



# Finance (No. 2) Act 2010

## 2010 CHAPTER 31

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with finance. [27th July 2010]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### RATES ETC

##### *Corporation tax*

#### **1 Main rate of corporation tax for financial year 2011**

In section 2(2)(a) of FA 2010 (main corporation tax rate for financial year 2011 on profits other than ring fence profits), for “28%” substitute “27%”.

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### *Capital gains tax*

#### **2 Rates of capital gains tax**

Schedule 1 contains provision in relation to the rates at which capital gains tax is charged.

### *Value added tax*

#### **3 Rate of value added tax**

- (1) In section 2(1) of VATA 1994 (rate of VAT), for “17.5 per cent” substitute “ 20 per cent ”.
- (2) In section 21(4) of that Act (restriction on value of imported goods), for “28.58 per cent” substitute “ 25 per cent ”.
- (3) The amendment made by subsection (1) has effect in relation to any supply made on or after 4 January 2011 and any acquisition or importation taking place on or after that date.
- (4) The amendment made by subsection (2) has effect in relation to goods imported on or after 4 January 2011.
- (5) Schedule 2 contains provision for a supplementary charge to value added tax on supplies spanning the date of the VAT change.

### *Insurance premium tax*

#### **4 Rates of insurance premium tax**

- (1) In section 51(2) of FA 1994 (rates of insurance premium tax)—
  - (a) in paragraph (a) (higher rate), for “17.5 per cent” substitute “ 20 per cent ”, and
  - (b) in paragraph (b) (standard rate), for “5 per cent” substitute “ 6 per cent ”.
- (2) The amendments made by subsection (1) have effect in relation to a premium falling to be regarded for the purposes of Part 3 of FA 1994 as received under a taxable insurance contract by an insurer on or after 4 January 2011.
- (3) In the application of sections 67A and 67C of FA 1994 (announced increase in rate) in relation to the increases made by this section—
  - (a) the announcement for the purposes of section 67A(1) is to be taken to have been made on 22 June 2010, and
  - (b) the date of the change is 4 January 2011.
- (4) In FA 1999, omit section 125; and the repeal of that section comes into force in accordance with the provision made by this section for the coming into force of the amendments made by subsection (1).

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## PART 2

### OTHER PROVISIONS

#### *Pensions*

#### **5 Power to repeal high income excess relief charge**

- (1) The Treasury may by order made by statutory instrument repeal section 23 of, and Schedule 2 to, FA 2010 (high income excess relief charge).
- (2) No order may be made under subsection (1) after 31 December 2010.
- (3) Section 1014 of ITA 2007 (orders and regulations under Income Tax Acts) does not apply to the power under subsection (1).

#### **6 Treatment of persons at age 75**

F1 .....

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#### **Textual Amendments**

- F1 S. 6 omitted (with effect as mentioned in Sch. 16 paras. 85, 107 of the amending Act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 84(e)(i)**

#### *Income tax*

#### **7 Expenses paid to MPs etc**

Schedule 4 contains provision about expenses and allowances paid to members of the House of Commons and other representatives.

#### *Corporation tax*

#### **8 Amounts not fully recognised for accounting purposes**

Schedule 5 contains amendments of sections 311, 312 and 599A of CTA 2009 (loan relationships and derivative contracts: treatment of amounts not fully recognised for accounting purposes).

#### **F2<sup>9</sup> Insurance companies: business transfers involving excess assets**

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#### **Textual Amendments**

- F2 S. 9 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), **Sch. 16 para. 247(v)**

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*Final provisions*

**10 Interpretation**

(1) In this Act—

“CTA 2009” means the Corporation Tax Act 2009;

“CTA 2010” means the Corporation Tax Act 2010;

“ICTA” means the Income and Corporation Taxes Act 1988;

“ITA 2007” means the Income Tax Act 2007;

“ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003;

“TCGA 1992” means the Taxation of Chargeable Gains Act 1992;

“VATA 1994” means the Value Added Tax Act 1994.

(2) In this Act “FA”, followed by a year, means the Finance Act of that year.

**11 Short title**

This Act may be cited as the Finance (No.2) Act 2010.

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## SCHEDULES

### SCHEDULE 1

Section 2

#### RATES OF CAPITAL GAINS TAX

##### *Amendments of TCGA 1992*

- 1 TCGA 1992 is amended as follows.
- 2 For section 4 (rate of capital gains tax) substitute—

