



# Finance Act 2020

## 2020 CHAPTER 14

### PART 2

#### DIGITAL SERVICES TAX

##### *Introduction*

#### **39 Digital services tax: introduction**

- (1) A tax (to be known as “digital services tax”) is charged in accordance with this Part on UK digital services revenues arising to a person in an accounting period.
- (2) The Commissioners for Her Majesty's Revenue and Customs (in this Part referred to as “the Commissioners”) are responsible for the collection and management of digital services tax.
- (3) In this Part—
  - (a) sections 40 to 45 define “UK digital services revenues” and other key expressions;
  - (b) sections 46 to 51 contain the charge to digital services tax;
  - (c) sections 52 to 56 impose a duty to file returns and other reporting requirements;
  - (d) sections 57 to 60 define groups and related concepts;
  - (e) sections 61 to 64 define accounting periods, the meaning of revenues arising, and other accounts-related concepts;
  - (f) sections 65 to 72 contain supplementary and general provisions.

*Digital services revenues, UK digital services revenues etc*

#### **40 Meaning of “digital services revenues”**

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

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- (2) The “digital services revenues” of a group for a period are the total amount of revenues arising to members of the group in that period in connection with any digital services activity of any member of the group.
- (3) Where revenues arise in connection with a digital services activity and anything else, the revenues are to be treated as arising in connection with the activity to such extent as is just and reasonable.

#### **41 Meaning of “UK digital services revenues”**

- (1) This section applies for the purposes of this Part.
- (2) A group's “UK digital services revenues” for a period are so much of its digital services revenues for that period as are attributable to UK users.
- (3) Revenues are attributable to UK users if—
  - (a) they are within Case 1, 2 or 3, or
  - (b) they are within Case 4 or 5 and, where subsection (9) applies, they are allocated to UK users under that subsection.

This is subject to subsection (10).

- (4) Case 1 is where—
  - (a) the revenues are online marketplace revenues,
  - (b) they arise in connection with a marketplace transaction, and
  - (c) a UK user is a party to the transaction.
- (5) Case 2 is where—
  - (a) the revenues are online marketplace revenues, and
  - (b) they arise in connection with particular accommodation or land in the United Kingdom (see section 42).
- (6) Case 3 is where—
  - (a) the revenues are online marketplace revenues,
  - (b) they arise in connection with online advertising for particular services, goods or other property, and
  - (c) the advertising is paid for by a UK user.
- (7) Case 4 is where—
  - (a) the revenues are online advertising revenues,
  - (b) they are not within any of Cases 1 to 3, and
  - (c) the advertising is viewed or otherwise consumed by UK users.
- (8) Case 5 is where—
  - (a) the revenues are not within any of Cases 1 to 4, and
  - (b) they arise in connection with UK users.
- (9) For the purposes of subsection (3)(b), revenues are to be allocated to UK users to such extent as is just and reasonable where they are—
  - (a) online advertising revenues within Case 4 and the advertising in question is viewed or otherwise consumed by UK users and others;
  - (b) revenues within Case 5 and they arise in connection with UK users and others.

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- (10) Online marketplace revenues are treated as not attributable to UK users if—
- (a) where they arise in connection with a marketplace transaction—
    - (i) they arise in connection with particular accommodation or land outside the United Kingdom (see section 42), and
    - (ii) the only UK user who is a party to the transaction is a provider or seller of the thing to which the transaction relates;
  - (b) in any other case, they arise in connection with particular accommodation or land outside the United Kingdom (see section 42).
- (11) In this section—
- “marketplace transaction” means a transaction on the online marketplace between users;
  - “online advertising revenues” means revenues arising in connection with the provision or facilitation of online advertising;
  - “online marketplace revenues” means revenues arising in connection with an online marketplace.
- (12) For the purpose of the definition of “marketplace transaction”, “transaction on the online marketplace” includes the placing on the marketplace of an order that results in an agreement, even if the agreement between the users is made otherwise than through the marketplace.

