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SCHEDULES

SCHEDULE 25

[^{F1}CASES WHERE SECTION 747(3) DOES NOT APPLY]

Textual Amendments

- F1** Sch. 25 heading substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), Sch. 17 para. 25; S.I. 1998/3173, art. 2

[^{F1}PART 3A

EXEMPT PERIODS

Textual Amendments

- F1** Sch. 25 Pt. 3A (paras. 15A-15G) inserted (with effect in accordance with Sch. 12 para. 14(2) of the amending Act) by Finance Act 2011 (c. 11), Sch. 12 para. 8

Introductory

- 15A The provisions of this Part of this Schedule have effect for the purposes of section 748(1)(f).

Beginning of exempt period

- 15B (1) An exempt period begins in relation to a company (“X”) at a time (“the relevant time”) when—
- (a) X is resident outside the United Kingdom,
 - (b) X is controlled by persons resident in the United Kingdom,
 - (c) there is at least one relevant UK corporate investor in X, and
 - (d) the requirements of paragraph 15C or 15D are met.
- (2) There is a “relevant UK corporate investor in X” at a particular time if, at that time, there is a company which—
- (a) is resident in the United Kingdom, and
 - (b) would, on the assumptions set out in sub-paragraph (3), be a company to which an apportionment of X's chargeable profits for the relevant accounting period would fall to be made in circumstances where section 747(5) would not prevent tax being chargeable on the company under section 747(4).
- (3) The assumptions are—
- (a) X has chargeable profits for the relevant accounting period,

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- (b) an apportionment of those profits falls to be made under section 747(3) for that period, and
 - (c) no reduction of those profits arises under section 751A, 751AA or 751AB.
- (4) “The relevant accounting period” means the accounting period of X in which the time mentioned in sub-paragraph (2) falls.
- 15C (1) The requirements of this paragraph are that—
- (a) no company was, at any time before the relevant time, a relevant UK corporate investor in X,
 - (b) no asset owned by X, or part of the business carried on by X, at the relevant time was previously owned, or carried on, by a company which—
 - (i) was under the control of persons resident in the United Kingdom at any time it owned the asset or carried on the part of the business, and
 - (ii) is or has been related to X,
 - (c) condition A, B, C or D is met, and
 - (d) no disqualifying relevant transaction occurs (see paragraph 15E).
- (2) Condition A is that, immediately before the relevant time, X—
- (a) was in existence, but
 - (b) was not a member of the same group of companies as any person who, at the relevant time, was a controlling UK person.
- (3) Condition B is that—
- (a) at the relevant time X is controlled by a company which is resident in the United Kingdom, and
 - (b) immediately before that time, X was controlled by that same company but that company was not then resident in the United Kingdom.
- (4) Condition C is that—
- (a) at the relevant time—
 - (i) X is controlled by a company which is resident in the United Kingdom (“the intermediate parent”), and
 - (ii) the intermediate parent is controlled by a company which is not resident in the United Kingdom (“the parent”), and
 - (b) immediately before that time X was controlled by the parent but not the intermediate parent.
- (5) Condition D is that X—
- (a) is a controlled foreign company at the time it is formed, and
 - (b) is formed by one or more persons for the purpose of controlling one or more companies in circumstances where it is expected that an exempt period will begin in relation to one or more of those companies at the time when X begins to control the company or companies.
- (6) In this paragraph “controlling UK person” means a person resident in the United Kingdom who alone, or together with other such persons, controls X.
- 15D (1) The requirements of this paragraph are that—
- (a) the relevant time falls after 23 March 2011,
 - (b) X has an accounting period during which 23 March 2011 falls,

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- (c) no company was, at any time during that accounting period, a relevant UK corporate investor in X,
 - (d) no company was, immediately before the relevant time, a relevant UK corporate investor in X,
 - (e) at the relevant time X is controlled by a company which—
 - (i) is resident in the United Kingdom, and
 - (ii) is not under the control of another body corporate, or two or more other bodies corporate taken together, and
 - (f) no disqualifying relevant transaction occurs (see paragraph 15E).
- (2) In determining for the purposes of sub-paragraph (1)(e)(ii) whether a company is under the control of two or more bodies corporate taken together, a body corporate which holds less than 10% of the issued ordinary shares of that company is to be disregarded.
- (3) For the purposes of sub-paragraph (2), a body corporate is treated as holding any shares held by persons who are connected or associated with the body corporate.