#### **“4 Rates of capital gains tax**

##### **“4 “4 Rates of capital gains tax**

- (1) This section makes provision about the rates at which capital gains tax is charged, but is subject to section 169N (rate in case of claim for entrepreneurs' relief).
- (2) Subject to the following provisions of this section, the rate of capital gains tax in respect of gains accruing to a person in a tax year is 18%.
- (3) The rate of capital gains tax in respect of gains accruing to—
  - (a) the trustees of a settlement, or
  - (b) the personal representatives of a deceased person,in a tax year is 28%.
- (4) If income tax is chargeable at the higher rate or the dividend upper rate in respect of any part of the income of an individual for a tax year, the rate of capital gains tax in respect of gains accruing to the individual in the year is 28%.
- (5) If no income tax is chargeable at the higher rate or the dividend upper rate in respect of the income of an individual for a tax year, but the amount on which the individual is chargeable to capital gains tax exceeds the unused part of the individual's basic rate band, the rate of capital gains tax on the excess is 28%.
- (6) For the purposes of subsection (5), gains which are chargeable to capital gains tax at the rate in section 169N(3) are to be treated as forming the lowest part of the amount on which an individual is chargeable to capital gains tax.
- (7) The reference in subsection (5) to the unused part of an individual's basic rate band is a reference to the amount by which the basic rate limit exceeds the individual's Step 3 income.
- (8) For the purposes of this section, “the Step 3 income” of an individual means the individual's net income less allowances deducted at Step 3 of

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the calculation in section 23 of ITA 2007 for the purpose of calculating the individual's income tax liability.

- (9) Section 989 of ITA 2007 (the definitions) applies for the purposes of this section as it applies for income tax purposes.

#### **4A Section 4: special cases**

##### **4A 4A Section 4: special cases**

- (1) Subsection (2) applies if for a tax year—
- (a) a person is entitled, by virtue of section 539 of ITTOIA 2005 (gains from contracts for life insurance etc), to relief by reference to the amount of a deficiency, or
  - (b) the residuary income of an estate is treated, by virtue of section 669(1) and (2) of that Act (reduction in residuary income: inheritance tax on accrued income), as reduced so as to reduce a person's income by any amount for the purposes of extra liability.
- (2) Section 4(7) is to have effect as if the person's Step 3 income for the year were reduced by the amount of the deficiency mentioned in subsection (1) (a) or the amount mentioned in subsection (1)(b) (as the case may be).
- (3) Subsections (4) and (5) apply if, by virtue of section 465 of ITTOIA 2005 (gains from contracts for life insurance etc), a person's total income for a tax year is deemed to include any amount or amounts.
- (4) Section 4(7) is to have effect as if the person's Step 3 income for the year included not the whole of the amount or amounts concerned but only the annual equivalent within the meaning of section 536(1) of that Act or the total annual equivalent within the meaning of section 537 of that Act (as the case may be).
- (5) If—
- (a) relief is given under section 535 of that Act, and
  - (b) the calculation under section 536(1) or 537 of that Act (as the case may be) does not involve the higher rate of income tax,
- section 4(4) and (5) are to have effect as if no income tax were chargeable at the higher rate or the dividend upper rate in respect of the person's income.”

3 After section 4A (as substituted by paragraph 2) insert—

#### **“4B Deduction of losses etc in most beneficial way**

##### **“4B “4B Deduction of losses etc in most beneficial way**

- (1) This section applies if the gains accruing to a person in a tax year are (apart from this section) chargeable to capital gains tax at different rates.
- (2) Allowable losses may be deducted from those gains, and the exempt amount under section 3 may be used in respect of those gains, in such way as is most beneficial to that person.
- (3) Subsection (2) is subject to any enactment which contains a limitation on the gains from which allowable losses may be deducted.”

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- 4 In section 169H (introduction to entrepreneurs' relief), in subsection (1), for “relief from capital gains tax” substitute “ for a lower rate of capital gains tax ”.
- 5 (1) Section 169N (amount of relief: general) is amended as follows.
- (2) For subsections (2) to (4) substitute—
- “(2) The resulting amount is to be treated for the purposes of this Act as a chargeable gain accruing at the time of the disposal to the individual or trustees by whom the claim is made.
- (3) The rate of capital gains tax in respect of that gain is 10%, but this is subject to subsections (4) to (4B).
- (4) Subsections (4A) and (4B) apply if the aggregate of—
- (a) the gain mentioned in subsection (2), and
- (b) the total of so much of each amount resulting under subsection (1) by virtue of its operation in relation to earlier relevant qualifying business disposals (if any) as was—
- (i) charged at the rate in subsection (3), or
- (ii) subject to reduction under subsection (2) of this section as originally enacted,
- exceeds £5 million.
- (4A) The rate in subsection (3) is to apply only to so much (if any) of the gain mentioned in subsection (2) as (when added to the total mentioned in subsection (4)(b)) does not exceed £5 million.
- (4B) Section 4 (rates of capital gains tax) is to apply to so much of the gain mentioned in subsection (2) as is not subject to the rate in subsection (3).”
- (3) In subsection (7), for “subsection (3)” substitute “ subsection (4) ”.
- 6 In section 169O (amount of relief: special provision for certain trust disposals), in subsection (3), omit “with no reduction under subsection (2) of that section”.
- 7 In section 169P (amount of relief: special provision for certain associated disposals), in subsection (3), omit “with no reduction under subsection (2) of that section”.
- 8 For section 169R (reorganisations involving acquisition of qualifying corporate bonds) substitute—

**“169R Reorganisations involving acquisition of qualifying corporate bonds**

**“169R “169R Reorganisations involving acquisition of qualifying corporate bonds**

- (1) This section applies where the calculation under section 116(10)(a) would (apart from this section) have effect to produce a chargeable gain for an individual by reason of a relevant transaction.
- (2) If an election is made under this section, a claim for entrepreneurs' relief may be made as if the relevant transaction involved a disposal of the old asset; and if such a claim is made section 116(10) does not apply.
- (3) An election under this section must be made—

