payment as is within any of sub-paragraphs (i) to (iii) of subsection (1)(g) is treated for the purposes of Step 1 in section 643B(1) as a benefit provided by the trustees to the subsequent recipient at the time the onward payment is made.

(4) Where the onward payment is made as mentioned in subsection (1)(f)(ii), the onward payment is to be treated, for the purposes of subsections (1)(h) and (3), as made immediately after, and in the tax year in which, the original benefit is provided to the original recipient.

(5) Where subsection (1)(f) to (h) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(e) is also met in that case.

(6) Where the benefit mentioned in section 643I(1)(b) is one that subsection (3) of this section treats as provided, section 643I(1) has effect with the omission of its paragraph (c).

(7) For the purposes of subsection (1)(d), the original recipient is taxed on the original benefit if the original recipient is liable to income tax, or capital gains tax, by reference to the amount or value of the original benefit; and where the original recipient is so liable by reference to the amount or value of part only of the original benefit, this section applies as if the two parts of the original benefit were separate benefits.

(8) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"gift" includes any benefit, and

"make", in relation to a gift that is a benefit, means confer,

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and see also section 643B(4) to (7) (interpretation of references to provision of benefits by trustees).

**643N Person liable under section 643J or 643L and remittance basis applies**

(1) This section applies in relation to income if—

(a) the income is treated as arising to an individual for a tax year—

(i) by section 643J(3) and (4) where section 643J(3) applies because of section 643J(2), or

(ii) by section 643L, and

(b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for that year.

(2) The income is treated as relevant foreign income of the individual.

(3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) treat the onward payment, or (as the case may be) the part of it whose amount or value is equal to the amount of the income, as deriving from the income.

(4) In the application of section 832 in relation to the income, subsection (2) of that section has effect with the omission of its paragraph (b).”

*ITA 2007*

12 Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) is amended as follows.

13 (1) Section 731 (charge to tax on income treated as arising under section 732) is amended as follows.

(2) After subsection (1B) insert—

“(1C) Subsection (1A) does not restrict the charge to tax under this section on income treated as arising to the individual by section 733C or 733E (onward gifts: recipient or settlor treated as individual to whom income is treated as arising).”

(3) In subsection (2A) (which signposts section 735), for “section 735” substitute “ sections 735, 735B and 735C ”.

14 In section 732(1)(e) (where benefit received, income treated as arising only if no tax on benefit apart from section 731)—

(a) after “is not liable to income tax” insert “ , under any provision that is none of section 731 of this Act and sections 643A, 643J and 643L of ITTOIA 2005, ”, and

(b) omit “(apart from section 731)”.

15 In section 733A(7) (meaning of “close member” of settlor's family), for the words after “family of the settlor” substitute “at any time if the settlor is living at that time and—

(a) the person is the settlor's spouse or civil partner at that time, or

(b) the person—

(i) is a child of the settlor, or of a person who at that time is the settlor's spouse or civil partner, and

(ii) at that time has not reached the age of 18.”

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16 After section 733A insert—

"**733B Recipients of onward gifts**

(1) Sections 733C to 733E apply if—

(a) an amount of income is treated as arising under section 732 to an individual ("the original beneficiary") in a tax year ("the arising year") but neither by section 733C nor by section 733E,

(b) under section 735A (if it applied also for this purpose) that amount would be matched—

(i) with an amount of relevant income that is protected income for the purposes of section 733A(1)(b)(i) (see sections 721(3BA) and 728(1B)), and

(ii) with the whole or part of a benefit received by the original beneficiary,

(c) at the time that benefit is received by the original beneficiary ("the distribution time")—

(i) there are arrangements, or there is an intention, as regards the (direct or indirect) passing-on of the whole or part of that benefit to another person, and

(ii) it is reasonable to expect that, in the event of the whole or part of that benefit being passed on to another person as envisaged by the arrangements or intention, that other person will be UK resident when they receive at least part of what is passed on to them,

(d) the original beneficiary makes, directly or indirectly, a gift ("the onward payment") to a person ("the subsequent recipient")—

(i) at the distribution time, or at any later time in the 3 years beginning with the start time, or

(ii) at any time before the distribution time and, it is reasonable to assume, in anticipation of receipt of the benefit mentioned in paragraph (b)(ii),

(e) the gift is of or includes—

(i) the whole or part of the benefit mentioned in paragraph (b)(ii),

(ii) anything that (wholly or in part, and directly or indirectly) derives from, or represents, the whole or part of that benefit, or

(iii) any other property, but only if the benefit mentioned in paragraph (b)(ii) is provided with a view to enabling or facilitating, or otherwise in connection with, the making of the gift of the property to the subsequent recipient,

(f) except where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in paragraph (a), either—

(i) the original beneficiary is non-UK resident for the arising year, or

(ii) section 809B or 809D or 809E (remittance basis) applies to the original beneficiary for the arising year and none of the

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amount mentioned in paragraph (a) is relevantly remitted before the end of the charging year, and

(g) where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in paragraph (a), section 809B or 809D or 809E applies to that individual for the arising year and none of the amount mentioned in paragraph (a) is relevantly remitted before the end of the charging year.

(2) If—

(a) the amount mentioned in subsection (1)(a) is not treated as arising by section 733D (and neither by section 733C nor by section 733E),

(b) except where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on that amount, section 809B or 809D or 809E applies to the original beneficiary for the arising year,

(c) where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on that amount, section 809B or 809D or 809E applies to that individual for the arising year, and

(d) part only of that amount is relevantly remitted before the end of the charging year,

subsection (1)(a) is to be treated as referring instead only to the remainder of that amount.

(3) The original beneficiary is not liable to tax for any year after the charging year on so much of the amount mentioned in subsection (1)(a) as is—

(a) treated as arising to the subsequent recipient by section 733C, or

(b) treated as arising to the settlor by section 733E;

and the settlor is not is liable under section 733A(2) or (3) to tax for any year after the charging year on so much of the amount mentioned in subsection (1)(a) as is treated as arising to the subsequent recipient by section 733C.

(4) For the purposes of subsection (1)(d)(i)—

(a) if the amount mentioned in subsection (1)(a) is not one that is treated as arising by section 733D, "the start time" is the time the benefit mentioned in subsection (1)(b) is provided to the original beneficiary, and

(b) if the amount mentioned in subsection (1)(a) is one that is treated as arising by section 733D in connection with the operation of this section on a previous occasion, "the start time" is the time given by this subsection as the start time on that occasion.