## **42 UK digital services revenues: accommodation and land**

- (1) This section, which supplements section 41 (meaning of a group's UK digital services revenues), applies for the purpose of determining when online marketplace revenues arise in connection with accommodation or land.
- (2) The revenues are treated as arising in connection with accommodation if they arise in connection with—
- (a) the provision of accommodation, or
  - (b) the provision of services, goods or other property in relation to accommodation, in connection with the provision of the accommodation on the online marketplace.
- (3) The revenues are treated as arising in connection with land if they arise in connection with—
- (a) the sale of an estate, interest or right in or over land, or
  - (b) the provision of services, goods or other property in relation to land, in connection with the sale of an estate, interest or right in or over the land on the online marketplace.
- (4) In this section—
- (a) any reference to providing or selling anything includes offering to provide or sell it;
  - (b) any reference to providing goods or other property includes providing it temporarily;
  - (c) “online marketplace revenues” means revenues arising in connection with an online marketplace.

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#### **43 Meaning of “digital services activity” etc**

- (1) This section applies for the purposes of this Part.
- (2) “Digital services activity” means providing—
  - (a) a social media service,
  - (b) an internet search engine, or
  - (c) an online marketplace.
- (3) “Social media service” means an online service that meets the following conditions—
  - (a) the main purpose, or one of the main purposes, of the service is to promote interaction between users (including interaction between users and user-generated content), and
  - (b) making content generated by users available to other users is a significant feature of the service.
- (4) “Internet search engine” does not include a facility on a website that merely enables a person to search—
  - (a) the material on that website, or
  - (b) the material on that website and on closely related websites.
- (5) “Online marketplace” means an online service that meets the following conditions—
  - (a) the main purpose, or one of the main purposes, of the service is to facilitate the sale by users of particular things, and
  - (b) the service enables users to sell particular things to other users, or to advertise or otherwise offer particular things for sale to other users.
- (6) In subsection (5)—
  - (a) “thing” means any services, goods or other property;
  - (b) any reference to the sale of a thing includes hiring it.
- (7) Any reference to providing a social media service, internet search engine or online marketplace includes carrying on an associated online advertising service; and any reference to a social media service, internet search engine or online marketplace is to be read accordingly.
- (8) In this section “associated online advertising service” means an online service that—
  - (a) facilitates online advertising, and
  - (b) derives significant benefit from its association with the social media service, internet search engine or online marketplace.
- (9) Where an associated online advertising service derives significant benefit from its association with more than one type of digital services activity, revenues arising from the service are to be treated as attributable to each of the types of digital services activity in question to such extent as is just and reasonable.
- (10) See also section 45 (exclusion for online financial marketplaces).

#### **44 Meaning of “user” and “UK user”**

- (1) This section applies for the purposes of this Part.
- (2) Any reference to a user, in relation to a digital services activity of a person (the “provider”), does not include—

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- (a) the provider or a member of the same group as the provider, or
  - (b) an employee of a person within paragraph (a), acting in the course of that person's business.
- (3) “UK user” means any user who it is reasonable to assume—
- (a) in the case of an individual, is normally in the United Kingdom;
  - (b) in any other case, is established in the United Kingdom.

#### **45 Exclusion for online financial marketplaces**

- (1) In this Part any reference to an online marketplace excludes one that is for the time being an online financial marketplace.
- (2) An online marketplace is an “online financial marketplace” for a relevant accounting period if more than half of the revenues arising to the provider in the accounting period in connection with the online marketplace arise in connection with the provider's facilitation of the trading of financial instruments, commodities or foreign exchange.
- (3) In subsection (2)—
- (a) the reference to the trading of financial instruments includes the creation of such instruments;
  - (b) the reference to the trading of commodities is to the kind of commodities, and the kind of trading, occurring on a commodities exchange.
- (4) In this section—
- “financial instrument” means—
    - (a) a financial instrument within the meaning of the applicable accounting standards (see section 64), or
    - (b) a contract of insurance as defined by section 64 of FA 2012;
  - “provider” means the person providing the online marketplace;
  - “relevant accounting period” means an accounting period of the group of which the provider is a member.

#### *Charge to tax*

#### **46 Meaning of “the threshold conditions”**

- (1) For the purposes of this Part “the threshold conditions”, in relation to a group, for an accounting period are—
- (a) that the total amount of digital services revenues arising in that period to members of the group exceeds £500 million, and
  - (b) that the total amount of UK digital services revenues arising in that period to members of the group exceeds £25 million.
- (2) But if the duration of the accounting period is less than a year, the amounts mentioned in subsection (1)(a) and (b) are proportionately reduced.