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- (a) if the relevant transaction, so far as it relates to the old asset, would (apart from section 116(10)) involve a disposal of trust business assets, jointly by the trustees and the qualifying beneficiary, and
  - (b) otherwise, by the individual.
- (4) An election under this section must be made on or before the first anniversary of the 31 January following the tax year in which the relevant transaction takes place.
- (5) In this section, “old asset” and “relevant transaction” have the meaning given by section 116.”
- 9 (1) Paragraph 1 of Schedule 5B (enterprise investment scheme: re-investment) is amended as follows.
- (2) After sub-paragraph (5) insert—
- “(5A) The reference in sub-paragraph (1)(b) to a gain accruing in accordance with section 169N does not include such a gain so far as it is chargeable to capital gains tax at the rate in section 169N(3).”

#### *Amendments of FA 2008*

- 10 In Schedule 3 to FA 2008 (entrepreneurs' relief), in paragraph 7 (transitionals: reorganisations)—
- (a) in sub-paragraph (5), for “section 169N(1) to (3)” substitute “section 169N(1) and (2)”;
  - (b) after sub-paragraph (7) insert—
    - “(7A) Section 169N(3) to (4B) is to apply to the deemed chargeable gain found in accordance with sub-paragraphs (5) to (7).”
- 11 In paragraph 8 of that Schedule (transitionals: EIS and VCT)—
- (a) in sub-paragraph (7), for “section 169N(1) to (3)” substitute “section 169N(1) and (2)”;
  - (b) after sub-paragraph (9) insert—
    - “(9A) Section 169N(3) to (4B) is to apply to the amount treated as accruing in accordance with sub-paragraphs (7) to (9).”

#### *Commencement*

- 12 The amendment made by paragraph 2 has effect in relation to gains accruing on or after 23 June 2010.
- 13 The amendment made by paragraph 3 has effect in relation to the tax year 2010-11 and subsequent tax years.
- 14 The amendments made by paragraphs 4 to 7 and 9 have effect in relation to qualifying business disposals occurring on or after 23 June 2010.
- 15 The amendment made by paragraph 8 has effect in relation to relevant transactions occurring on or after 23 June 2010.
- 16 The amendment made by paragraph 10 has effect if the first relevant disposal occurs on or after 23 June 2010.

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- 17 The amendment made by paragraph 11 has effect if the first relevant chargeable event occurs on or after 23 June 2010.

*Transitionals*

- 18 In relation to the tax year 2010-11—
- (a) the reference in section 4(2), (3) and (4) of TCGA 1992 (as substituted by paragraph 2) to gains accruing in a tax year, and
  - (b) the reference in section 4(5) of that Act (as so substituted) to the amount on which the individual is chargeable to capital gains tax,
- do not include gains accruing before 23 June 2010.
- 19 Gains treated as accruing to an individual under section 10A of TCGA 1992 (temporary non-residents) in the tax year 2010-11 are to be treated for the purposes of this Schedule as accruing before 23 June 2010.
- 20 (1) Chargeable gains treated as accruing to an individual under section 12(2) of TCGA 1992 (non-UK domiciled individuals to whom remittance basis applies) in the tax year 2010-11 are to be treated for the purposes of this Schedule as accruing on the day the related foreign chargeable gains are remitted.
- (2) For the purposes of sub-paragraph (1), foreign chargeable gains under section 809J of ITA 2007 (section 809I: order of remittances) in the tax year 2010-11 are to be treated as remitted before 23 June 2010.
- 21 Chargeable gains treated as accruing to a settlor under section 86(4)(a) of TCGA 1992 (attribution of gains to settlors with interest in non-resident or dual resident settlements) in the tax year 2010-11 are to be treated for the purposes of this Schedule as accruing before 23 June 2010.
- 22 (1) This paragraph makes provision, for the purposes of this Schedule, in relation to—
- (a) chargeable gains treated as accruing to a beneficiary of a settlement under section 87(2) of TCGA 1992 (non-UK resident settlements: attribution of gains to beneficiaries) in the tax year 2010-11,
  - (b) chargeable gains treated as accruing to a beneficiary of a settlement under section 89(2) of that Act (migrant settlements etc) in that tax year, and
  - (c) chargeable gains treated as accruing to a beneficiary of a relevant settlement under paragraph 8(1) of Schedule 4C to that Act (attribution of Schedule 4C gains to beneficiaries) in that tax year.
- (2) Such of the chargeable gains within sub-paragraph (1)(a), (b) or (c) as result from the matching of capital payments received before 23 June 2010 are to be treated as accruing before that date.
- (3) Such of the chargeable gains within sub-paragraph (1)(a), (b) or (c) as result from the matching of capital payments received on or after that date are to be treated as accruing on or after that date.
- (4) The reference in sub-paragraph (1)(b) to section 89(2) of TCGA 1992 is to be read as including a reference to that section as applied by section 90(6)(a) of that Act (transfers between settlements).