(5) Where the onward payment is made as mentioned in subsection (1)(d)(ii), the onward payment is to be treated—

(a) for the purposes of the provisions of this section following subsection (1)(d), and

(b) for the purposes of sections 733C to 733E,

as made immediately after, and in the tax year containing, the distribution time.

(6) Where subsection (1)(d) and (e) are met in any case, it is to be presumed (unless the contrary is shown) that subsection (1)(c) is also met in that case.

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(7) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"the charging year" means the gift year or, if later, the matching year,

"gift" includes any benefit,

"the gift year" means the tax year in which the onward payment is made, but see subsection (5),

"make", in relation to a gift that is a benefit, means provide,

"the matching year" means the first tax year in which the matching mentioned in subsection (1)(b) would occur,

"relevantly remitted" means remitted to the United Kingdom in a tax year for which the original beneficiary is UK resident but, where an individual is liable as a result of section 733A(2) or (3) for the tax charged under section 731 on the amount mentioned in subsection (1)(a), means remitted to the United Kingdom in a tax year for which that individual is UK resident, and

"the settlor" means the settlor of the settlement, mentioned in section 721A(3) or (4) or 729A(3) or (4), which because of subsection (1)(b)(i) is the settlement concerned.

(8) Sections 742C to 742E (value of benefit provided to a person) apply in relation to the onward payment as if references in those sections to a benefit provided were references to a gift made.

(9) Sections 809L to 809Z6 (remittance basis: rules about when income is remitted, including rule treating pre-arising remittances of deemed income as made when the income arises)—

(a) apply for the purposes of this section and sections 733C to 733E, and

(b) apply for those purposes in relation to references to remittance of the onward payment as if the onward payment were relevant foreign income of the subsequent recipient.

**733C Cases where income treated as arising to recipient of onward gift**

(1) Subsection (3) applies if—

(a) this section applies (see section 733B(1)), and

(b) the subsequent recipient is UK resident for the gift year, and

(c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and

(d) none of sections 809B, 809D and 809E applies to the subsequent recipient for the charging year.

(2) Subsection (3) also applies if—

(a) this section applies (see section 733B(1)), and

(b) the subsequent recipient is UK resident for the gift year, and

(c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and

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(d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year, and

(e) the whole, or part only, of the onward payment is remitted to the United Kingdom in the charging year.

(3) Section 731 has effect—

(a) as if the subsequent recipient were an individual to whom income is treated as arising under section 732 for the charging year, and

(b) as if, subject to subsection (4), the amount of that income—

(i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e), or

(ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of that part.

(4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows—

(a) deduct any part of the amount on which the subsequent recipient is liable to income tax otherwise than under this section, and

(b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 733B(1)(a), deduct the excess.

**733D Cases where deemed income attributed to recipient of onward gift**

(1) Subsection (3) applies if this section applies (see section 733B(1)) and—

(a) the subsequent recipient is non-UK resident for the gift year, or

(b) the matching year is later than the gift year and the subsequent recipient is UK resident for the gift year but non-UK resident for the matching year.

(2) Subsection (3) also applies if—

(a) this section applies (see section 733B(1)), and

(b) the subsequent recipient is UK resident for the gift year, and

(c) the subsequent recipient is UK resident for the matching year if that is later than the gift year, and

(d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year, and

(e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year.

(3) Section 733B(1)(a) has effect—

(a) as if the subsequent recipient were an individual to whom income is treated as arising under section 732 for the charging year, and

(b) as if, subject to subsection (4), the amount of that income—

(i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e) and is not treated as arising to someone other than the subsequent recipient as a result of the operation of section 733E, or

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(ii) were, where this subsection applies because of subsection (2) and part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.

(4) The amount given by subsection (3) (before adjustment under this subsection) is to be adjusted as follows: if that amount exceeds the amount mentioned in section 733B(1)(a) in the case of the original beneficiary, deduct the excess.

(5) Where the amount mentioned in section 733B(1)(a) is one treated as arising by this section in connection with the operation of section 733B and this section on a previous occasion, section 733B(1) has effect—

(a) with the omission of its paragraphs (b) and (c),

(b) as if the reference in its paragraph (d) to the benefit mentioned in its paragraph (b)(ii) were, instead, to what was the onward payment on that previous occasion,

(c) as if the references in its paragraph (d) to the distribution time were, instead, to the time when that onward payment was made, and

(d) as if the references in its paragraph (e) to the benefit mentioned in its paragraph (b)(ii) were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of its paragraph (e).

**733E Cases where settlor liable following onward gift**

(1) Subsection (3) applies if—

(a) this section applies (see section 733B(1)),

(b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,

(c) the subsequent recipient is UK resident for the charging year,

(d) section 809B, 809D or 809E applies to the subsequent recipient for the charging year,

(e) none, or part only, of the onward payment is remitted to the United Kingdom in the charging year,

(f) there is a time in the charging year when the settlor is UK resident,

(g) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and

(h) there is no time in the charging year when the settlor is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.

(2) Subsection (3) also applies if—

(a) this section applies (see section 733B(1)),

(b) the subsequent recipient is a close member of the settlor's family when the onward payment is made,

(c) the subsequent recipient is non-UK resident for the charging year,

(d) there is a time in the charging year when the settlor is UK resident,

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(e) there is no time in the charging year when the settlor is domiciled in the United Kingdom, and

(f) there is no time in the charging year when the settlor is regarded for the purposes of section 718(1)(b) as domiciled in the United Kingdom as a result of section 835BA having effect because of Condition A in that section being met.

(3) Section 731 applies—

(a) as if the settlor were an individual to whom income is treated as arising under section 732 for the charging year, and

(b) as if, subject to subsection (4), the amount of that income—

(i) were equal to the amount or value of so much of the onward payment as is within any of sub-paragraphs (i) to (iii) of section 733B(1)(e), or

(ii) were, where this subsection applies because of subsection (1) in a case where part only of that much of the onward payment is remitted to the United Kingdom in the charging year, equal to the amount or value of the remainder of that much of the onward payment.