#### **47 Charge to DST**

- (1) This section applies where the threshold conditions are met in relation to a group for an accounting period.

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- (2) Each person who was a member of the group in the accounting period (a “relevant person”) is liable to digital services tax in respect of UK digital services revenues arising in that period.
- (3) To find the liability of a relevant person to digital services tax in respect of the accounting period, take the following steps.
- Step 1* Take the total amount of UK digital services revenues arising to members of the group in the accounting period.
- Step 2* Deduct £25million from the amount found under step 1.
- Step 3* Calculate 2% of the amount calculated under step 2. The result is “the group amount”.
- Step 4* The relevant person's liability to digital services tax in respect of the accounting period is the appropriate proportion of the group amount.
- (4) In this section “the appropriate proportion” means such proportion of the total amount of UK digital services revenues arising to members of the group in the accounting period as is attributable to the relevant person.
- (5) If the duration of the accounting period is less than a year, the sum mentioned in step 2 of subsection (3) is proportionately reduced.
- (6) This section is subject to section 48 (alternative basis of charge).

#### **48 Alternative basis of charge**

- (1) This section applies if a valid election under this section in respect of an accounting period has been made in the group's DST return for that period (whether as originally made or by amendment).
- (2) An election under this section is valid if it specifies the categories of revenues in relation to which it applies (or specifies that it applies in relation to all categories).
- (3) For this purpose, the categories of revenues are—
- revenues arising in connection with any social media service;
  - revenues arising in connection with any internet search engine;
  - revenues arising in connection with any online marketplace.
- (4) To find the liability of a relevant person to digital services tax in respect of the accounting period, take the following steps (instead of the steps set out in section 47(3)).
- Step 1* Take the total amount of UK digital services revenues arising to members of the group in the accounting period.
- Step 2* Apportion the total amount found under step 1 between the three categories of revenues.
- Step 3* For each category of revenues, the “net revenues” is the amount by which the amount of revenues apportioned under step 2 exceeds the relevant proportion of £25million. “The relevant proportion” is—

$$\frac{R}{TR}$$

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where—

R is the amount of revenues apportioned under step 2 to the category, and

TR is the total amount found under step 1.

*Step 4* For each specified category of revenues, calculate the operating margin. “The operating margin” is—

$$\frac{R - E}{R}$$

where—

R has the same meaning as in step 3, and

E is the amount of relevant operating expenses of the group that are recognised in the accounting period (as to which, see section 49).

If R does not exceed E, the operating margin is nil.

*Step 5* For each specified category of revenues, the taxable amount is 0.8 x the operating margin x the net revenues. For any other category of revenues, the taxable amount is 2% of the net revenues.

*Step 6* Add together the taxable amounts calculated under step 5. The result is “the group amount”.

*Step 7* The relevant person's liability to digital services tax in respect of the accounting period is the appropriate proportion of the group amount.

(5) If the duration of the accounting period is less than a year, the sum mentioned in step 3 of subsection (4) is proportionately reduced.

(6) In this section—

“the appropriate proportion” has the meaning given by section 47;

“relevant person” has the same meaning as in section 47;

“specified”, in relation to a category of revenues, means a category of revenues specified in the election.

#### **49 Section 48: meaning of “relevant operating expenses”**

(1) This section supplements section 48.

(2) The “relevant operating expenses” of a group, in relation to a specified category of revenues, means any expenses of a member of the group attributable to the earning of UK digital services revenues within the specified category, except excluded expenses.

(3) “Excluded expenses” means any expenses—

- (a) in respect of interest (or anything equivalent, from a commercial perspective, to interest),
- (b) attributable to the acquisition of a business or part of a business,
- (c) occurring otherwise than in the normal course of business,
- (d) resulting from a change in the valuation of any tangible or intangible asset, or
- (e) in respect of any tax (arising under the law of any territory).

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- (4) Where expenses are attributable to—
- (a) the earning of UK digital services revenues within the specified category, and
  - (b) anything else,
- the expenses are to be treated as relevant operating expenses to such extent as is just and reasonable.
- (5) In this section “specified” has the meaning given by section 48.