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## SCHEDULE 2

Section 3

## SUPPLEMENTARY CHARGE TO VAT

## PART 1

## SUPPLEMENTARY CHARGE TO VAT

*The charge*

- 1 (1) There is a supplementary charge to value added tax on a supply of goods or services that is treated as taking place on or after 22 June 2010 if—
- (a) the supply spans the date of the VAT change,
  - (b) it is subject to VAT at the rate in force under section 2 of VATA 1994,
  - (c) the person to whom the supply is made is not entitled under VATA 1994 to credit for, or the repayment or refund of, all of the VAT on the supply, and
  - (d) a relevant condition is met.
- (2) In this Schedule “the date of the VAT change” means 4 January 2011.
- (3) For the cases in which a supply, other than the grant of a right to goods or services, spans the date of the VAT change and the relevant conditions in relation to such a supply, see paragraph 2.
- (4) For the cases in which a supply consisting of the grant of a right to goods or services spans the date of the VAT change and the relevant conditions in relation to such a supply, see paragraph 3.
- (5) Sub-paragraph (1) has effect subject to the exceptions made by or under Part 2 of this Schedule.
- (6) In this Schedule—
- Part 3 contains provision about liability for, and the amount of, a supplementary charge under this Schedule,
  - Part 4 contains special provision about listed supplies, and
  - Part 5 contains provision about administration and interpretation.
- (7) A supplementary charge to value added tax under this Schedule is to be treated for all purposes as if it were value added tax charged in accordance with VATA 1994.

*Supply spanning the date of the VAT change*

- 2 (1) For the purposes of this Schedule, a supply of goods or services spans the date of the VAT change where—
- (a) by virtue of the issue of a VAT invoice or the receipt of a payment by the person making the supply (“the supplier”), the supply is treated as taking place before the date of the VAT change, but
  - (b) the basic time of supply (see paragraph 4) is on or after the date of the VAT change.
- (2) The relevant conditions are—

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- (a) in relation to a supply that is within sub-paragraph (1)(a) by virtue of the issue of a VAT invoice, conditions A to D, and
  - (b) in relation to a supply that is within sub-paragraph (1)(a) by virtue of the receipt of a payment, conditions A to C.
- (3) Condition A is that the supplier and the person to whom the supply is made are connected with each other at any time in the period—
- (a) beginning with the day on which the supply is treated as taking place, and
  - (b) ending on the date of the VAT change.
- (4) Paragraph 5 modifies condition A in cases involving a series of supplies.
- (5) Condition B is that the aggregate of the following is more than £100,000—
- (a) the relevant consideration for the supply, and
  - (b) the relevant consideration for every related supply of goods or services (including every related grant of a right to goods or services) that spans the date of the VAT change (see paragraph 6).
- (6) Condition C is that a prepayment in respect of the supply is financed by the supplier or a person connected with the supplier (see paragraph 7).
- (7) In sub-paragraph (6) “prepayment”, in respect of a supply, means a payment that is received by the supplier before the basic time of supply.
- (8) Condition D is that full payment of the amount shown on the VAT invoice referred to in sub-paragraph (1)(a) is not due before the end of the period of 6 months beginning with the date on which the invoice is issued.
- (9) This paragraph does not apply in relation to a supply consisting of the grant of a right to goods or services (see paragraph 3).

*Grant of right spanning the date of the VAT change*

- 3 (1) For the purposes of this Schedule, a supply consisting of the grant by a person (“the grantor”) of a right to goods or services spans the date of the VAT change where—
- (a) that supply is treated as taking place before the date of the VAT change,
  - (b) the goods or services are to be supplied at a discount or free of charge, and
  - (c) the basic time of supply for the supply of some or all of the goods or services (see paragraph 4) is on or after the date of the VAT change.
- (2) In relation to the grant of the right, the relevant conditions are conditions A to C.
- (3) Condition A is that the grantor and the person to whom the right is granted are connected with each other at any time in the period—
- (a) beginning with the day on which the supply consisting of the grant of the right is treated as taking place, and
  - (b) ending on the date of the VAT change or, if the right is exercised (entirely or partly) on a later date, that date (or, if more than one, the first of those dates).
- (4) Paragraph 5 modifies condition A in cases involving a series of supplies.
- (5) Condition B is that the aggregate of the following is more than £100,000—
- (a) the relevant consideration for the grant of the right, and

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- (b) the relevant consideration for every related supply of goods or services (including every related grant of a right to goods or services) that spans the date of the VAT change (see paragraph 6).
- (6) Condition C is that the payment made in respect of the grant of the right is financed by the grantor or a person connected with the grantor (see paragraph 7).
- (7) In this Schedule references to a right to goods or services include—
  - (a) any right or option with respect to such goods or services, and
  - (b) any interest deriving from such a right or option.

*“Basic time of supply”*

- 4 (1) In this Schedule the “basic time of supply” is the time given by subsection (2) or (3) of section 6 of VATA 1994 (disregarding subsections (4) to (14) of that section).
- (2) Sub-paragraph (1) does not apply in relation to listed supplies (see Part 4 of this Schedule).

