Finance Act 2015

2015 CHAPTER 11

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. [26th March 2015]

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

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

CHARGE, RATES ETC

Income tax

1 Charge and rates for 2015-16

(1) Income tax is charged for the year 2015-16.

(2) For that tax year—

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(a) the basic rate is 20%,
(b) the higher rate is 40%, and
(c) the additional rate is 45%.

2 Limits and allowances for 2015-16

(1) For the tax year 2015-16—
(a) the amount specified in section 37(2) of ITA 2007 (income limit for personal allowance for those born before 6 April 1938) is replaced with " £27,700 ",
(b) the amount specified in section 38(1) of that Act (blind person's allowance) is replaced with " £2,290 ",
(c) the amount specified in section 43 of that Act ("minimum amount" for calculating tax reductions for married couples and civil partners) is replaced with " £3,220 ",
(d) the amount specified in section 45(3)(a) of that Act (amount for calculating allowance in relation to marriages before 5 December 2005 where spouse is 75 over) is replaced with " £8,355 ",
(e) the amount specified in section 45(4) of that Act (income limit for calculating allowance in relation to marriages before 5 December 2005) is replaced with " £27,700 ",
(f) the amount specified in section 46(3)(a) of that Act (amount for calculating allowance in relation to marriages and civil partnerships on or after 5 December 2005 where spouse or civil partner is 75 or over) is replaced with " £8,355 ", and
(g) the amount specified in section 46(4) of that Act (income limit for calculating allowance in relation to marriages and civil partnerships on or after 5 December 2005) is replaced with " £27,700 ".

(2) Accordingly, for that tax year, section 57 of that Act (indexation of allowances), so far as relating to the amounts specified in sections 37(2), 38(1), 43, 45(3)(a), 45(4), 46(3)(a) and 46(4) of that Act, does not apply.

3 Personal allowances for 2015-16

(1) Section 2 of FA 2014 (basic rate limit for 2015-16 and personal allowances from 2015) is amended as set out in subsections (2) and (3).

(2) In subsection (1)(b) (amount specified for 2015-16 in section 35(1) of ITA 2007 (personal allowance for those born after 5 April 1938)), for " "£10,500"" substitute " "£10,600" ".

(3) In subsection (8) (amendments of section 57 of ITA 2007), omit the "and" at the end of paragraph (a) and after that paragraph insert—
"(aa) in subsection (1)(h), omit "36(2),", and".

(4) In section 55B(4)(a) of ITA 2007 (transferable tax allowance for married couples and civil partners: entitlement to tax reduction), for "£1,050" substitute " £1,060 ".

(5) The amendments made by subsections (3) and (4) have effect for the tax year 2015-16 and subsequent tax years.

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4 Basic rate limit from 2016

(1) The amount specified in section 10(5) of ITA 2007 (basic rate limit) is replaced—

(a) for the tax year 2016-17, with **[**[F1]"£32,000"**]**, and

(b) for the tax year 2017-18, with **[**[F2]"£32,400"**]**.

(2) Accordingly, for those tax years section 21 of that Act (indexation of limits), so far as relating to the basic rate limit, does not apply.

Textual Amendments

F1 Word in s. 4(1)(a) substituted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **s. 6(a)**

F2 Word in s. 4(1)(b) substituted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **s. 6(b)**

5 Personal allowance from 2016

(1) The amount specified in section 35(1) of ITA 2007 (personal allowance for those born after 5 April 1938) is replaced—

(a) for the tax year 2016-17, with **[**[F3]"£11,000"**]**, and

(b) for the tax year 2017-18, with **[**[F4]"£11,200"**]**.

(2) Accordingly, for those tax years, section 57 of that Act (indexation of allowances), so far as relating to the amount specified in section 35(1) of that Act, does not apply.

(3) In section 34(1)(a) of that Act, for "sections 35 and 37 deal" substitute " section 35 deals ".

(4) In section 35 of that Act (personal allowance for those born after 5 April 1938)—

(a) for paragraphs (a) and (b) substitute " meets the requirements of section 56 (residence etc). ", and

(b) for the heading substitute " Personal allowance ".

(5) Omit section 37 of that Act (personal allowance for those born before 6 April 1938).

(6) In section 45(4) of that Act (marriages before 5 December 2005), for paragraphs (a) and (b) substitute " half the excess ".

