

## 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).

*Recovery of reconstruction or acquisition relief: supplementary*

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- (1) WRA may issue a notice to a person within paragraph 8(2) requiring the person to pay the amount that remains unpaid before the end of the period of 30 days beginning with the day on which the notice is issued.
  - (2) A notice under sub-paragraph (1) must be issued before the end of the period of 3 years beginning with the date of the final determination mentioned in paragraph 8(1) (b).
  - (3) The notice must state the amount required to be paid by the person to whom the notice is issued.
  - (4) That amount is a “relevant amount” payable by the person to whom the notice is issued for the purposes of Part 7 of TCMA (payment and enforcement).
  - (5) A person who has paid an amount in pursuance of a notice under this paragraph may recover that amount from the acquiring company.