(4) The amount given by subsection (3)(b) (before adjustment under this subsection) is to be adjusted as follows—

(a) deduct any part of the amount on which the settlor is liable to income tax otherwise than under this section, and

(b) if following any adjustment under paragraph (a) the amount exceeds the amount mentioned in section 733B(1)(a), deduct the excess.

(5) Where any tax for which the settlor is liable as a result of subsections (3) and (4) is paid, the settlor is entitled to recover the amount of the tax from the subsequent recipient.

(6) For the purpose of recovering that amount, the settlor is entitled to require an officer of Revenue and Customs to give the settlor a certificate specifying—

(a) the amount of the income concerned, and

(b) the amount of tax paid,

and any such certificate is conclusive evidence of the facts stated in it.

(7) In this section—

(a) "the settlor" means the settlor of the settlement, mentioned in section 721A(3) or (4) or 729A(3) or (4), which because of section 733B(1)(b)(i) is the settlement concerned, and

(b) "close member", in relation to the family of the settlor, is to be read in accordance with section 733A(7) and (8)."

17 In section 734 (amount charged under section 731 is reduced by prior gains)—

(a) in subsection (1) omit paragraphs (b) and (c), but not the "and" at the end of paragraph (c),

(b) for subsection (1)(d) substitute—

"(d) chargeable gains are treated by section 87, 87K, 87L or 89(2) of, or paragraph 8 of Schedule 4C to, TCGA 1992 as accruing to a person in that or a subsequent tax year by

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reference (direct or indirect) to the whole or part of any benefits so provided.", and

(c) in subsection (4)—

(i) for "and "the available relevant income" have" substitute " has ", and

(ii) for "Steps 2 and 5" substitute " Step 2 ".

18 After section 734 insert—

"**734A Reduction in amount charged: previous settlements charge**

(1) This section applies if—

(a) benefits provided as mentioned in section 732(1)(c) are received in a tax year, and

(b) income is treated by section 643A, 643J or 643L of ITTOIA 2005 as arising to a person in that or a subsequent tax year by reference (direct or indirect) to the whole or part of any benefits so provided.

(2) For any tax year after one in which such income is so treated, the amount of income treated as arising to the individual under section 732(2) in respect of benefits provided as mentioned in section 732(1)(c) as a result of the transfer or operations in question is calculated as follows.

(3) The amount is calculated under section 733(1) as if the total untaxed benefits were reduced by the amount of that income.

(4) In this section "the total untaxed benefits" has the same meaning as in section 733(1) (see Step 2)."

19 After section 735B insert—

"**735C Person liable under section 733C or 733E and remittance basis applies**

(1) This section applies in relation to income if—

(a) the income is treated as arising to an individual for a tax year—

(i) as a result of the operation of section 733C(3) and (4) where section 733C(3) applies because of section 733C(2), or

(ii) as a result of the operation of section 733E, and

(b) section 809B, 809D or 809E (remittance basis) applies to the individual for that year.

(2) The income is treated as relevant foreign income of the individual.

(3) For the purposes of Chapter A1 of Part 14 (remittance basis) treat the onward payment, or (as the case may be) the part of it whose amount or value is equal to the amount of the income, as deriving from the income.

(4) In the application of section 832 of ITTOIA 2005 in relation to the income, subsection (2) of that section has effect with the omission of its paragraph (b)."

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*Consequential amendments*

20 (1) Section 97 of TCGA 1992 (settlements: supplementary provisions) is amended as follows.

(2) In subsection (1)(a) (meaning of "capital payment"), for "not chargeable to income tax on the recipient or," substitute "neither—

(i) chargeable to income tax on the recipient, nor

(ii) chargeable to income tax on another person under any of sections 643A, 643J and 643L of ITTOIA 2005 and sections 733A, 733C and 733E of ITA 2007,

or, ".

(3) In subsection (3) (cases where benefit may be treated as chargeable gain and as income), for "section 733 of ITA 2007 treated as the recipient's" substitute "section 643A or 643J or 643L of ITTOIA 2005, or sections 731 to 733E of ITA 2007, treated as an individual's".

(4) In consequence of sub-paragraph (3), in Schedule 1 to ITA 2007 omit paragraph 302.

(5) The references to section 733A of ITA 2007 that are inserted by sub-paragraphs (2) and (3) include that section as it has effect for the tax year 2017-18.

*Commencement etc of amendments in ITTOIA 2005 and ITA 2007*

21 (1) Subject as follows, the amendments made by paragraphs 3 to 19 have effect for the tax year 2018-19 and subsequent tax years.

(2) None of the references to an earlier tax year in Step 1 of the new section 643B(1) of ITTOIA 2005, or in new section 643C(2) of ITTOIA 2005, includes any tax year earlier than the tax year 2018-19 except that, in the phrase "benefits provided by the trustees in the year or in an earlier tax year" in the definition of "TOAA" in new section 643C(2) of ITTOIA 2005, the reference to an earlier tax year does include tax years earlier than the tax year 2018-19.

(3) New sections 643I to 643L and 643N of ITTOIA 2005 have effect only in relation to onward payments made on or after 6 April 2018.

(4) New section 643M of ITTOIA 2005, and new sections 733B to 733E and 735C of ITA 2007, have effect only in relation to onward payments made on or after 6 April 2018, but have effect in relation to an onward payment made on or after that date even where the onward payment is referable to a benefit received before that date.

(5) The amendment in section 733A(7) of ITA 2007 made by paragraph 15 also has effect for the tax year 2017-18.

22 The new section 643D(3) of ITTOIA 2005 is to be treated as inserted by the Treasury under the powers to make regulations conferred by section 354 of TIOPA 2010.

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# SCHEDULE 11 U.K.

Section 40

## STAMP DUTY LAND TAX: HIGHER RATES FOR ADDITIONAL DWELLINGS

1 Schedule 4ZA to FA 2003 (stamp duty land tax: higher rates for additional dwellings and dwellings purchased by companies) is amended as follows.

*Previous residence required to be disposed of entirely*

2 (1) Paragraph 3 (single dwelling transactions: purchaser is an individual) is amended as follows.

(2) In sub-paragraph (6)—

(a) after paragraph (b) insert—

"(ba) immediately after the effective date of the previous transaction, neither the purchaser nor the purchaser's spouse or civil partner had a major interest in the sold dwelling," and

(b) in paragraph (c) for "that period of three years" substitute " the period of three years referred to in paragraph (b) ".