## **50 Relief for certain cross-border transactions**

- (1) This section applies if a claim under this section in respect of an accounting period has been included in the group's DST return for that period (whether as originally made or by amendment).
- (2) For the purposes of step 1 in section 47(3) or 48(4), disregard 50% of any UK digital services revenues arising to a member of the group in the accounting period in connection with a relevant cross-border transaction.
- (3) For the purposes of step 4 in section 48(4), disregard 50% of any relevant operating expenses of a member of the group recognised in the accounting period that result from a relevant cross-border transaction.
- (4) “Relevant cross-border transaction” means a marketplace transaction where—
  - (a) the online marketplace is provided by a member of the group,
  - (b) a foreign user is a party to the transaction, and
  - (c) all or part of any revenues arising to a member of the group in connection with the transaction are (or would be) subject to a foreign DST charge.
- (5) In this section—
 

“foreign user” means a user who it is reasonable to assume—

  - (a) in the case of an individual, is normally in a territory outside the United Kingdom;
  - (b) in any other case, is established in a territory outside the United Kingdom,

and a reference to the foreign user's “territory” is to be read accordingly;

“foreign DST charge” means a charge (known by any name) under the law of the foreign user's territory which is similar to digital services tax;

“marketplace transaction” has the meaning given by section 41;

“relevant operating expenses” has the meaning given by section 49.

## **51 When DST is due and payable**

Digital services tax in respect of an accounting period is due and payable on the day following the end of 9 months from the end of the accounting period.



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### *Duty to submit returns etc*

## **52 Meaning of “the responsible member”**

- (1) In this Part any reference to “the responsible member” of a group, at any time, is a reference to the following person—
  - (a) if at that time a nomination under subsection (2) is in force, the person nominated;
  - (b) otherwise, the parent of the group.
- (2) The parent of a group may nominate a person to be “the responsible member” of the group if—
  - (a) the person is a member of the group,
  - (b) the person is a company, and
  - (c) the parent agrees in writing to provide the person with everything the person may reasonably require in order to comply with—
    - (i) any obligation imposed by or under this Part, or
    - (ii) any other obligation imposed on the person in connection with any digital services tax liability of any member of the group.
- (3) A nomination is in force from the time it is made until any of the following events occurs—
  - (a) the parent nominates another person;
  - (b) the person nominated ceases to be a member of the group or ceases to be a company;
  - (c) an officer of Revenue and Customs or the parent revokes the nomination.
- (4) An officer of Revenue and Customs may revoke a nomination only if the officer has reason to believe that the person nominated—
  - (a) is not being provided with something the person reasonably requires in order to comply with an obligation of a kind mentioned in subsection (2)(c), or
  - (b) is not complying with any such obligation.
- (5) An officer of Revenue and Customs revokes a nomination by notifying the parent and the nominated person of the revocation.

The revocation has effect when the notification is issued.
- (6) Any nomination, or revocation of a nomination, must be in writing.

## **53 Continuity of obligations etc where change in the responsible member**

- (1) This section applies if at any time (“the relevant time”) a person (“the new responsible member”) becomes the responsible member of a group in place of another person (“the old responsible member”).
- (2) The relevant obligations and liabilities of the new responsible member include any relevant obligations and liabilities of the old responsible member as respects the group.
- (3) Anything done as respects the group by or in relation to the old responsible member, before the relevant time, is treated as having been done by or in relation to the new responsible member.

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- (4) Accordingly, a penalty may be imposed on the new responsible member in respect of anything done before the relevant time if, at that time, a penalty could have been imposed on the old responsible member in respect of the thing done.
- (5) Anything done by HMRC in relation to the old responsible member as respects the group, before the end of the day the change is notified, is treated for all relevant purposes as done by or in relation to the new responsible member.
- (6) Anything (including any proceedings) relating to the group that, at any time during the period beginning with the relevant time and ending with the day the change is notified, is in the process of being done in relation to the old responsible member may be continued in relation to the new responsible member.
- (7) Accordingly, any reference in an enactment or other instrument to the responsible member of the group is to be read, so far as necessary for the purposes of giving effect to any of subsections (2) to (6), as being or including a reference to the new responsible member.
- (8) In this section—
  - (a) any reference to an act includes an omission;
  - (b) any reference to the day the change is notified is to the day on which an officer of Revenue and Customs receives notification, in accordance with section 55, that the new responsible member has become the responsible member of the group;
  - (c) “relevant obligations and liabilities” means any obligations or other liabilities relating to digital services tax;
  - (d) “relevant purposes” means any purposes relating to digital services tax.
- (9) Nothing in this section—
  - (a) prevents HMRC or anyone else, after the relevant time, from imposing a penalty, exercising any other power, or doing anything else, in relation to the old responsible member in respect of anything done before the relevant time, or
  - (b) affects the validity of anything done before the relevant time.