(7) In section 46(4) of that Act (marriages and civil partnerships on or after 5 December 2005), for paragraphs (a) and (b) substitute " half the excess ".

(8) In section 55B of that Act (transferable tax allowance for married couples and civil partners: tax reduction: entitlement), in subsection (6) omit "or 37".

(9) In section 55C of that Act (election to reduce personal allowance), in subsections (1)(b) and (2), omit "or 37".

(10) In section 57 of that Act (indexation of allowances)—

(a) in subsection (1)(a), for the words following "35(1)" substitute " (personal allowance) ",

(b) in subsection (1)(h), omit "37(2),", and

(c) in subsection (4), omit "37(2),".

(11) The amendments made by subsections (3) to (10) have effect for the tax year 2016-17 and subsequent tax years.

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Textual Amendments

F3 Word in s. 5(1)(a) substituted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **s. 5(a)**

F4 Word in s. 5(1)(b) substituted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **s. 5(b)**

Corporation tax

6 Charge for financial year 2016

(1) Corporation tax is charged for the financial year 2016.

(2) For that year the main rate of corporation tax is 20%.

CHAPTER 2

INCOME TAX: GENERAL

7 Cars: the appropriate percentage for 2017-18

(1) ITEPA 2003 is amended as follows.

(2) Section 139 (car with a CO_2 figure: the appropriate percentage) is amended as set out in subsections (3) and (4).

(3) In subsection (2)—
- (a) in paragraph (a), for “7%” substitute “ 9% ”,
- (b) in paragraph (aa), for “11%” substitute “ 13% ”, and
- (c) in paragraph (b), for “15%” substitute “ 17% ”.

(4) In subsection (3), for “16%” substitute “ 18% ”.

(5) In section 140(2) (car without a CO_2 figure: the appropriate percentage), in the Table—
- (a) for “16%” substitute “ 18% ”, and
- (b) for “27%” substitute “ 29% ”.

(6) In section 142(2) (car first registered before 1 January 1998: the appropriate percentage), in the Table—
- (a) for “16%” substitute “ 18% ”, and
- (b) for “27%” substitute “ 29% ”.

(7) The amendments made by this section have effect for the tax year 2017-18.

8 Cars: the appropriate percentage for subsequent tax years

(1) ITEPA 2003 is amended as follows.

(2) Section 139 (car with a CO_2 figure: the appropriate percentage) is amended as set out in subsections (3) and (4).

(3) In subsection (2)—
- (a) in paragraph (a), for “9%” substitute “ 13% ”,

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(b) in paragraph (aa), for "13%" substitute " 16% ", and
(c) in paragraph (b), for "17%" substitute " 19% ".

(4) In subsection (3), for "18%" substitute " 20% ".

(5) In section 140(2) (car without a CO_2 figure: the appropriate percentage), in the Table—
(a) for "18%" substitute " 20% ", and
(b) for "29%" substitute " 31% ".

(6) In section 142(2) (car first registered before 1 January 1998: the appropriate percentage), in the Table—
(a) for "18%" substitute " 20% ", and
(b) for "29%" substitute " 31% ".

(7) The amendments made by this section have effect for the tax year 2018-19 and subsequent tax years.

9 Diesel cars: the appropriate percentage for 2015-16

(1) In section 141(2) of ITEPA 2003 (diesel cars: the appropriate percentage), in Step 3, for "35%" substitute " 37% ".

(2) The amendment made by this section has effect for the tax year 2015-16.

10 Zero-emission vans

(1) ITEPA 2003 is amended as follows.

(2) In section 155 (cash equivalent of the benefit of a van), for subsections (1) and (2) substitute—

"(1) The cash equivalent of the benefit of a van for a tax year is calculated as follows.

(1A) If the restricted private use condition is met in relation to the van for the tax year, the cash equivalent is nil.

(1B) If that condition is not met in relation to the van for the tax year—
(a) if the van cannot in any circumstances emit CO_2 by being driven and the tax year is any of the tax years 2015-16 to 2019-20, the cash equivalent is the appropriate percentage of £3,150, and
(b) in any other case, the cash equivalent is £3,150.

(1C) The appropriate percentage for the purposes of subsection (1B)(a) is—
(a) 20% for the tax year 2015-16,
(b) 40% for the tax year 2016-17,
(c) 60% for the tax year 2017-18,
(d) 80% for the tax year 2018-19, and
(e) 90% for the tax year 2019-20."

