

## SCHEDULE 17

### RECONSTRUCTION AND ACQUISITION RELIEFS

#### PART 5

#### RECOVERY OF RECONSTRUCTION OR ACQUISITION RELIEF

##### *Recovery of reconstruction or acquisition relief from another group company or controlling director*

- 8 (1) This paragraph applies where—
- (a) tax is chargeable under paragraph 5 or 7 (withdrawal of reconstruction or acquisition relief),
  - (b) the amount so chargeable has been finally determined, and
  - (c) the whole or part of the amount so chargeable is unpaid 6 months after the date on which it became payable.
- (2) The following persons may, by notice under paragraph 9, be required to pay the unpaid tax (together with any interest payable)—
- (a) any company that at any relevant time was a member of the same group as the acquiring company and was above it in the group structure;
  - (b) any person who at any relevant time was a controlling director of the acquiring company or a company having control of the acquiring company.
- (3) For the purposes of sub-paragraph (2), “relevant time” means any time between effective date of the relieved transaction and the change of control by virtue of which tax is chargeable.
- (4) For the purposes of sub-paragraph (2)(a), a company (“company A”) is “above” another company (“company B”) in a group structure if company B, or another company that is above company B in the group structure, is a 75% subsidiary of company A.
- (5) For the purposes of sub-paragraph (2)(b)—
- (a) “director”, in relation to a company, has the meaning given by section 67(1) of the [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#) (read with subsection (2) of that section) and includes any person falling within section 452(1) of the [Corporation Tax Act 2010 \(c. 4\)](#);
  - (b) “controlling director”, in relation to a company, means a director of the company who has control of it; and “control” here is to be construed in accordance with sections 450 and 451 of the [Corporation Tax Act 2010 \(c. 4\)](#).
- (6) For the purposes of this paragraph, a claim is not finally determined until—
- (a) the claim, or
  - (b) the amount to which it relates,
- can no longer be varied (whether on review, appeal or otherwise).