#### **54 Duty to notify HMRC when threshold conditions are met**

- (1) This section applies—
  - (a) in relation to the first accounting period of a group in respect of which the threshold conditions are met, and
  - (b) where a direction under section 56 has been given in respect of a group, in relation to the first relevant accounting period in respect of which the threshold conditions are met.

In paragraph (b) “relevant accounting period” means the accounting period specified in the direction or any subsequent accounting period.

- (2) The responsible member must provide specified information to HMRC.
- (3) The information must be provided in the specified way.
- (4) The information must be provided before the end of the period of 90 days from the end of the accounting period.

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(5) In subsections (2) and (3) “specified” means specified in a notice published by HMRC.

## **55 Duty to notify HMRC of change in relevant information**

- (1) This section applies where section 54 applies or has applied in relation to a group.
- (2) If at any relevant time there is a change in relevant information relating to the group, the responsible member must notify HMRC of that change.
- (3) The notification must be given in the specified way.
- (4) The notification must be given before the end of the period of 90 days beginning with the day on which the change occurs.
- (5) In subsection (3) “specified” means specified in a notice published by HMRC.
- (6) In this section—
  - “relevant information” means information of a kind specified under section 54(2);
  - “relevant time” means any time—
    - (a) after the time when the information is provided under section 54 or (if earlier) the last time by which the information may be provided in accordance with that section, and
    - (b) before the giving of a direction under section 56 in relation to the group.

## **56 Duty to file returns**

- (1) This section applies where the threshold conditions are met in relation to a group for an accounting period.
- (2) The responsible member must deliver a DST return—
  - (a) for the accounting period, and
  - (b) for each subsequent accounting period, subject to subsection (3).
- (3) An officer of Revenue and Customs may, on the application of the responsible member, direct that the duty to deliver a DST return does not apply in relation to an accounting period specified in the direction or subsequent accounting periods.
- (4) Such a direction may be given only if it appears to the officer that the threshold conditions will not be met in relation to the group for any accounting period beginning with the specified accounting period.
- (5) Nothing in a direction under subsection (3) prevents the further application of this section to the group, in any subsequent accounting period in which the threshold conditions are met.
- (6) Schedule 8 contains provision about DST returns, enquiries, assessments etc.

### *Groups, parents and members*

## **57 Meaning of “group”, “parent” etc**

- (1) In this Part “group” means—

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- (a) any entity which—
    - (i) is a relevant entity (see section 58), and
    - (ii) meets condition A or B (see subsections (2) and (3)), and
  - (b) each subsidiary (if any) of the entity mentioned in paragraph (a).
- (2) Condition A is that the entity—
- (a) is a member of a GAAP group, and
  - (b) is not a subsidiary of an entity that—
    - (i) is a relevant entity, and
    - (ii) itself meets condition A.
- (3) Condition B is that the entity is not a member of a GAAP group.
- (4) In this Part—
- (a) references to the “parent” of a group are to the entity mentioned in subsection (1)(a);
  - (b) references to a “member” of a group are to an entity mentioned in subsection (1)(a) or (b);
  - (c) “subsidiary” has the meaning given by the applicable accounting standards.
- (5) In this section “GAAP group” means a group within the meaning of the applicable accounting standards.
- (6) For the meaning of “the applicable accounting standards” see section 64.

## **58 Section 57: meaning of “relevant entity”**

- (1) In section 57 “relevant entity” means—
- (a) a company, or
  - (b) an entity the shares or other interests in which are listed on a recognised stock exchange and are sufficiently widely held.
- (2) Shares or other interests in an entity are “sufficiently widely held” if no participator in the entity holds more than 10% by value of all the shares or other interests in the entity.
- (3) The following are not relevant entities—
- (a) the Crown;
  - (b) a Minister of the Crown;
  - (c) a government department;
  - (d) a Northern Ireland department;
  - (e) a foreign sovereign power.
- (4) In this section—
- (a) “participator” has the meaning given by section 454 of CTA 2010;
  - (b) “recognised stock exchange” has the meaning given by section 1137 of CTA 2010;
  - (c) the reference to shares or other interests being listed on a recognised stock exchange is to be read in accordance with section 1137 of CTA 2010.
- (5) For the meaning of “company” see section 72.