(3) In section 156(1) (reduction for periods when van unavailable), for "155(1)" substitute " 155 ".

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(4) In section 158(1) (reduction for payments for private use), for "155(1)" substitute " 155 ".

(5) In section 160(1)(c) (benefit of fuel treated as earnings), for "section 155(1)(b)" substitute " section 155(1B)(b) ".

(6) In section 170 (orders etc relating to Chapter 6 of Part 3), for subsection (1A) substitute—

"(1A) The Treasury may by order substitute a different amount for the amount for the time being specified in—

(a) section 155(1A) (cash equivalent where van subject only to restricted private use by employee),

(b) section 155(1B)(a) (cash equivalent for zero-emission van), and

(c) section 155(1B)(b) (cash equivalent in other cases)."

(7) Article 3 of the Van Benefit and Car and Van Fuel Benefit Order 2014 (S.I. 2014/2896) is revoked.

(8) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

11 Exemption for amounts which would otherwise be deductible

(1) In Part 4 of ITEPA 2003 (employment income: exemptions) after Chapter 7 insert—

"CHAPTER 7A

EXEMPTIONS: AMOUNTS WHICH WOULD OTHERWISE BE DEDUCTIBLE

289A Exemption for paid or reimbursed expenses

(1) No liability to income tax arises by virtue of Chapter 3 of Part 3 (taxable benefits: expenses payments) in respect of an amount ("amount A") paid or reimbursed by a person to an employee (whether or not an employee of the person) in respect of expenses if—

(a) an amount equal to or exceeding amount A would (ignoring this section) be allowed as a deduction from the employee's earnings under Chapter 2 or 5 of Part 5 in respect of the expenses, and

(b) the payment or reimbursement is not provided pursuant to relevant salary sacrifice arrangements.

(2) No liability to income tax arises in respect of an amount paid or reimbursed by a person ("the payer") to an employee (whether or not an employee of the payer) in respect of expenses if—

(a) the amount has been calculated and paid or reimbursed in an approved way (see subsection (6)),

(b) the payment or reimbursement is not provided pursuant to relevant salary sacrifice arrangements, and

(c) conditions A and B are met.

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(3) Condition A is that the payer or another person operates a system for checking—
  (a) that the employee is, or employees are, in fact incurring and paying amounts in respect of expenses of the same kind, and
  (b) that a deduction would (ignoring this section) be allowed under Chapter 2 or 5 of Part 5 in respect of those amounts.

(4) Condition B is that neither the payer nor any other person operating the system knows or suspects, or could reasonably be expected to know or suspect—
  (a) that the employee has not incurred and paid an amount in respect of the expenses, or
  (b) that a deduction from the employee's earnings would not be allowed under Chapter 2 or 5 of Part 5 in respect of the amount.

(5) "Relevant salary sacrifice arrangements", in relation to an employee to whom an amount is paid or reimbursed in respect of expenses, means arrangements (whenever made, whether before or after the employment began) under which—
  (a) the employee gives up the right to receive an amount of general earnings or specific employment income in return for the payment or reimbursement, or
  (b) the amount of other general earnings or specific employment income received by the employee depends on the amount of the payment or reimbursement.

(6) For the purposes of this section, a sum is calculated and paid or reimbursed in an approved way if—
  (a) it is calculated and paid or reimbursed in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, or
  (b) it is calculated and paid or reimbursed in accordance with an approval given under section 289B.

(7) Regulations made under subsection (6)(a) may make different provision for different purposes.

289B **Approval to pay or reimburse expenses at a flat rate**

(1) A person ("the applicant") may apply to Her Majesty's Revenue and Customs for approval to pay or reimburse expenses of the applicant's employees, or employees of another person, at a rate set out in the application ("the proposed rate").

(2) An officer of Revenue and Customs may give the approval if satisfied that any calculation of a payment or reimbursement of expenses in accordance with the proposed rate, or such other rate as is agreed between the applicant and the officer, would be a reasonable estimate of the amount of expenses actually incurred.

(3) An approval under subsection (2) takes effect in accordance with a notice (an "approval notice") given to the applicant by an officer of Revenue and Customs.