(3) After sub-paragraph (6) insert—

"(6A) Sub-paragraph (6)(ba) does not apply in relation to a spouse or civil partner of the purchaser if the two of them were not living together (see paragraph 9(3)) on the effective date of the transaction concerned."

(4) In sub-paragraph (7) after paragraph (b) (but before "and") insert—

"(ba) immediately after the effective date of that other land transaction, neither the purchaser nor the purchaser's spouse or civil partner has a major interest in the sold dwelling,".

(5) After sub-paragraph (7) insert—

"(8) Sub-paragraph (7)(ba) does not apply in relation to a spouse or civil partner of the purchaser if the two of them are not living together (see paragraph 9(3)) on the effective date of that other land transaction."

*Exception where purchaser has prior interest in purchased dwelling*

3 After paragraph 7 insert—

*"Exception where purchaser has prior interest in purchased dwelling*

7A (1) A chargeable transaction which would (but for this paragraph) fall within paragraph 3 or paragraph 6 does not fall within that paragraph if—

(a) the purchaser had a major interest ("the prior interest") in the relevant purchased dwelling immediately before the effective date of the transaction, and

(b) the relevant purchased dwelling had been the purchaser's only or main residence throughout the period of three years ending with the effective date of the transaction.

(2) Sub-paragraph (1) does not apply if—

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(a) the prior interest is a term of years absolute or a leasehold estate, and
(b) immediately before the effective date of the transaction, the remaining term of the prior interest is less than 21 years.

(3) Sub-paragraph (1) does not apply if immediately before the effective date of the transaction—
(a) the purchaser is beneficially entitled as a joint tenant to the prior interest, and
(b) there are more than three other joint tenants.

(4) Sub-paragraph (1) does not apply if immediately before the effective date of the transaction the purchaser is beneficially entitled as a tenant in common or coparcener to less than a quarter of the prior interest.

(5) In this paragraph "relevant purchased dwelling" means—
(a) the purchased dwelling mentioned in paragraph 3(1)(b), or (as the case may be)
(b) the purchased dwelling which meets the conditions mentioned in paragraph 6(1)(c)."

*Exception where spouses and civil partners purchasing from one another*

4 After paragraph 9 insert—

*"Spouses and civil partners purchasing from one another*

9A (1) A chargeable transaction is not a higher rates transaction for the purposes of paragraph 1 if—
(a) there is only one purchaser,
(b) there is only one vendor, and
(c) on the effective date of the transaction the two of them are—
(i) married to, or civil partners of, each other, and
(ii) living together (see paragraph 9(3)).

(2) Where—
(a) there are two purchasers in relation to a chargeable transaction, and
(b) one of them ("P") is also the vendor in relation to the transaction,

P is to be treated for the purposes of sub-paragraph (1) as not being a purchaser.

(3) Where—
(a) there are two vendors in relation to a chargeable transaction, and
(b) one of them ("V") is also the purchaser in relation to the transaction,

V is to be treated for the purposes of sub-paragraph (1) as not being a vendor."

*Property adjustment on divorce, dissolution of civil partnership etc*

5 After paragraph 9A (as inserted by paragraph 4 of this Schedule) insert—

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*"Property adjustment on divorce, dissolution of civil partnership etc*

9B (1) This paragraph applies where—

(a) a person ("A") has a major interest in a dwelling,

(b) a property adjustment order has been made in respect of the interest for the benefit of another person ("B"), and

(c) the dwelling—

(i) is B's only or main residence, and

(ii) is not A's only or main residence.

(2) A is to be treated for the purposes of this Schedule as not having the interest in the dwelling.

(3) "Property adjustment order" means—

(a) an order under section 24(1)(b) of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),

(b) an order under section 17(1)(a)(ii) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce) corresponding to such an order as is mentioned in paragraph (a),

(c) an order under Article 26(1)(b) of the Matrimonial Causes (Northern Ireland) Order 1978 (property adjustment orders in connection with divorce proceedings etc),

(d) an order under Article 21(a)(ii) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (property adjustment orders after overseas divorce) corresponding to such an order as is mentioned in paragraph (c),

(e) an order under paragraph 7(1)(b) of Schedule 5 or paragraph 7(1)(b) of Schedule 15 to the Civil Partnership Act 2004 (property adjustment orders in connection with dissolution etc of civil partnership), or

(f) an order under paragraph 9 of Schedule 7 or paragraph 9 of Schedule 17 to the Civil Partnership Act 2004 (property adjustment orders in connection with overseas dissolution etc of civil partnership) corresponding to such an order as is mentioned in paragraph (e)."

*Purchase etc by person appointed under Mental Capacity Act 2005 to make decisions for a child*

6 (1) In paragraph 12 (settlements and bare trusts with beneficiaries who are children) after sub-paragraph (1) insert—

"(1A) But this paragraph does not apply if the trustee (or any of the trustees) of the settlement or bare trust concerned—

(a) was the purchaser in relation to the land transaction,

(b) holds the interest in the dwelling, or

(c) disposed of the interest in the dwelling,

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in the exercise of powers conferred on the trustee by reason of a relevant court appointment made in respect of the child concerned.

(1B) In sub-paragraph (1A) "relevant court appointment" means—

(a) an appointment under section 16 of the Mental Capacity Act 2005,

(b) an appointment under section 113 of the Mental Capacity Act (Northern Ireland) 2016, or

(c) an equivalent appointment under the law of a country or territory outside England, Wales and Northern Ireland."

(2) In paragraph 17 (dwellings outside England, Wales and Northern Ireland) after sub-paragraph (5) insert—

"(5A) Sub-paragraph (4) does not apply if the interest in the dwelling was acquired in the child's name or on the child's behalf by a person acting in exercise of powers conferred on that person by reason of a relevant court appointment made in respect of the child.

(5B) In sub-paragraph (5A) "relevant court appointment" has the meaning given by paragraph 12(1B)."

*Minor and consequential amendments*

7 In paragraph 2, after sub-paragraph (3) insert—

"(3A) Sub-paragraphs (2) and (3) are subject to paragraph 9A (spouses and civil partners purchasing from one another)."

8 (1) Paragraph 3 is amended as follows.

(2) After sub-paragraph (1) insert—

"(1A) But sub-paragraph (1) is subject to paragraph 7A."

(3) In sub-paragraph (7), in the opening words, for "may become" substitute " is also ".