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## **59 Continuity of a group over time**

- (1) In this Part, this section applies for the purpose of determining whether a group at any time (Time 2) is the same group as a group at any earlier time (Time 1).
- (2) The group at Time 2 is the same group as the group at Time 1 if and only if the entity that is the parent of the group at Time 2—
  - (a) was the parent of the group at Time 1, and
  - (b) was the parent of a group at all times between Time 1 and Time 2.

## **60 Treatment of stapled entities**

- (1) This section applies where two or more entities—
  - (a) would, apart from this section, be the parent of a group, and
  - (b) are stapled to each other.
- (2) This Part applies as if—
  - (a) the entities were subsidiaries of another entity (the “deemed parent”), and
  - (b) the deemed parent were within section 57(1)(a) (conditions for being the parent of a group).
- (3) For the purpose of this section, an entity (A) is “stapled” to another entity (B) if, in consequence of the nature of the rights attaching to the shares or other interests in A (including any terms or conditions attaching to the right to transfer the interests), it is necessary or advantageous for a person who has, disposes of or acquires shares or other interests in A also to have, dispose of or acquire shares or other interests in B.

*Accounting periods, accounts etc*

## **61 Accounting periods and meaning of “a group's accounts”**

- (1) This section applies for the purposes of this Part.
- (2) A group's first accounting period—
  - (a) begins with 1 April 2020, and
  - (b) ends with the first accounting reference date to occur after that date or, if earlier, with 31 March 2021.

This is subject to subsection (4) (rule for groups coming into existence after 1 April 2020).

- (3) Any other accounting period of a group—
  - (a) begins immediately after the end of the previous accounting period, and
  - (b) ends with the first accounting reference date to occur after it begins or, if earlier, one year after it begins.
- (4) In the case of a group formed after 1 April 2020, its first accounting period—
  - (a) begins with the date on which it is formed, and
  - (b) ends with the first accounting reference date to occur after that date or, if earlier, one year after it begins.
- (5) In this section “accounting reference date” means the date to which the group's accounts are made up.

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- (6) Any reference to a group's accounts is to—
- (a) the consolidated accounts of the group's parent and its subsidiaries, or
  - (b) the parent's accounts (if the parent is the only member of the group throughout the period in question).

## **62 Apportionment of revenues or expenses to accounting period**

- (1) This section applies if a group's period of account does not coincide with an accounting period.
- (2) The revenues or expenses of a period of account may be apportioned to the parts of that period falling within different accounting periods.
- (3) The apportionment must be made by reference to the number of days in the periods concerned.

## **63 Meaning of revenues arising, or expenses recognised, in a period**

- (1) In this Part any reference to revenues arising to members of a group in a period, or to expenses of members of a group recognised in a period, is to be interpreted as follows.
- (2) For any period of account of the group for which the group's accounts are produced in accordance with the applicable accounting standards, the reference is to—
  - (a) revenues (however described) or expenses recognised in the income statement (or in profit and loss) for that period, or
  - (b) if any consolidation exemption applies, to revenues (however described) or expenses that would be recognised in the income statement (or in profit and loss) for that period if no consolidation exemption were applicable.
- (3) For any period of account of the group not falling within subsection (2), the reference is to revenues or expenses that would be recognised in the income statement (or in profit and loss) in the group's accounts produced in accordance with IAS for the period if such accounts were produced (and no consolidation exemption was applicable).
- (4) If the group does not produce accounts for any period (“the relevant period”) in an accounting period, the reference is to revenues or expenses that would be recognised in the income statement (or in profit and loss) in the group's accounts produced in accordance with IAS for the relevant period if such accounts were produced (and no consolidation exemption was applicable).
- (5) In this section “consolidation exemption” means any exemption in the applicable accounting standards from a requirement to consolidate revenues.