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(4) An approval notice must specify—
- (a) the rate at which expenses may be paid or reimbursed,
- (b) the day from which the approval takes effect, that day not being earlier than the day on which the approval notice is given,
- (c) the day on which the approval ceases to have effect, that day not being later than the end of the period of 5 years beginning with the day on which the approval takes effect, and
- (d) the type of expenses to which the approval relates.

(5) An approval notice may specify that the approval is subject to conditions specified or described in the notice.

(6) An application for an approval under this section must be in such form and manner, and contain such information, as is specified by Her Majesty's Revenue and Customs.

289C **Revocation of approvals**

(1) An officer of Revenue and Customs may, if in the officer's opinion there is reason to do so, revoke an approval given under section 289B by giving a further notice (a "revocation notice") to either or both of the following—
- (a) the person who applied for the approval, and
- (b) the person who is paying or reimbursing expenses in accordance with the approval.

(2) A revocation notice may revoke the approval from—
- (a) the day on which the approval took effect, or
- (b) a later day specified in the notice.

(3) A revocation under subsection (1) may be in relation to all expenses or expenses of a description specified in the revocation notice.

(4) If the revocation notice revokes the approval from the day on which the approval took effect—
- (a) any liability to tax that would have arisen in respect of the payment or reimbursement of expenses if the approval had never been given in relation to such expenses is to be treated as having arisen, and
- (b) any person who has made, and any employee who has received, a payment or reimbursement of expenses calculated in accordance with the approval must make all the returns which they would have had to make if the approval had never been given in relation to such expenses.

(5) If the revocation notice revokes the approval from a later day—
- (a) any liability to tax that would have arisen in respect of the payment or reimbursement of expenses if the approval had ceased to have effect on that day in relation to such expenses is to be treated as having arisen, and
- (b) any person who has made, and any employee who has received, a payment or reimbursement of expenses calculated in accordance with the approval must make all the returns which they would have had

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to make if the approval had ceased to have effect in relation to such expenses on that day.

289D **Exemption for other benefits**

(1) No liability to income tax arises by virtue of any provision of the benefits code in respect of an amount ("amount A") treated as earnings of an employee as a result of the provision of a benefit if—

(a) an amount equal to amount A would (ignoring this section) be allowed as a deduction from the employee's earnings under Chapter 3 of Part 5 in respect of the provision of the benefit, and

(b) the benefit is not provided pursuant to relevant salary sacrifice arrangements.

(2) "Relevant salary sacrifice arrangements", in relation to an employee to whom a benefit is provided, means arrangements (whenever made, whether before or after the employment began) under which—

(a) the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of the benefit, or

(b) the amount of other general earnings or specific employment income received by the employee depends on the provision of the benefit.

289E **Anti-avoidance**

(1) This section applies if conditions A to C are met.

(2) Condition A is that, pursuant to arrangements, an amount—

(a) is paid or reimbursed to an employee in respect of expenses, or

(b) is treated as earnings of an employee as a result of the provision of a benefit,

which, in the absence of this section, would have been exempt from income tax.

(3) Condition B is that, in the absence of those arrangements, the employee would have received a greater amount of general earnings or specific employment income in respect of which—

(a) tax would have been chargeable, or

(b) national insurance contributions would have been payable (whether by the employee or another person).

(4) Condition C is that the main purpose, or one of the main purposes, of the arrangements is the avoidance of tax or national insurance contributions.

(5) If this section applies—

(a) the exemption conferred by section 289A does not apply in respect of the amount paid or reimbursed as mentioned in subsection (2)(a), and

(b) the exemption conferred by section 289D does not apply in respect of the amount treated as earnings as mentioned in subsection (2)(b).

(6) In this section "arrangements" includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable."

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(2) The amendment made by this section has effect for the tax year 2016-17 and subsequent tax years.

12 Abolition of dispensation regime

(1) ITEPA 2003 is amended as follows.

(2) Omit section 65 (dispensations relating to benefits for certain employees).

(3) Omit section 96 (dispensations relating to vouchers or credit-tokens).

(4) Accordingly—

(a) in section 95 (disregard for money, services or goods obtained), omit subsection (1)(b) and the "or" before it, and

(b) in Schedule 7 (transitionals and savings), omit paragraphs 15, 16, 19 and 20 and the italic headings before paragraphs 15 and 19.

(5) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

(6) The repeal of sections 65 and 96 of ITEPA 2003 does not affect the power of an officer of Revenue and Customs to revoke a pre-commencement dispensation from a date earlier than 6 April 2016.