9 In paragraph 6—

(a) after sub-paragraph (1) insert—

"(1A) But sub-paragraph (1) is subject to paragraph 7A.", and

(b) in sub-paragraph (3) for "and (7)" substitute " to (8) ".

10 In paragraph 8—

(a) in sub-paragraph (1) for "ceases to be" substitute " is not ",

(b) in sub-paragraph (2) for "was" substitute " is ",

(c) in sub-paragraph (3) for "its ceasing to be a higher rates transaction" substitute " the application of paragraph 3(7) ", and

(d) in sub-paragraph (4) for "its ceasing to be a higher rates transaction" substitute " the application of paragraph 3(7) ".

11 In paragraph 9(3) for "paragraph" substitute " Schedule ".

12 (1) Paragraph 12 is amended as follows.

(2) In sub-paragraph (2)(a) after "any" insert " relevant ".

(3) For sub-paragraph (3) substitute—

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"(3) For the purposes of sub-paragraph (2) a spouse or civil partner of P is "relevant" if the spouse or civil partner—

(a) is not a parent of the child, and

(b) is living together with P (see paragraph 9(3))."

(4) Omit sub-paragraph (4).

13 In the italic heading before paragraph 17 omit ", Wales".

14 (1) Paragraph 17 is amended as follows.

(2) In sub-paragraph (1) omit ", Wales".

(3) After sub-paragraph (1) insert—

"(1A) In the application of those provisions in relation to a dwelling situated in Wales—

(a) references to a "major interest" in the dwelling are to an interest in the dwelling of a kind mentioned in section 117(2),

(b) references to a "land transaction" in relation to the dwelling are to the acquisition of an interest in the dwelling, and

(c) references to the "effective date" of a land transaction in relation to the dwelling are to the date on which the interest in the dwelling is acquired."

(4) In sub-paragraph (3)—

(a) in the words before paragraph (a) after "(1)" insert " , (1A) ",

(b) in paragraph (a)—

(i) after "(6)(b)" insert " , (ba) ", and

(ii) after "(7)(b)" insert " , (ba) ", and

(c) after paragraph (b) insert—

"(ba) paragraph 9B,"

(5) In sub-paragraph (4)—

(a) omit ", Wales", and

(b) after "any" insert " relevant ".

(6) For sub-paragraph (5) substitute—

"(5) For the purposes of sub-paragraph (4) a spouse or civil partner of P is "relevant" if the spouse or civil partner—

(a) is not a parent of the child, and

(b) is living together with P (see paragraph 9(3))."

(7) Omit sub-paragraph (6).

15 In section 128(9)(b) of FA 2016 for " "during that period of three years"" substitute "the words from "during" to "paragraph (b)"".

*Commencement*

16 (1) The amendments made by this Schedule (other than those made by paragraphs 13 and 14(2), (3), (4)(a) and (5)(a)) have effect in relation to any land transaction of which the effective date is, or is after, 22 November 2017.

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(2) But the amendments made by paragraph 2 do not have effect in relation to a transaction—
  (a) effected in pursuance of a contract entered into and substantially performed before 22 November 2017, or
  (b) effected in pursuance of a contract entered into before that date and not excluded by sub-paragraph (3).

(3) A transaction effected in pursuance of a contract entered into before 22 November 2017 is excluded by this sub-paragraph if—
  (a) there is any variation of the contract, or assignment of rights under the contract, on or after 22 November 2017,
  (b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
  (c) on or after that date there is an assignment, subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.

(4) The amendments made by paragraphs 13 and 14(2), (3), (4)(a) and (5)(a) have effect in relation to any land transaction in relation to which the amendment made by section 16(2) of the Wales Act 2014 (disapplication of UK stamp duty land tax) has effect.

## SCHEDULE 12 U.K.

Section 42

### LANDFILL TAX: DISPOSALS NOT MADE AT LANDFILL SITES, ETC

### PART 1 U.K.

### AMENDMENTS OF PART 3 OF FA 1996

*Introduction*

1 Part 3 of FA 1996 (landfill tax) is amended as set out in the following provisions of this Part of this Schedule.

*Taxable disposals*

2 (1) Section 40 (charge to tax) is amended as follows.

(2) For subsection (2) substitute—

"(2) A taxable disposal takes place where material is disposed of and either—
  (a) the disposal is made at a landfill site (see subsection (4)), or
  (b) the disposal requires a permit or licence mentioned in subsection (4) but is not made at a landfill site."

(3) After subsection (3) insert—

"(4) Land is a landfill site at a given time if at that time—

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(a) a permit under regulations made under—
(i) section 2 of the Pollution Prevention and Control Act 1999, or
(ii) Article 4 of the Environment (Northern Ireland) Order 2002 (S.I. 2002/3153 (N.I. 7)),
is in force in relation to the land and authorises deposits or disposals in or on the land,
(b) a waste management licence issued under Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)) (waste on land) is in force in relation to the land and authorises deposits in or on the land, or
(c) a licence under any provision for the time being having effect in Northern Ireland and corresponding to section 35 of the Environmental Protection Act 1990 (waste management licences) is in force in relation to the land and authorises disposals in or on the land."

3 After section 40 insert—

"**40A Disposals of material**

(1) For the purposes of this Part, there is a disposal of material if—
(a) material is disposed of on the surface of land or on a structure set into the surface, or
(b) material is disposed of under the surface of land.

(2) For the purposes of subsection (1)(a) and (b) it does not matter whether the material is placed in a container before it is disposed of.

(3) For the purposes of subsection (1)(b) it does not matter whether the material—
(a) is covered after it is disposed of, or
(b) is disposed of in a cavity (such as a cavern or mine).

(4) If material is disposed of on the surface of land or on a structure set into the surface with a view to the material being covered, the disposal is to be treated as made when the material is disposed of and not when it is covered.

(5) An order may for the purposes of this Part provide for—
(a) material to be treated as disposed of in circumstances where it would not otherwise be so treated;
(b) material to be treated as not disposed of in circumstances where it would otherwise be so treated.

(6) An order under subsection (5) may, among other things, make provision by reference to—
(a) descriptions of material;
(b) the quantities disposed of;
(c) the nature of the site at which material is disposed of;
(d) the location of material in a site (for example, whether it is in a discrete unit within the site).