## **64 Meaning of “the applicable accounting standards” etc**

- (1) This section applies for the purposes of this Part.
- (2) “The applicable accounting standards”, in relation to a group, means—
  - (a) for any period for which the group's accounts are produced in accordance with UK GAAP, UK GAAP;
  - (b) for any period for which the group's accounts are produced in accordance with acceptable overseas GAAP, acceptable overseas GAAP;

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- (c) for any period for which the group's accounts are produced in accordance with a specified standard, that standard;
  - (d) otherwise, IAS.
- (3) “UK GAAP”—
- (a) means generally accepted accounting practice in relation to accounts of UK companies (other than accounts prepared in accordance with IAS) that are intended to give a true and fair view, and
  - (b) has the same meaning in relation to persons other than companies, and companies that are not UK companies, as it has in relation to UK companies.
- “UK companies” here means companies incorporated or formed under the law of a part of the United Kingdom.
- (4) “Acceptable overseas GAAP” means the generally accepted accounting practice and principles of any of the following—
- Canada;
  - China;
  - Japan;
  - South Korea;
  - the United States of America.
- (5) “IAS” means—
- (a) International Accounting Standards,
  - (b) International Financial Reporting Standards, and
  - (c) related interpretations,
- issued or adopted, from time to time, by the International Accounting Standards Board.
- (6) In subsection (2)(c), “specified” means specified in a notice published by HMRC.

### *Supplementary*

## **65 Anti-avoidance**

- (1) Any tax advantage that would (apart from this section) arise from relevant avoidance arrangements is to be counteracted by the making of such adjustments as are just and reasonable.
- (2) The adjustments (whether or not made by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a person to obtain a tax advantage.
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any tax advantage that would (apart from this section) arise from them can reasonably be regarded as consistent with—
  - (a) any principles on which the provisions of this Part that are relevant to the arrangements are based (whether express or implied), and
  - (b) the policy objectives of those provisions.
- (5) In this section—

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“arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“tax” means digital services tax (and “tax advantage” is to be construed accordingly);

“tax advantage” includes—

- (a) avoidance or reduction of a charge to tax or an assessment to tax,
- (b) repayment or increased repayment of tax,
- (c) avoidance of a possible assessment to tax, and
- (d) deferral of a payment of tax or advancement of a repayment of tax.

## **66 Notice requiring payment from other group members**

- (1) This section applies where any DST liability relating to a group for an accounting period is unpaid at the end of the period of 3 months after the relevant date.
- (2) A designated officer may give a notice (a “payment notice”) to a relevant person requiring that person, within 30 days of the giving of the notice, to pay all unpaid DST liabilities relating to the group for the accounting period.
- (3) A payment notice must state—
  - (a) the amount of any digital services tax or penalty that remains unpaid,
  - (b) the date any digital services tax or penalty first became payable, and
  - (c) the relevant person's right of appeal.
- (4) A payment notice may not be given more than 3 years and 6 months after the relevant date.
- (5) If the DST liability arose because of a determination under Part 5 of Schedule 8, the relevant date is the date on which the notice of determination is issued.
- (6) If the DST liability arose because of a self-assessment, the relevant date is the later of—
  - (a) the date on which the tax becomes due and payable;
  - (b) in a case where the DST return is delivered after the filing date, the date on which the return is delivered;
  - (c) if notice of enquiry is given, the date on which the enquiry is completed;
  - (d) if more than one notice of enquiry is given, the date on which the last notice is given;
  - (e) if as a result of such an enquiry the DST return is amended, the date on which the notice of the amendment is issued;
  - (f) if there is an appeal against such an amendment, the date on which the appeal is finally determined.
- (7) If the DST liability arose because of an assessment under Part 6 or 7 of Schedule 8, the relevant date is—
  - (a) if there is no appeal against the assessment, the date on which the notice of assessment is issued, or
  - (b) if there is such an appeal, the date on which the appeal is finally determined.
- (8) If the DST liability arose because of a penalty, the relevant date is the date on which the notice of the penalty is issued.



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- (9) A payment notice may be given anywhere in the world, to any relevant person (whether or not resident in the United Kingdom).
- (10) Schedule 9 makes further provision about payment notices.
- (11) In this section—
- “designated officer” means an officer of Revenue and Customs who has been designated by the Commissioners for the purposes of this Part;
  - “DST liability”, in relation to a group for an accounting period, means—
    - (a) a liability of a relevant person to digital services tax in respect of that period, or
    - (b) a liability of a person to a penalty for anything done (or not done) in respect of the accounting period;
  - “the filing date” has the same meaning as in Schedule 8 (see paragraph 1(1));
  - “relevant person” means any person who was a member of the group in the accounting period.
- (12) The reference in subsection (6) to a self-assessment includes a reference to a self-assessment that supersedes a determination (see paragraph 18 of Schedule 8).
- (13) In this section references to “digital services tax” include references to interest on digital services tax.