(7) Accordingly, sections 65(6) to (9) and 96(5) to (8) of ITEPA 2003 continue to have effect in relation to a pre-commencement dispensation.

(8) In this section "pre-commencement dispensation" means a dispensation given (or treated as given) under section 65 or 96 of ITEPA 2003 which is in force immediately before 6 April 2016.

13 Extension of benefits code except in relation to certain ministers of religion

(1) Omit Chapter 11 of Part 3 of ITEPA 2003 (taxable benefits: exclusion of lower-paid employments from parts of benefits code).

(2) In Part 4 of that Act (employment income: exemptions), after section 290B insert—

"**290C Provisions of benefits code not applicable to lower-paid ministers of religion**

(1) This section applies where a person is in employment which is lower-paid employment as a minister of religion in relation to a tax year.

(2) No liability to income tax arises in respect of the person in relation to the tax year by virtue of any of the following Chapters of the benefits code—

(a) Chapter 3 (taxable benefits: expenses payments);

(b) Chapter 6 (taxable benefits: cars, vans and related benefits);

(c) Chapter 7 (taxable benefits: loans);

(d) Chapter 10 (taxable benefits: residual liability to charge).

(3) Subsection (2)—

(a) means that in any of those Chapters a reference to an employee does not include an employee whose employment is within the exclusion

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in that subsection, if the context is such that the reference is to an employee in relation to whom the Chapter applies, but

(b) does not restrict the meaning of references to employees in other contexts.

(4) Subsection (2) has effect subject to—

(a) section 188(2) (discharge of loan: where employment becomes lower-paid), and

(b) section 290G (employment in two or more related employments).

290D Meaning of "lower-paid employment as a minister of religion"

(1) For the purposes of this Part an employment is "lower-paid employment as a minister of religion" in relation to a tax year if—

(a) the employment is direct employment as a minister of a religious denomination, and

(b) the earnings rate for the employment for the year (calculated under section 290E) is less than £8,500.

(2) An employment is not "direct employment" for the purposes of subsection (1)(a) if—

(a) it is an employment which is treated as existing under—

(i) section 56(2) (deemed employment of worker by intermediary), or

(ii) section 61G(2) (deemed employment of worker by managed service company), or

(b) an amount counts as employment income in respect of it by virtue of section 554Z2(1) (treatment of relevant step under Part 7A (employment income provided through third parties)).

(3) Subsection (1) is subject to section 290G.

290E Calculation of earnings rate for a tax year

(1) For any tax year the earnings rate for an employment is to be calculated as follows—

Step 1 Find the total of the following amounts—

(a) the total amount of the earnings from the employment for the year within Chapter 1 of Part 3 (earnings),

(b) the total of any amounts that are treated as earnings from the employment for the year under the benefits code (see subsections (2) and (3)), and

(c) the total of any amounts that are treated as earnings from the employment for the year under Chapter 12 of Part 3 (other amounts treated as earnings),

excluding any exempt income, other than any attributable to section 290A or 290B (accommodation outgoings of ministers of religion).

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Step 2 Add to that total any extra amount required to be added for the year by section 290F (extra amounts to be added in connection with a car).

Step 3 Subtract the total amount of any authorised deductions (see subsection (4)) from the result of step 2.

Step 4 The earnings rate for the employment for the year is given by the formula—

$$R \times \frac{Y}{E}$$

where—

R is the result of step 3,

Y is the number of days in the year, and

E is the number of days in the year when the employment is held.

(2) Section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion) is to be disregarded for the purpose of determining any amount under step 1.

(3) If the benefit of living accommodation is to be taken into account under step 1, the cash equivalent is to be calculated in accordance with section 105 (even if the cost of providing the accommodation exceeds £75,000).

(4) For the purposes of step 3 "authorised deduction" means any deduction that would (assuming it was an amount of taxable earnings) be allowed from any amount within step 1 under—

section 346 (employee liabilities),

section 370 (travel costs and expenses where duties performed abroad: employee's travel),

section 371 (travel costs and expenses where duties performed abroad: visiting spouse's, civil partner's or child's travel),

section 373 (non-domiciled employee's travel costs and expenses where duties performed in UK),

section 374 (non-domiciled employee's spouse's, civil partner's or child's travel costs and expenses where duties performed in UK),

section 376 (foreign accommodation and subsistence costs and expenses (overseas employments)),

section 713 (payroll giving to charities),

sections 188 to 194 of FA 2004 (contributions to registered pension schemes), or

section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions).