*Series of supplies*

- 5 (1) This paragraph applies where—
  - (a) the supply or grant of a right referred to in paragraph 2 or 3 (“the affected supply or grant”) is one of a series of supplies of, or grants of a right to, the same or substantially the same goods or services, and
  - (b) each of the supplies, and the grants of a right, in the series was or will be made in the expectation that the affected supply or grant would or will take place.
- (2) In condition A in paragraphs 2 and 3, the references to the supplier and the grantor include any person who makes one of the supplies or grants one of the rights in the series.

*“Relevant consideration” and “related” supplies*

- 6 (1) This paragraph applies for the purposes of condition B in paragraphs 2 and 3.
- (2) “Relevant consideration” means—
  - (a) in relation to a supply that is within paragraph 2(1) by virtue of the issue of a VAT invoice, the amount shown on that invoice,
  - (b) in relation to a supply that is within paragraph 2(1) by virtue of the receipt of a payment, the amount of that payment, and
  - (c) in relation to a grant of a right to goods or services within paragraph 3(1), the consideration for the grant of the right,
 but does not include any amount in respect of VAT.
- (3) A supply within paragraph 2(1), or a grant of a right within paragraph 3(1), is related to another such supply or grant if they are both made as part of the same scheme.
- (4) “Scheme” includes any arrangements, transaction or series of transactions.

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### *Financing*

- 7 (1) This paragraph applies for the purposes of condition C in paragraphs 2 and 3.
- (2) A payment is financed by a person if, directly or indirectly, the person—
- (a) provides funds to enable the person to whom the supply is made to make the whole or part of the payment (whether the funds are provided before or after the payment is made),
  - (b) procures the provision of such funds by another person,
  - (c) provides funds for discharging (in whole or in part) any liability that has been or may be incurred by any person for or in connection with raising funds to enable the person to whom the supply is made to make the payment, or
  - (d) procures that any such liability is or will be discharged (in whole or in part) by another person.
- (3) In sub-paragraph (2) the references to providing funds for a purpose are to—
- (a) making a loan of funds that are or are to be used for that purpose,
  - (b) providing a guarantee or other security in relation to such a loan,
  - (c) providing consideration for the issue of shares or other securities issued wholly or partly for raising those funds,
  - (d) providing consideration for the acquisition by any person of any such shares or securities, or
  - (e) any other transfer of assets or value as a consequence of which any of those funds are made available for that purpose.

### *Connected persons*

- 8 Section 1122 of CTA 2010 (connected persons) applies for the purposes of this Schedule.

### *Receipt of payments*

- 9 In this Schedule a reference to receipt of a payment by the person making a supply or granting a right (however expressed) includes a reference to receipt by a person to whom a right to receive it has been assigned.

### *Power to change relevant conditions*

- 10 (1) The Treasury may by order amend this Part of this Schedule by adding, modifying or omitting relevant conditions.
- (2) An order under this paragraph—
- (a) may make different provision for different cases, and
  - (b) may make incidental or consequential amendments of this Schedule.

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## PART 2

### EXCEPTIONS

#### *Letting etc of assets*

- 11 (1) This paragraph applies in relation to a supply within paragraph 2 which arises from the letting, hiring or rental of assets.
- (2) There is no supplementary charge under this Schedule if—
- (a) the period to which the VAT invoice or payment referred to in paragraph 2(1) relates does not exceed 12 months, and
  - (b) the VAT invoice is issued, or the payment is received, in accordance with normal commercial practice in relation to the letting, hiring or rental of such assets.

#### *Condition B cases involving normal commercial practice*

- 12 There is no supplementary charge under this Schedule on a supply of goods or services within paragraph 2 or a grant of a right to goods or services within paragraph 3 if—
- (a) the only relevant condition met is condition B, and
  - (b) the supply is made, or the right is granted, in accordance with normal commercial practice in relation to the supply of, or the grant of a right to, such goods or services.

#### *Condition D cases involving hire purchase, conditional sale or credit sale of goods*

- 13 There is no supplementary charge under this Schedule on a supply of goods within paragraph 2 if—
- (a) the only relevant condition met is condition D,
  - (b) the VAT invoice—
    - (i) relates to a supply of goods made under a hire-purchase, conditional sale or credit sale agreement,
    - (ii) forms part of that agreement, and
    - (iii) is issued in accordance with normal commercial practice in relation to a supply made under such an agreement, and
  - (c) the basic time of supply of the goods is intended and expected to be within 6 months of the date of the VAT invoice which relates to the supply.

#### *Normal commercial practice*

- 14 In this Part of this Schedule, “normal commercial practice”, in relation to a supply or grant of a right, means—
- (a) normal commercial practice of the supplier or grantor at a time when an increase in the rate of VAT in force under section 2 of VATA 1994 is not expected, or
  - (b) if the supplier or grantor has no such practice, the normal commercial practice of suppliers making similar supplies, or granters granting similar rights, in the United Kingdom at such a time.