Disqualifying relevant transactions

- 15E (1) This paragraph applies for the purposes of paragraph 15C and 15D.
- (2) A disqualifying relevant transaction occurs if—
- (a) a relevant transaction occurs at the relevant time (whether or not the transaction occurs pursuant to an agreement entered into by X before that time), or
 - (b) a relevant transaction occurs on or after 9 December 2010 but before the relevant time and that transaction forms part of an avoidance scheme.
- (3) “Relevant transaction” means—
- (a) the making by X of a loan or advance of an amount (other than a negligible amount) to a person who, at the time it is made, is related to X and subject to United Kingdom tax,
 - (b) an increase (other than an increase of a negligible amount) in the amount of an existing loan or advance made by X to a person who, at the time of the increase, is related to X and subject to United Kingdom tax,
 - (c) a change in the terms or conditions of an existing loan or advance made by X where—
 - (i) the loan or advance is to a person who, at the time the change is made, is related to X and subject to United Kingdom tax, and
 - (ii) the change has an effect (other than a negligible effect) on the amount of interest payable, or
 - (d) a transaction to which sub-paragraph (4) applies.
- (4) This sub-paragraph applies to a transaction if—
- (a) it is referable to an activity carried on by X as part, or the whole, of any non-exempt activities carried on by X,
 - (b) the results of the transaction are reflected in the profits arising in an accounting period of X and are not negligible in value, and
 - (c) the results of the transaction alone, or together with the results of one or more other transactions, achieves a reduction in United Kingdom tax.

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- (5) A transaction achieves, or two or more transactions together achieve, a reduction in United Kingdom tax if, had the transaction or transactions not been effected, any person—
- (a) would have been liable for any such tax or for a greater amount of any such tax, or
 - (b) would not have been entitled to a relief from or repayment of any such tax or would have been entitled to a smaller relief from or repayment of any such tax.
- (6) In this paragraph—
- “avoidance scheme” means a scheme the main purpose, or one of the main purposes, of any party to which in entering into the scheme is to secure that section 748(1)(f) prevents an apportionment falling to be made under section 747(3) as regards an accounting period, or accounting periods, of X;
- “non-exempt activities” has the meaning given by paragraph 12D(2);
- “scheme” means any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving one or more transactions;
- “United Kingdom tax” means corporation tax (or any tax chargeable as if it were corporation tax) or income tax.

Ending of exempt period

- 15F (1) An exempt period ends on the expiry of the period of 24 months which begins immediately after the first accounting period of X to end after the relevant time, unless sub-paragraph (2) applies.
- (2) If an early termination event occurs after the relevant time but before the time the exempt period would end under sub-paragraph (1), the exempt period ends immediately before that event.
- (3) An early termination event occurs if and when—
- (a) a relevant transaction occurs, whether or not the transaction occurs pursuant to an agreement entered into by X before that time, or
 - (b) where the exempt period began because Condition D was met, X's business does not consist wholly in the holding of shares of companies which X controls, together with activities incidental to the holding of such shares.

Interpretation of Part 3A

- 15G (1) In this Part of this Schedule—
- “group” means a company and any other companies it controls;
- “the relevant time” has the meaning given by paragraph 15B;
- “relevant transaction” has the meaning given by paragraph 15E;
- “relevant UK corporate investor in X” has the meaning given by paragraph 15B(2);
- “X” is to be construed in accordance with paragraph 15B.
- (2) For the purposes of this Part of this Schedule a person is “related” to X at a particular time if—
- (a) the person is connected or associated with X at that time,

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- (b) the person has a 25 per cent assessable interest in X in the case of the accounting period in which that time falls (within the meaning of paragraph 6(4C)), or
- (c) if X is a controlled foreign company in the accounting period in which that time falls by virtue of subsection (1A) of section 747, the person is connected or associated with either or both of the two persons mentioned in that subsection.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act Tax Acts: power to modify conferred by [2004 c. 25 s. 18](#)
- Act Taxes Acts modified by 1970 c. 9, Sch. A1 para. 10(7) (as inserted) by [2017 c. 32 s. 60\(3\)](#)
- Act Taxes Acts modified by 1970 c. 9, s. 8(7) (as inserted) by [2017 c. 32 Sch. 14 para. 3\(15\)](#)
- Act Taxes Acts modified by 1970 c. 9, s. 8A(7) (as inserted) by [2017 c. 32 Sch. 14 para. 4\(12\)](#)
- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to legislation.gov.uk. S.I. 2010/875 was revoked (27.8.2010) by SI 2010/1906, reg. 2 without having come into force)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 109A(4B) inserted by [2005 c. 7 Sch. 4 para. 6\(3\)](#) (This amendment not applied to legislation.gov.uk. The amending provision (2005 c. 7, Sch. 4 para. 6) repealed retrospectively by 2005 c. 22, Sch. 6 para. 4(1)(6))
- Sch. 19AB para. 5(5)(a)(b) words substituted by [S.I. 2001/3629 art. 52\(2\)\(n\)](#) (This amendment not applied to legislation.gov.uk. The words to be substituted do not occur in Sch. 19AB para. 5)