## **67 Interest on overdue DST**

- (1) Digital services tax carries interest at the applicable rate from the date when the tax becomes due and payable until payment.
- (2) This applies even if the date when the tax becomes due and payable is—
  - (a) a Saturday or Sunday,
  - (b) Good Friday, Christmas Day, a bank holiday or other public holiday, or
  - (c) a day specified in an order made under section 2 of the Banking and Financial Dealings Act 1971 (power to suspend financial dealings).
- (3) In this section “the applicable rate” means the rate applicable under section 178 of FA 1989.

## **68 Interest on overpaid DST etc**

- (1) Where a payment in respect of a person's digital services tax liability for an accounting period is made before the due date, the payment carries interest at the applicable rate from the later of—
  - (a) the date the payment is made, and
  - (b) 6 months and 13 days from the start of the accounting period,until the due date.
- (2) Where a repayment of digital services tax paid by a person for an accounting period falls to be made, the repayment carries interest at the applicable rate—
  - (a) from the due date or, if later, the date the digital services tax was paid, and
  - (b) until the order for repayment is issued.

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- (3) Where a repayment of digital services tax is a repayment of tax paid by a person on different dates, it is to be treated so far as possible as a repayment of tax paid on a later (rather than an earlier) date among those dates.
- (4) Where—
- (a) interest has been paid to a person under this section,
  - (b) there is a change in the person's assessed liability,
  - (c) the change does not correct (wholly or in part) an error made by an officer of Revenue and Customs, and
  - (d) as a result of the change (and in particular not as a result of an error in the calculation of interest) it appears to an officer of Revenue and Customs that some or all of the interest ought not to have been paid,
- the interest that ought not to have been paid may be recovered from the person.
- (5) For the purposes of subsection (4)(b) there is a change in a person's assessed liability if (and only if)—
- (a) an assessment, or an amendment of an assessment, of the amount of digital services tax payable by the person for the accounting period in question is made, or
  - (b) an HMRC determination of that amount is made,
- whether or not any previous assessment or determination has been made.
- (6) In this section—
- “the applicable rate” has the same meaning as in section 67;
  - “the due date”, in relation to an accounting period, means the date digital services tax for the accounting period becomes due and payable;
  - “error” includes—
    - (a) any computational error, and
    - (b) the allowance of a claim that ought not to have been allowed;  - “HMRC determination” means a determination under Part 5 of Schedule 8.

## **69 Recovery of DST liability**

- (1) Any amount due by way of DST liability is recoverable as a debt due to the Crown.
- (2) In this section “DST liability” has the same meaning as in section 66.

## **70 Minor and consequential amendments**

Schedule 10 contains minor and consequential amendments.

## **71 Review of DST**

- (1) The Treasury must, before the end of 2025, conduct a review of digital services tax and prepare a report of the review.
- (2) The Treasury must lay a copy of the report before Parliament.

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2020, PART 2. (See end of Document for details)*

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## *General*

### **72 Interpretation of Part**

In this Part—

- “accounting period” has the meaning given by section 61;
- “the applicable accounting standards” has the meaning given by section 64;
- “the Commissioners” has the meaning given by section 39;
- “company” has the meaning given by section 1121(1) of CTA 2010;
- “digital services activity” has the meaning given by section 43;
- “digital services revenues” has the meaning given by section 40;
- “group” has the meaning given by section 57;
- “group's accounts” has the meaning given by section 61;
- “HMRC” means Her Majesty's Revenue and Customs;
- “IAS” has the meaning given by section 64;
- “member” has the meaning given by section 57;
- “parent” has the meaning given by section 57;
- “the responsible member” has the meaning given by section 52;
- “subsidiary” has the meaning given by section 57;
- “the threshold conditions” has the meaning given by section 46;
- “UK digital services revenues” has the meaning given by section 41;
- “UK user” has the meaning given by section 44;
- “user” has the meaning given by section 44.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2020, PART 2.