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*Further exceptions*

- 15 (1) The Treasury may by order provide that there is no supplementary charge under this Schedule on supplies (including grants of rights to goods or services) of a description specified in the order.
- (2) An order under this paragraph—
- (a) may make provision having effect in relation to supplies of goods or services that are treated as taking place on or after 22 June 2010 or a later date, and
  - (b) may have effect in relation to a supplementary charge which has become due before the order is made.

**PART 3**

LIABILITY AND AMOUNT

*Liability*

- 16 (1) A supplementary charge under this Schedule on a supply within paragraph 2—
- (a) is a liability of the supplier (subject to sub-paragraph (3)), and
  - (b) becomes due on the date of the VAT change (rather than at the time of supply).
- (2) A supplementary charge under this Schedule on a supply consisting of the grant of a right to goods or services within paragraph 3—
- (a) is a liability of the grantor (subject to sub-paragraph (3)), and
  - (b) becomes due on the first occasion on or after the date of the VAT change on which the right is exercised (rather than at the time the right is granted).
- (3) If, on the date on which the supplementary charge becomes due, the person who would be liable to pay the charge under sub-paragraph (1) or (2)—
- (a) is not a taxable person, but
  - (b) is treated as a member of a group under sections 43A to 43D of VATA 1994,
- the supplementary charge is a liability of the representative member of the group.

*Amount*

- 17 (1) The amount of the supplementary charge on a supply within paragraph 2 is equal to the difference between—
- (a) the amount of VAT chargeable on the supply apart from this Schedule, and
  - (b) the amount of VAT that would be chargeable on the supply if it were subject to VAT at the rate of 20%.
- (2) The amount of the supplementary charge on a grant of a right to goods or services within paragraph 3 is equal to the difference between—
- (a) the amount of VAT chargeable on the grant of the right apart from this Schedule, and
  - (b) the amount of VAT that would be chargeable on the grant of the right if it were subject to VAT at the rate of 20%,
- (but see sub-paragraph (3)).

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- (3) If the basic time of supply for some of those goods and services is before the date of the VAT change, sub-paragraph (2) has effect as if the references to the amount of VAT chargeable and to the amount of VAT that would be chargeable were references to the relevant proportion of each of those amounts.
- (4) “The relevant proportion” is—

$$\frac{P}{W}$$

where—

P is so much of the consideration for the grant of the right as is attributable on a just and reasonable basis to a right to the goods and services for which the basic time of supply is on or after the date of the VAT change, and

W is the whole of the consideration for the grant of the right.

#### PART 4

##### LISTED SUPPLIES

###### *“Listed supply”*

- 18 (1) In this Schedule “listed supply” means a supply falling within sub-paragraph (2)—
- (a) which is made for a consideration the whole or part of which is determined or payable periodically or from time to time, and
  - (b) which is treated as taking place by virtue of the issue of a VAT invoice or the receipt of a payment by the person making the supply.
- (2) The following supplies fall within this sub-paragraph—
- (a) a supply of services,
  - (b) a supply arising from the grant of a major interest in land,
  - (c) a supply of water other than—
    - (i) distilled water, deionised water or water of similar purity, or
    - (ii) bottled water,
  - (d) a supply of—
    - (i) coal gas, water gas, producer gases or similar gases, or
    - (ii) petroleum gases, or other gaseous hydrocarbons, in a gaseous state,
  - (e) a supply of power, heat, refrigeration or ventilation, and
  - (f) a supply of goods together with services in the course of the construction, alteration, demolition, repair or maintenance of a building or civil engineering work.
- (3) The Treasury may by order amend sub-paragraph (2) by—
- (a) adding or omitting any description of supply, or

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- (b) varying any description of supply for the time being listed in that sub-paragraph.

*“Basic time of supply”: listed supplies*

- 19 (1) For the purposes of this Schedule, in relation to a listed supply, “the basic time of supply” is the end of the period to which the VAT invoice or payment mentioned in paragraph 18(1) relates, except as provided in sub-paragraphs (2) and (4).
- (2) Where the person making the supply issues an invoice—
- (a) in respect of part of the listed supply to which the VAT invoice or payment mentioned in paragraph 18(1) relates, and
  - (b) for a period (a “billing period”) ending before the end of the period to which that VAT invoice or payment relates,
- “the basic time of supply”, in relation to that part of the supply, is the end of the billing period.
- (3) For the purposes of sub-paragraph (2), the listed supply (and the consideration for the supply) must be apportioned between periods on a just and reasonable basis.
- (4) Where a listed supply is treated as taking place by virtue of—
- (a) the issue by the person making the supply of a VAT invoice relating to a premium for the grant of a tenancy or lease, or
  - (b) the receipt by the person making the supply of such a premium,
- “the basic time of supply” is the date of the grant of the tenancy or lease.

## PART 5

### ADMINISTRATION AND INTERPRETATION

*Person ceasing to be taxable person before supplementary charge due*

- 20 (1) This paragraph applies if, on the date on which a supplementary charge under this Schedule becomes due (“the due date”), the person who is liable to pay the charge under paragraph 16 is not a taxable person.
- (2) The supplementary charge must be accounted for by that person in accordance with VATA 1994 (and regulations made under that Act) as if it were VAT due in the last period for which the person was required to make a return by or under VATA 1994.
- (3) If an amount assessed as due by way of supplementary charge under this Schedule would (in the absence of this sub-paragraph) carry interest from a date earlier than the due date, it is to be treated as only carrying interest from the due date.