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290F Extra amounts to be added in connection with a car

(1) The provisions of this section apply for the purposes of section 290E in the case of a tax year in which a car is made available as mentioned in section 114(1) (cars, vans and related benefits) by reason of the employment.

(2) Subsection (3) applies if in the tax year—
  (a) an alternative to the benefit of the car is offered, and
  (b) the amount that would be earnings within Chapter 1 of Part 3 if the benefit of the car were to be determined by reference to the alternative offered exceeds the benefit code earnings (see subsection (4)).

(3) The amount of the excess is an extra amount to be added under step 2 in section 290E(1).

(4) For the purposes of subsection (2) "the benefit code earnings" is the total for the year of—
  (a) the cash equivalent of the benefit of the car (calculated in accordance with Chapter 6 of Part 3 (taxable benefits: cars, vans etc)), and
  (b) the cash equivalent (calculated in accordance with that Chapter) of the benefit of any fuel provided for the car by reason of the employment.

(5) Section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion) is to be disregarded for the purpose of determining any amount under this section.

290G Related employments

(1) This section applies if a person is employed in two or more related employments.

(2) None of the employments is to be regarded as lower-paid employment as a minister of religion in relation to a tax year if—
  (a) the total of the earnings rates for the employments for the year (calculated in each case under section 290E) is £8,500 or more, or
  (b) any of them is an employment falling outside the exclusion contained in section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion).

(3) For the purposes of this section two employments are "related" if—
  (a) both are with the same employer, or
  (b) one is with a body or partnership ("A") and the other is either—
    (i) with an individual, partnership or body that controls A ("B"), or
    (ii) with another partnership or body also controlled by B.

(4) Section 69 (extended meaning of "control") applies for the purposes of this section as it applies for the purposes of the benefits code."

(3) Schedule 1 contains amendments relating to subsections (1) and (2).

(4) The amendments made by this section and Schedule 1 have effect for the tax year 2016-17 and subsequent tax years.

Status: *Point in time view as at 30/11/2015. This version of this Act contains provisions that are not valid for this point in time.*
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14 Exemption for board or lodging provided to carers

(1) Part 4 of ITEPA 2003 (employment income: exemptions) is amended as follows.

(2) In Chapter 8 (exemptions: special kinds of employees), after section 306 insert—

"Carers

306A Carers: board and lodging

(1) For the purposes of this section an individual is employed as a home care worker if the duties of the employment consist wholly or mainly of the provision of personal care to another individual ("the recipient") at the recipient's home, in a case where the recipient is in need of personal care because of—
   (a) old age,
   (b) mental or physical disability,
   (c) past or present dependence on alcohol or drugs,
   (d) past or present illness, or
   (e) past or present mental disorder.

(2) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision of board or lodging (or both) to an individual employed as a home care worker if the provision is—
   (a) on a reasonable scale,
   (b) at the recipient's home, and
   (c) by reason of the individual's employment as a home care worker."

(3) In section 228 (effect of exemptions on liability under provisions outside Part 2), in subsection (2)(d), after "291" insert " and 306A ".

(4) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

15 Lump sums provided under armed forces early departure scheme

(1) In section 640A of ITEPA 2003 (lump sums provided under armed forces early departure scheme), at the end insert " or the Armed Forces Early Departure Payments Scheme Regulations 2014 (S.I. 2014/2328) ".

(2) Subsection (1) comes into force on 1 April 2015.

Commencement Information

I1 S. 15 wholly in force at 1.4.2015; s. 15(2) in force at Royal Assent; s. 15(1) in force at 1.4.2015; see s. 15(2)

16 Bereavement support payment: exemption from income tax

(1) ITEPA 2003 is amended as follows.

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(2) In Part 1 of Table B in section 677(1) (UK social security benefits wholly exempt from tax), at the appropriate place insert—

"Bereavement support payment	PA 2014	Section 30
	Any provision made for Northern Ireland which corresponds to section 30 of PA 2014"	

(3) In Part 1 of Schedule 1 (abbreviations of Acts and instruments), at the appropriate place insert—

"PA 2014	The Pensions Act 2014"

(4) The amendments made by this section have effect in accordance with regulations made by the Treasury.