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(7) An order may for the purposes of this Part provide for a prohibited disposal to be treated as a disposal falling within paragraph (b) of section 40(2).

"Prohibited disposal" here means a disposal of material the disposal of which at a landfill site is prohibited by or by virtue of a prescribed enactment.

(8) An order under this section may make provision subject to exceptions, conditions or other qualifications."

*Liability to pay landfill tax*

4 (1) Section 41 (liability to pay tax) is amended as follows.

(2) In subsection (1), after "a taxable disposal" insert " made at a landfill site ".

(3) After subsection (2) insert—

"(3) A person is liable to pay tax charged on a taxable disposal not made at a landfill site if the person—

(a) makes the disposal, or

(b) knowingly causes or knowingly permits the disposal to be made.

(4) Every such person is jointly and severally liable to pay the tax charged.

(5) In the case of a taxable disposal not made at a landfill site, a person within subsection (6) or (7) is taken for the purposes of this Part to be a person who knowingly causes or knowingly permits the disposal to be made, unless it is shown to the satisfaction of the Commissioners that the person did not do so.

(6) A person is within this subsection if, before the time of the disposal of the material in question, the person—

(a) took any action with a view to the disposal of the material,

(b) was party to a contract for the sale of the material, or

(c) facilitated the transport or storage of the material.

(7) A person is within this subsection if at the time of the disposal the person—

(a) is the owner, or a lessee or occupier, of the land at which the disposal is made,

(b) controls, or is able to control, a vehicle or trailer from which the disposal is made, or

(c) is an officer of a body corporate or unincorporated association that is within subsection (3)(a) or (3)(b).

(8) In subsection (7)(c) "officer"—

(a) in relation to a body corporate, means a director, manager, secretary, chief executive or member of the committee of management, or a person purporting to act in such a capacity;

(b) in relation to an unincorporated association, means an officer of the association or a member of its governing body, or a person purporting to act in such a capacity."

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*Exemptions*

5 In section 43 (material removed from water), in subsections (1), (3), (4) and (5), after "A disposal" insert " made at a landfill site ".

6 In section 44 (mining and quarrying), in subsection (1), after "A disposal" insert " made at a landfill site ".

7 (1) Section 45 (pet cemeteries) is amended as follows.

(2) In subsection (1), after "A disposal" insert " made at a landfill site ".

(3) In subsection (2)—

(a) in paragraph (a), for "landfill disposal" substitute " disposal of material ";

(b) in paragraph (b), for "landfill disposals" substitute " disposals of material ".

8 In section 46 (power to vary), in subsection (2), before paragraph (a) insert—

"(za) confer exemption by reference to guidance (as it has effect from time to time) issued by—

(i) a body established by or under any enactment, or

(ii) a government department or an agency of a government department,

to the effect that particular kinds of disposal do not require a permit or licence mentioned in section 40(4);".

*Taxable activities*

9 (1) Section 69 (taxable activities) is amended as follows.

(2) For subsection (1) substitute—

"(1) A person carries out a taxable activity if the person—

(a) makes a taxable disposal (whether or not at a landfill site),

(b) permits a taxable disposal to be made at a landfill site, or

(c) knowingly causes or knowingly permits a taxable disposal to be made elsewhere than at a landfill site,

and the person is liable to pay tax in respect of the disposal."

(3) In subsection (2)—

(a) in paragraph (a), after "is made" insert " at a landfill site ";

(b) for "this section" substitute " subsection (1)(b) ".

*Taxable disposals etc: supplementary and consequential amendments*

10 In section 42 (amount of tax), in subsection (2)—

(a) for "Where the" substitute "Where—

(a) the";

(b) for "fines this section" substitute "fines, and

(b) the disposal is made at a landfill site,

this section".

11 In section 51 (credit: general), in subsection (1)(a), after "liable to pay tax" insert " in respect of the disposal of material at a landfill site ".

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12 In section 52 (bad debts), in subsection (1)(a), after "taxable activity" insert " at a landfill site ".

13 Omit sections 64 to 67.

14 (1) Section 70 (interpretation) is amended as follows.

(2) In subsection (1), at the appropriate places insert—

""disposal" and "dispose of" shall be construed in accordance with section 40A;";

""landfill site" has the meaning given by section 40(4);";

""operator", in relation to a landfill site, means the person who at the relevant time is the holder of the permit (where section 40(4)(a) applies) or the licence (where section 40(4)(b) or (c) applies);";

""taxable person" means a person who is liable to pay tax on a taxable disposal."

(3) Omit subsections (2) and (2A).

(4) In subsection (4), for "sections 64 to" substitute " sections 68 and ".

15 In section 71 (orders and regulations), in subsection (7)—

(a) before paragraph (a) insert—

"(za) an order under section 40A which has the result that anything which would not otherwise be a taxable disposal is a taxable disposal;";

(b) omit paragraphs (ca), (cb) and (d).

16 (1) Schedule 5 (landfill tax) is amended as follows.

(2) Omit paragraph 1B (information: site restoration).

(3) Before paragraph 2 insert—

*"Site information*

1C (1) Regulations may require the operator of a landfill site—

(a) to retain plans, permits and licences relating to the site;

(b) to provide the Commissioners with copies of, or information relating to, plans, permits and licences retained under paragraph (a).

(2) Regulations under sub-paragraph (1)(b) may be framed by reference to such copies or information as may be stipulated in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice."

(4) In paragraph 2A (records: material at landfill sites)—

(a) in the heading, after "landfill" insert " and other ";

(b) in sub-paragraph (1), for "relating to material" substitute "relating to—

(a) material";

(c) at the end of that sub-paragraph insert ", and

(b) material disposed of elsewhere than at a landfill site."

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***Changes to legislation:*** *There are currently no known outstanding effects for the Finance Act 2018. (See end of Document for details)*

(5) In paragraph 10 (power to take samples), in sub-paragraph (1) omit "as waste by way of landfill".

(6) In paragraph 45 (adjustment of disposal contracts), in sub-paragraphs (1)(a) and (c) and (2) omit "landfill".

(7) In paragraph 46 (adjustment of construction contracts), in sub-paragraph (1)(b) omit "landfill".

*Registration*

17 (1) Section 47 (registration) is amended as follows.

(2) In subsections (2)(a), (5) and (6), after "taxable activities" insert " at a landfill site ".