*Adjustment of contracts following the VAT change*

- 21 (1) This paragraph applies where—
- (a) a contract for the supply of goods or services is made before the date of the VAT change, and
  - (b) there is a supplementary charge under this Schedule on the supply.

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance (No. 2) Act 2010. (See end of Document for details)*

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- (2) The consideration for the supply is to be increased by an amount equal to the supplementary charge, unless the contract provides otherwise.

*Invoices*

- 22 Regulations under paragraph 2A of Schedule 11 to VATA 1994 (VAT invoices) may make provision about the provision, replacement or correction of invoices in connection with a supplementary charge under this Schedule.

*Orders under this Schedule*

- 23 (1) An order under this Schedule is to be made by statutory instrument.
- (2) A statutory instrument containing an order under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons, unless it is an instrument to which sub-paragraph (4) applies.
- (3) Sub-paragraph (4) applies to a statutory instrument containing an order made under paragraph 10 (or under that paragraph and under other provisions) which extends the supplies that are subject to a supplementary charge under this Schedule.
- (4) An instrument to which this sub-paragraph applies—
- (a) must be laid before the House of Commons, and
  - (b) ceases to have effect at the end of the period of 28 days beginning with the day on which it was made unless it is approved during that period by a resolution of the House of Commons.
- (5) In reckoning the period of 28 days no account is to be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.
- (6) The order ceasing to have effect does not affect—
- (a) anything previously done under it, or
  - (b) the making of a new order.

*Interpretation: general*

- 24 (1) Expressions used in this Schedule and in VATA 1994 have the same meaning in this Schedule as in that Act.
- (2) In this Schedule—
- (a) “treated as taking place” means treated as taking place for the purposes of the charge to VAT, and
  - (b) references to the person by or to whom a supply is made (however expressed) are to the person by or to whom the supply is treated as being made for the purposes of VATA 1994.

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2010. (See end of Document for details)*

F3F3 SCHEDULE 3

**Textual Amendments**

**F3** Sch. 3 omitted (with effect as mentioned in Sch. 16 paras. 85, 107 of the amending Act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 84(e)(ii)**

*Introductory*

1

F4

**Textual Amendments**

**F4** Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 84(e)(ii)**

*Pension rules applying at age 77 instead of age 75*

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F5

**Textual Amendments**

**F5** Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 84(e)(ii)**

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F6

**Textual Amendments**

**F6** Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 84(e)(ii)**

4

F7

**Textual Amendments**

**F7** Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 84(e)(ii)**

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2010. (See end of Document for details)*

*Treatment of lump sums to which persons become entitled at age 75*

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5            F8            .....

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**Textual Amendments**  
F8    Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, Sch. 16 para. 84(e)(ii)

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6            F9            .....

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**Textual Amendments**  
F9    Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, Sch. 16 para. 84(e)(ii)

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7            F10            .....

.....  
**Textual Amendments**  
F10    Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, Sch. 16 para. 84(e)(ii)

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8            F11            .....

.....  
**Textual Amendments**  
F11    Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, Sch. 16 para. 84(e)(ii)

*Application of rules of pension schemes*

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9            F12            .....

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2010. (See end of Document for details)*

**Textual Amendments**

**F12** Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, Sch. 16 para. 84(e)(ii)

*Interpretation*

10

**F13**

**Textual Amendments**

**F13** Sch. 3 omitted (19.7.2011 with effect as mentioned in Sch. 16 paras. 85, 107 of the amending act) by virtue of Finance Act 2011 (c. 11), s. 65, Sch. 16 para. 84(e)(ii)

SCHEDULE 4

Section 7

EXPENSES PAID TO MPs ETC

*Accommodation expenses*

1 (1) ITEPA 2003 is amended as follows.

(2) For section 292 substitute—

**“292 Accommodation expenses of MPs**

**“292 “292 Accommodation expenses of MPs**

(1) No liability to income tax arises in respect of a payment made to a member of the House of Commons under section 5(1) of the Parliamentary Standards Act 2009 if the payment is—

(a) expressed to be made in respect of accommodation expenses, or

(b) related to or in consequence of a payment expressed to be so made.

(2) “Accommodation expenses” means expenses necessarily incurred on overnight accommodation that is required for the performance of the member's parliamentary duties in or about the Palace of Westminster or the member's constituency.

(3) But the cost of an overnight stay in a hotel that was required only because, on that night, the member had been required to be at the House of Commons because the House was sitting late does not count as accommodation expenses for the purposes of this section, unless the member had been required to be at the House because it was sitting beyond 1 a.m.

(4) Subsection (1) does not apply to a loan for a deposit payable at the commencement of a tenancy.”

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2010. (See end of Document for details)*

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- (3) In section 360 (disallowance of certain accommodation expenses of MPs and other representatives), insert at the end—

“(3) In relation to a member of the House of Commons, subsection (3) of section 292 applies for the purposes of this section as it applies for the purposes of that section.”