(5) Regulations under subsection (4) may make different provision for different purposes.

(6) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply in relation to regulations under subsection (4).

17 PAYE: benefits in kind

(1) Section 684 of ITEPA 2003 (PAYE regulations) is amended as follows.

(2) In the list in subsection (2), after item 1 insert—

Provision—

(a) for authorising a person ("P"), in a case where the PAYE income of an employee (whether an employee of P or of another person) includes an amount charged to tax under any of Chapters 3 and 5 to 10 of Part 3 in respect of the provision of a benefit of a specified kind—

(i) to make deductions of income tax in respect of the benefit from any payment or payments actually made of, or on account of, PAYE income of the employee, or

(ii) to make repayments of such income tax,

(b) for any such deductions or repayments to be made at a specified time,

(c) for the amount of any such deductions or repayments to be calculated in accordance with the regulations,

(d) for the provision of the benefit to be treated for specified purposes as a payment of PAYE income, and

(e) for making persons who make any such deductions or repayments accountable to or, as the case may be, entitled to repayment from the Commissioners."

(3) For subsection (3) substitute—

"(3) The deductions of income tax—

(a) required to be made by PAYE regulations under item 1 in the above list, or

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(b) which a person is authorised to make by PAYE regulations under item 1ZA in that list,

may be required to be made at the basic rate or other rates in such cases or classes of case as may be provided by the regulations."

18 Employment intermediaries: determination of penalties

(1) Section 100 of TMA 1970 (determination of penalties by officer of Board) is amended as follows.

(2) In subsection (2)(c), after "those amendments" insert " , subject to subsection (2A) ".

(3) After subsection (2) insert—

"(2A) Subsection (2)(c) does not exclude the application of subsection (1) where the penalty relates to a failure to furnish any information or produce any document or record in accordance with regulations under section 716B of ITEPA 2003 (employment intermediaries to keep, preserve and provide information etc)."

19 Arrangements offering a choice of capital or income return

(1) Chapter 3 of Part 4 of ITTOIA 2005 (dividends etc from UK resident companies and tax credits etc in respect of certain distributions) is amended in accordance with subsections (2) to (6).

(2) After section 396 insert—

"Other amounts treated as distributions

396A Arrangements offering a choice of capital or income return

(1) Subsection (2) applies if a person ("S") has a choice either—

(a) to receive what would (ignoring this section) be a distribution of a company, or

(b) to receive from that company, or from a third party, anything else ("the alternative receipt") which—

(i) is of the same or substantially the same value, and

(ii) (ignoring this section) would not be charged to income tax.

(2) If S chooses the alternative receipt—

(a) for income tax purposes it is treated as a distribution made to S by that company in the tax year in which it is received by S, and

(b) for the purposes of the following provisions it is treated as a qualifying distribution so made—

(i) section 397 (tax credits for qualifying distributions of UK resident companies: UK residents and eligible non-UK residents);

(ii) section 399 (qualifying distributions received by persons not entitled to tax credits);

(iii) section 1100 of CTA 2010 (qualifying distributions: right to request a statement).

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(3) For the purposes of this section—

(a) it does not matter if the choice mentioned in subsection (1) is subject to any conditions being met or to the exercise of any power;

(b) where S is offered one thing subject to a right, however expressed, to choose another instead, S is to be regarded as making a choice if S abandons or fails to exercise such a right.

(4) If at any time a tax other than income tax ("the other tax") is charged in relation to the alternative receipt, in order to avoid a double charge to tax in respect of that receipt, a person may make a claim for one or more consequential adjustments to be made in respect of the other tax.

(5) On a claim under subsection (4) an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(6) Consequential adjustments may be made—

(a) in respect of any period,

(b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and

(c) despite any time limit imposed by or under an enactment."

(3) In section 382 (contents of Chapter 3), in subsection (1), omit the "and" at the end of paragraph (b) and after paragraph (c) insert ", and

(d) treats distributions as made in some circumstances (see section 396A)."

(4) In section 385 (person liable), in subsection (1)(a) for "and 389(3)" substitute " , 389(3) and 396A ".

(5) In section 397 (tax credits for qualifying distributions of UK resident companies: UK residents and eligible non-UK residents), after subsection (5) insert—

"(5A) This section needs to be read with section 396A(2) (which treats certain receipts as "qualifying distributions" for the purposes of this section)."

