These notes refer to the Finance Act 2012 (c.14) which received Royal Assent on 17 July 2012

FINANCE ACT 2012

EXPLANATORY NOTES

INTRODUCTION

Section 9: Post-Cessation Trade Or Property Relief: Tax-Generated Payments Or Events

Summary

1. Section 9 provides for changes to the rules for "post-cessation trade relief" and "post-cessation property relief" which can be claimed by a person after a business has ceased. The changes are designed to prevent tax-generated costs being available for relief against the person's other taxable income or capital gains. The changes apply to post-cessation trade relief with effect from 12 January 2012 and to post-cessation property relief with effect from 13 March 2012.

Details of the Section

- 2. Subsection (2) adds section 98A of the Income Tax Act 2007 (ITA) to the list of sections with which section 96 of ITA needs to be read.
- 3. Subsection (3) inserts new section 98A of ITA (Denial of relief for tax-generated payments or events).
- 4. New section 98A(1) provides that no post-cessation trade relief (including relief by way of claim under section 261D of the Taxation of Chargeable Gains Act 1992) is available to a person in respect of a payment or an event which is made or occurs in consequence of, or in connection with, relevant tax avoidance arrangements.
- 5. New section 98A(2) defines "relevant tax avoidance arrangements" for the purposes of new section 98A(1).
- 6. New section 98A(3) defines "arrangements" and "section 261D claim" for the purposes of new section 98A.
- 7. Subsection (4) adds section 98A of ITA to the list of sections which apply to postcessation property relief in the same way as for post-cessation trade relief.
- 8. Subsections (5) and (6) provide commencement rules.
- 9. Subsection (7) defines "an unconditional obligation" for the purposes of subsections (5) and (6).

Background Note

- 10. The Government has become aware of avoidance activity that relies on creating contrived costs in order to claim post-cessation trade relief. This puts at risk substantial amounts of tax.
- 11. The Exchequer Secretary to the Treasury announced in a written statement on 12 January 2012 that legislation would be introduced with effect from that date to prevent post-cessation trade relief being available where the relief arises from arrangements

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and a main purpose of the arrangements is to obtain a tax reduction resulting from postcessation trade relief. A further announcement was made on 13 March 2012 extending the restriction to post-cessation property relief with effect from that date.