- (4) The amendment made by sub-paragraph (2) has effect in relation to payments made under section 5(1) of the Parliamentary Standards Act 2009 on or after 7 May 2010.
- (5) In relation to payments made on or after that date in accordance with a resolution of the House of Commons passed before that date, ITEPA 2003 continues to have effect as if that amendment had not been made.
- (6) The amendment made by sub-paragraph (3) has effect in relation to expenses incurred on or after that date.

*UK travel and subsistence expenses*

- 2 (1) In ITEPA 2003, after section 293 insert—

**“293A UK travel and subsistence expenses of MPs**

**“293A “293A UK travel and subsistence expenses of MPs**

- (1) No liability to income tax arises in respect of a payment made to a member of the House of Commons under section 5(1) of the Parliamentary Standards Act 2009 if the payment is expressed to be made—
- (a) in respect of relevant UK travel expenses, or
  - (b) in respect of relevant subsistence expenses.
- (2) “Relevant UK travel expenses” means expenses necessarily incurred on journeys of the following kinds within the United Kingdom—
- (a) journeys made by the member that are necessary for the performance of the member's parliamentary duties, and
  - (b) if the member shares caring responsibilities with a spouse or partner, journeys made by the spouse or partner between the member's London Area residence and the member's constituency residence.
- (3) “Relevant subsistence expenses” means expenses necessarily incurred on an evening meal (excluding alcoholic drinks) eaten on the Parliamentary Estate, where the member is required to be at the House of Commons because the House is sitting beyond 7.30 p.m.
- (4) “Caring responsibilities” and “London Area” have the same meaning in subsection (2)(b) as they have in the scheme in effect for the time being under section 5 of the Parliamentary Standards Act 2009.”
- (2) The amendment made by sub-paragraph (1) has effect in relation to payments made under section 5(1) of the Parliamentary Standards Act 2009 on or after 7 May 2010.
- (3) In relation to payments made on or after that date in accordance with a resolution of the House of Commons passed before that date, ITEPA 2003 continues to have effect as if that amendment had not been made.

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2010. (See end of Document for details)*

*European travel expenses*

- 3 (1) Section 294 of ITEPA 2003 (European travel expenses of MPs and other representatives) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) No liability to income tax arises in respect of a sum that is paid to—
- (a) a member of the House of Commons under section 5(1) of the Parliamentary Standards Act 2009,
  - (b) a member of the Scottish Parliament under section 81(2) of the Scotland Act 1998,
  - (c) a member of the National Assembly for Wales under section 20(2) of the Government of Wales Act 2006 or a member of the Welsh Assembly Government under section 53(2) of that Act, or
  - (d) a member of the Northern Ireland Assembly under section 47(2) of the Northern Ireland Act 1998,
- and expressed to be made in respect of European travel expenses.”
- (3) In subsection (3)(b), for sub-paragraph (iii) substitute—
- “(iii) any other country that is a member of the Council of Europe.”
- (4) The amendments made by this paragraph have effect in relation to sums paid to members under the relevant Act on or after 7 May 2010.
- (5) In relation to sums paid on or after that date in accordance with a resolution of the House of Commons passed before that date, section 294 of ITEPA 2003 continues to have effect as if those amendments had not been made.

SCHEDULE 5

Section 8

AMOUNTS NOT FULLY RECOGNISED FOR ACCOUNTING PURPOSES

*Amendments of sections 311, 312 and 599A of CTA 2009*

1 F14 .....

**Textual Amendments**

**F14** Sch. 5 para. 1 omitted (with effect as mentioned in Sch. 4 para. 13 of the amending Act) by virtue of Finance Act 2011 (c. 11), s. 28, Sch. 4 para. 12(b)

- 2 (1) Section 312 of that Act (determination of credits and debits where amounts not fully recognised) is amended as follows.
- (2) In subsection (1), omit paragraph (b) and the “or” before it.
- (3) After that subsection insert—
- “(1A) Subsection (1B) applies in a case where condition A in section 311(2) is met.

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance (No. 2) Act 2010. (See end of Document for details)*

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(1B) In determining the debits and credits which a company is to bring into account for any period for the purposes of this Part in respect of the debtor relationship by reference to which that condition is met, the assumption in subsection (2) is to be made.”

(4) In subsection (4)(b)—

- (a) for “subsection (1)(a)” substitute “ subsection (1) ”, and
- (b) for “subsection (1)(b)” substitute “ subsection (1B) ”.

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F15 .....

**Textual Amendments**

**F15** Sch. 5 para. 3 omitted (with effect as mentioned in Sch. 4 para. 13 of the amending Act) by Finance Act 2011 (c. 11), s. 28, Sch. 4 para. 12(b)

*Commencement*

- 4 (1) The amendments made by this Schedule have effect in relation to periods of account beginning on or after 22 June 2010.
- (2) But, for the purposes of sub-paragraph (1), a period of account beginning before, and ending on or after, 22 June 2010 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate periods of account.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 2) Act 2010.