(3) After subsection (3) insert—

"(3A) A registered person who forms the intention of carrying out taxable activities elsewhere than at a landfill site shall notify the Commissioners of that intention."

(4) After subsection (5) insert—

"(5A) Where a person who is not registered carries out taxable activities elsewhere than at a landfill site, the Commissioners may register the person with effect from the date when the person begins carrying out those activities.

(5B) Subsections (2) to (5A) do not apply to a person within subsection (6) of section 41 who, but for that subsection, would not be treated as carrying out taxable activities."

(5) In subsection (6), for "a person" substitute " a registered person ".

(6) For subsection (9) substitute—

"(9) For the purposes of this section regulations may make—

(a) provision as to the time within which a notification is to be made (including provision enabling the Commissioners to grant an extension of time);

(b) provision as to the form and manner in which any notification is to be made and as to the information to be contained in or provided with it;

(c) provision as to the criteria that the Commissioners are to apply in deciding whether to register a person under subsection (5A);

(d) provision under which, in prescribed circumstances, taxable activities at a site within subsection (9B) may, on a provisional or conditional basis, be treated as carried out at a landfill site;

(e) provision requiring a person who has made a notification to notify the Commissioners if any information contained in or provided in connection with it is or becomes inaccurate;

(f) provision as to the correction of entries in the register (including provision for a person provisionally or conditionally registered by virtue of paragraph (d) to be treated, in prescribed circumstances, as never having been so registered).

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(9A) Provision made by regulations under subsection (9)(c) may be supplemented by provision made by notice published by the Commissioners in accordance with the regulations.

(9B) A site is within this subsection if—

(a) it is not a landfill site, or

(b) it not known at the relevant time whether it is a landfill site or not."

(7) For subsection (10) substitute—

"(10) In this Part—

"registered person" means—

(a) a person registered under subsection (5) or (5A), and

(b) a person who was registered under this section before the passing of FA 2018 and who remains registered;

"registrable person" means a person who carries out taxable activities (whether registered or not), excluding a person within subsection (6) of section 41 who, but for that subsection, would not be treated as carrying out taxable activities."

*Registration: supplementary and consequential amendments*

18 In section 49 (accounting for tax and time for payment), for "registrable person" substitute " registered person ".

19 (1) Section 59 (groups of companies) is amended as follows.

(2) In subsection (2)—

(a) for "condition" substitute " conditions ";

(b) for "is fulfilled" substitute " are fulfilled ".

(3) In subsection (3), for "The condition is that the" substitute "The conditions are that—

(a) each of the bodies corporate is a registered person, and

(b) the".

20 In section 70 (interpretation), in subsection (1), for " "registrable person" has" substitute " "registered person" and "registrable person" have".

21 (1) Schedule 5 is amended as follows.

(2) In paragraph 2 (records: registrable persons), in the heading and in sub-paragraphs (1) and (3)(a), for "registrable persons" substitute " taxable persons ".

(3) In paragraph 26 (interest on under-declared tax), in sub-paragraphs (1)(a) and (4), for "registrable person" substitute " registered person ".

(4) In paragraph 27 (interest on unpaid tax etc), in sub-paragraphs (1)(a), (3)(a), (5)(a) and (7), for "registrable person" substitute " registered person ".

*Assessment*

22 (1) Section 50 (power to assess) is amended as follows.

(2) In the heading, for "assess" substitute " assess: registered persons ".

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(3) In subsection (1)(a), (b), (c) and (d) and subsection (2), for "a person" substitute " a registered person ".

23 After that section insert—

"**50A Power to assess: unregistered persons**

(1) Where—

(a) it appears to the Commissioners that a person is liable to pay tax on a taxable disposal, and

(b) the person is not a registered person,

the Commissioners may assess the amount of tax due from the person to the best of their judgment and notify it to the person.

(2) An assessment under this section must be accompanied by a notice—

(a) identifying the land where the disposal was made;

(b) indicating the date on which the disposal was made or treated as made, or the date on which (or period within which) the Commissioners believe it was made;

(c) explaining why the Commissioners believe that the person to whom the notification is sent is liable to pay tax on the disposal;

(d) describing the methods used to calculate the amount of tax, including the method used by the Commissioners to determine the weight of the material disposed of;

(e) containing any other information prescribed by regulations.

(3) An assessment under this section is not invalidated by any inaccuracy in the information given in the notice under subsection (2).

(4) An assessment under this section—

(a) may relate to more than one taxable disposal;

(b) may relate to an unascertained number of taxable disposals;

(c) may relate to taxable disposals at more than one location.

(5) An assessment under this section shall not be made more than two years after evidence of facts, sufficient in the Commissioners' opinion to justify the making of the assessment, comes to their knowledge.

But where further such evidence comes to their knowledge after the making of an assessment under this section another assessment may be made under this section in addition to any earlier assessment.

(6) Where an amount has been assessed and notified to a person under this section it shall be deemed to be an amount of tax due from the person and may be recovered accordingly unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced."

*Assessment: supplementary and consequential amendments*

24 In section 54 (appeals), in subsection (2)—

(a) for "it is an assessment" substitute "it is—

(a) an assessment";

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(b) at the end insert “, or

(b) an assessment under section 50A.”

25 (1) Schedule 5 is amended as follows.

(2) In paragraph 27 (interest on unpaid tax etc)—

(a) after sub-paragraph (8) insert—

“(8A) Sub-paragraph (8B) below applies where under section 50A of this Act the Commissioners assess an amount as being due from a person who is not a registered person in respect of a taxable disposal and notify it to the person.

(8B) The amount shall carry interest for the period which—

(a) begins with the day (or the last day of the period) notified under section 50A(2)(b), and

(b) ends with the day before that on which the amount is paid.”;

(b) in sub-paragraph (13)—

(i) in paragraph (a), after “or (7)” insert “ or (8A) ”;

(ii) in the words after paragraph (c), after “or (8)” insert “ or (8B) ”.

(3) In paragraph 33 (assessments: time limits)—

(a) in sub-paragraph (1)(a), after “section 50” insert “ or 50A ”;

(b) in sub-paragraph (1A), omit the word “or” at the end of paragraph (a) and after that paragraph insert—

“(aa) in the case of an assessment under section 50A, evidence of facts, sufficient in the Commissioners' opinion to justify the making of the assessment, coming to their knowledge, or”.

