

## SCHEDULES

### SCHEDULE 13

#### TRANSFER SCHEMES: TAX PROVISIONS

##### PART 7

##### OTHER PROVISIONS CONCERNING TRANSFERS

###### *Chargeable gains: value shifting*

- 41 No transfer scheme is to be regarded as a scheme or arrangement for the purposes of section 30 of TCGA 1992.

###### *Group relief*

- 42 The power of the Secretary of State to make a transfer scheme is not to be regarded as constituting—
- (a) arrangements falling within section 410(1) or (2) of ICTA (arrangements for transfer of company to another group or consortium), or
  - (b) option arrangements for the purposes of paragraph 5B of Schedule 18 to ICTA.

###### *Modification of transfer schemes and determinations under paragraph 9(1)(d) or 27(1)(c): companies*

- 43 (1) This paragraph applies if—
- (a) a company delivers a company tax return,
  - (b) subsequently, an event mentioned in sub-paragraph (2) below occurs, and
  - (c) as a result of that event, the return is incorrect.
- (2) The events are—
- (a) the making of an agreement modifying a transfer scheme under paragraph 15 of Schedule 12 to this Act;
  - (b) a determination or modification of a determination under the provision mentioned in paragraph 9(1)(d) or 27(1)(c) above.
- (3) The return may be amended under paragraph 15 of Schedule 18 to FA 1998 so as to remedy the error, ignoring any time limit which would otherwise prevent that happening.
- (4) But an amendment may not be made in reliance on sub-paragraph (3) above more than 12 months after the end of the accounting period of the company during which (as the case may be)—
- (a) the agreement is made, or

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- (b) the determination or modification of a determination is made.
- (5) Sub-paragraphs (6) and (7) below apply if the company does not amend the return so as to remedy the error before the end of that 12 month period.
- (6) A discovery assessment or a discovery determination may be made in relation to the error, ignoring any time limit which would otherwise prevent that happening.
- (7) But such an assessment or determination may not be made in reliance on sub-paragraph (6) above more than 24 months after the end of the accounting period mentioned in sub-paragraph (4) above.
- (8) Expressions used in this paragraph and in Schedule 18 to FA 1998 have the same meaning in this paragraph as in that Schedule.

*Modification of transfer schemes: other persons and partnerships*

- 44 (1) This paragraph applies if—
- (a) a person delivers a return under section 8, 8A or 12AA of TMA 1970,
  - (b) subsequently, an agreement is made modifying a transfer scheme under paragraph 15 of Schedule 12 to this Act, and
  - (c) as a result of that, the return is incorrect.
- (2) The return may be amended under section 9ZA or 12ABA of TMA 1970 so as to remedy the error, ignoring any time limit which would otherwise prevent that happening.
- (3) But an amendment may not be made in reliance on sub-paragraph (2) above more than 12 months after the end of the year of assessment during which the agreement modifying the transfer scheme is made.
- (4) If the return is amended under section 12ABA in reliance on sub-paragraph (2) above, subsection (3) of that section applies, ignoring any time limit which would otherwise prevent the officer from proceeding under that subsection.
- (5) Sub-paragraphs (6) and (7) below apply if the return is not amended under section 9ZA or 12ABA so as to remedy the error before the end of the 12 month period mentioned in sub-paragraph (3) above.
- (6) An officer of Revenue and Customs may proceed under section 29(1) or 30B(1) and (2) of TMA 1970 in relation to the error, ignoring any time limit which would otherwise prevent the officer from so proceeding.
- (7) But an assessment or an amendment may not be made in reliance on sub-paragraph (6) above more than 24 months after the end of the year of assessment mentioned in sub-paragraph (3) above.

*Power to make further provision in relation to transfer schemes*

- 45 (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time (including by virtue of this Schedule) in relation to—
- (a) any property, rights or liabilities transferred in accordance with a transfer scheme, or

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- (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with a transfer scheme.
- (2) The provision that may be made under sub-paragraph (1)(a) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
  - (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
  - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.
- (3) The provision that may be made under sub-paragraph (1)(b) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
  - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or to be treated in a specified way;
  - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.
- (4) Regulations under sub-paragraph (1) may amend this Schedule (apart from this paragraph).
- (5) Regulations under sub-paragraph (1) may—
- (a) make such supplementary, incidental or consequential provision as the Treasury think fit, and
  - (b) make different provision for different cases.
- (6) The power to make regulations under sub-paragraph (1) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (7) In this paragraph references to any property, rights or liabilities transferred in accordance with a transfer scheme include references to any property, rights or liabilities transferred, or any interests, rights or liabilities created, by virtue of paragraph 4, 6 or 12 of Schedule 12 to this Act.
- (8) In this paragraph references to the transfer of any property, rights or liabilities in accordance with a transfer scheme include references to the transfer of any property, rights or liabilities, or the creation of any interests, rights or liabilities, by virtue of paragraph 4, 6 or 12 of Schedule 12 to this Act.
- (9) In this paragraph—
- “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax, and

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“tax provision” means a provision of an enactment about a relevant tax.

- (10) In sub-paragraph (9) “enactment” includes an enactment contained in an instrument made under an Act.
- (11) Paragraph 20(3) of Schedule 12 to this Act applies for the purposes of this paragraph as it applies for the purposes of that Schedule.

*Consequential amendment*

- 46 In section 35(3)(d) of TCGA 1992 (no gain no loss disposals), after sub-paragraph (xvii) insert—
- “(xviii) paragraph 11 or 22 of Schedule 13 to the Crossrail Act 2008.”