(4) In paragraph 36 (the register: publication)—

(a) for the heading substitute “ Publication of information by Commissioners ”;

(b) after sub-paragraph (2) insert—

“(2A) The Commissioners may publish, by such means as they think fit—

(a) the names of persons assessed to tax under section 50A in respect of taxable disposals not made at a landfill site;

(b) the addresses of any places used by persons within paragraph (a) for making taxable disposals or otherwise for carrying on business.

This sub-paragraph does not apply where the assessment in question is subject to an outstanding appeal.”

## PART 2 U.K.

### AMENDMENTS OF OTHER ACTS

### *FA 2008*

26 (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.

(2) In paragraph 60 (business), after sub-paragraph (1) insert—

"(1A) A person who under section 41 of FA 1996 is liable to pay landfill tax charged on a taxable disposal is treated for the purposes of this Schedule (subject to regulations under this paragraph) as carrying on a business."

(3) In paragraph 61A (involved third parties), in entry 12 of the table, for "landfill disposal" substitute " disposal of material ".

27 (1) Schedule 41 to that Act (penalties: failure to notify etc) is amended as follows.

(2) In the table in paragraph 1, in the entry for landfill tax, for "section 47(2) and (3)" substitute " section 47(2), (3) and (3A) ".

(3) After paragraph 3 insert—

*"Involvement in landfill disposal by unregistered person*

3A A penalty is payable by a person ("P") where P does an act which enables HMRC to assess an amount as landfill tax due from P under section 50A of FA 1996."

(4) In paragraph 5 (degrees of culpability), in sub-paragraph (3), after "a relevant excise provision" insert " , or to assess an amount of landfill tax as due from P under section 50A of FA 1996, ".

(5) After paragraph 6C insert—

"6CA(1) The penalty payable under paragraph 3A is—

(a) for a deliberate and concealed act or failure, 100% of the potential lost revenue, and

(b) for a deliberate but not concealed act or failure, 70% of the potential lost revenue.

(2) No penalty is payable under paragraph 3A in any other case."

(6) In paragraph 7 (potential lost revenue)—

(a) after sub-paragraph (8) insert—

"(8A) In the case of a relevant obligation under section 47 of FA 1996 (which relates to landfill tax), the potential lost revenue is the amount of tax (if any) for which P is liable for the period—

(a) beginning with the date with effect from which P is required in accordance with that section to be registered or (as the case may be) from which the Commissioners may register P under that section, and

(b) ending with the day on which HMRC received notification of, or otherwise became fully aware of, P's liability to be registered or (as the case may be) the Commissioners' power to register P.";

(b) in sub-paragraph (9) omit ", landfill tax".

(7) After paragraph 9 insert—

"9A In the case of the doing of an act which enables HMRC to assess an amount of landfill tax as due under section 50A of FA 1996, the potential lost revenue is the amount of the tax which may be assessed as due."

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*FA 2011*

28 In FA 2011, in Schedule 23 (data-gathering powers), in paragraph 25(c), for "landfill disposal" substitute " disposal of material ".

## PART 3 U.K.

COMMENCEMENT AND TRANSITIONAL PROVISIONS

*Commencement*

29 (1) The amendments made by this Schedule have effect in relation to disposals that are made (or treated as made) on or after 1 April 2018.

(2) Sub-paragraph (1) does not apply to the amendments made by paragraph 17 (as to which, see paragraph 30).

*Registration*

30 (1) In section 47 of FA 1996 as it has effect following the amendments made by this Schedule—

(a) the reference to taxable activities in subsection (3)(a) does not include taxable activities that are to be carried out elsewhere than at a landfill site before 1 April 2018;

(b) subsection (3A) has effect only where the intention of carrying out taxable activities elsewhere than at a landfill site is formed on or after 1 April 2018;

(c) subsection (4), as it applies in relation to taxable activities carried out elsewhere than at a landfill site, has effect only where the person ceases on or after 1 April 2018 to have the intention of carrying out the activities;

(d) subsection (5A), as it applies in relation to taxable activities carried out before 1 April 2018, has effect as if "1 April 2018" were substituted for " the date when the person begins carrying out those activities ".

(2) Where a person is registered under section 47 of FA 1996 immediately before the day on which this Act is passed, the registration continues after that day until terminated in accordance with that section (as amended by paragraph 17) or otherwise.

*Disposals before April 2018 at places other than landfill sites*

VALID FROM 01/04/2018

31 (1) Where the Commissioners become aware of a disposal that—

(a) has been made at a place other than a landfill site,

(b) would, if made on or after 1 April 2018, require a permit or licence mentioned in subsection (4) of section 40 of FA 1996 (as that section has effect on that day), and

(c) is not chargeable to tax apart from this paragraph,

the disposal is treated for the purposes of Part 3 of FA 1996 as having been made at that place on 1 April 2018.

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(2) But a person cannot be guilty of an offence, or liable to a civil penalty, solely as a result of the retrospective effect of this paragraph.

VALID FROM 01/04/2018

32 (1) A person who is liable (by virtue of paragraph 31) to pay tax on a disposal made before 1 April 2018 at a place other than a landfill site must—
(a) notify the Commissioners of the disposal, and
(b) provide the Commissioners with the required information,
no later than 30 April 2018.

(2) The required information is—
(a) the place where the disposal was made;
(b) the nature and weight of the material disposed of;
(c) any other information prescribed by regulations.

(3) Subsections (2), (3), (6), (8) and (9) of section 71 of FA 1996 (orders and regulations) apply to regulations under sub-paragraph (2)(c) as they apply to regulations under Part 3 of that Act.

VALID FROM 01/04/2018

33 Schedule 41 to FA 2008 (penalties: failure to notify etc) has effect as if—
(a) the obligation under paragraph 32 above were an obligation specified in the Table in paragraph 1 of that Schedule;
(b) a reference in paragraph 6CA (inserted by paragraph 27(5) above) to paragraph 3A included a reference to paragraph 1 as it has effect by virtue of paragraph (a) above.

34 Paragraphs 31 to 33 come into force on 1 April 2018.

*Interpretation*

35 Expressions used in this Part of this Schedule that are defined for the purposes of Part 3 of FA 1996 have the same meaning in this Part of this Schedule as in Part 3 of that Act (as amended by this Schedule).

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**Changes to legislation:**
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