(6) In section 399 (qualifying distributions received by persons not entitled to tax credits), after subsection (5) insert—

"(5A) This section needs to be read with section 396A(2) (which treats certain receipts as "qualifying distributions" for the purposes of this section)."

(7) In section 481 of ITA 2007 (other amounts to be charged at special rates for trustees), in subsection (3), after "Type 1" insert " or Type 12 ".

(8) In section 482 of that Act (types of amount to be charged at special rates for trustees), at the end insert— " *Type 12* Income treated as arising to the trustees under section 396A of ITTOIA 2005 (arrangements offering a choice of income or capital return). "

(9) In section 1100 of CTA 2010 (qualifying distributions: right to request a statement), after subsection (6) insert—

"(7) This section needs to be read with section 396A(2) of ITTOIA 2005 (which treats certain receipts as "qualifying distributions" for the purposes of this section)."

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(10) The amendments made by subsections (2) to (4), (7) and (8) have effect in relation to things received on or after 6 April 2015 (even if the choice to receive them was made before that date).

20 Intermediaries and Gift Aid

(1) Chapter 2 of Part 8 of ITA 2007 (gift aid) is amended as follows.

(2) In section 416 (meaning of "qualifying donation" for the purpose of gift aid relief)—

(a) in subsection (1)(b)—

(i) after "the individual" insert " , or an intermediary representing the individual, " and

(ii) after "the charity" insert " , or an intermediary representing the charity, ", and

(b) after subsection (1) insert—

"(1A) For the purpose of subsection (1)(b) an intermediary is—

(a) a person authorised by the individual to give a gift aid declaration on behalf of that individual to the charity,

(b) a person authorised by a charity to receive a gift aid declaration on behalf of that charity, or

(c) a person authorised to perform both of the roles described in paragraphs (a) and (b)."

(3) For section 428(3) (regulations in relation to gift aid declarations) substitute—

"(3) The regulations may also require—

(a) charities, or intermediaries within the meaning of section 416(1A), to keep records with respect to declarations received from individuals or from those intermediaries,

(b) charities or intermediaries to produce, for inspection by an officer of Revenue and Customs, any records required to be kept by those charities or intermediaries by regulations made under paragraph (a), and

(c) intermediaries to provide statements of account, and other specified information relating to declarations made, in such form and at such times as may be specified, to individuals who have authorised those intermediaries to give those declarations to charities on their behalf.

(4) The regulations may also make different provision for different cases or circumstances, including—

(a) different provision for declarations made in a different manner or by different descriptions of persons, and

(b) different provision depending on whether or not an intermediary, within the meaning of section 416(1A), is involved in the giving or receiving of the declaration."

(4) The amendments made by this section have effect in relation to gifts made on or after a day appointed in regulations made by the Treasury.

(5) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply to regulations under subsection (4).

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21 Disguised investment management fees

(1) In Part 13 of ITA 2007 (tax avoidance), after Chapter 5D insert—

"CHAPTER 5E

DISGUISED INVESTMENT MANAGEMENT FEES

809EZA **Disguised investment management fees: charge to income tax**

(1) Where one or more disguised fees arise to an individual in a tax year from one or more investment schemes (whether or not by virtue of the same arrangements), the individual is liable for income tax for the tax year in respect of the disguised fee or fees as if—
  (a) the individual were carrying on a trade for the tax year,
  (b) the disguised fee or fees were the profits of the trade of the tax year, and
  (c) the individual were the person receiving or entitled to those profits.

(2) For the purposes of subsection (1) the trade is treated as carried on—
  (a) in the United Kingdom, to the extent that the individual performs the relevant services in the United Kingdom;
  (b) outside the United Kingdom, to the extent that the individual performs the relevant services outside the United Kingdom;

  and for this purpose "the relevant services" means the investment management services by virtue of which the disguised fee or fees arise to the individual in the tax year.

(3) For the purposes of this Chapter a "disguised fee" arises to an individual in a tax year from an investment scheme if—
  (a) the individual performs investment management services directly or indirectly in respect of the scheme under any arrangements,
  (b) the arrangements involve at least one partnership,
  (c) under the arrangements, a management fee arises to the individual directly or indirectly from the scheme in the tax year (see section 809EZB), and
  (d) some or all of the management fee is untaxed;

  and the amount of the disguised fee is so much of the management fee as is untaxed.

(4) For the purposes of subsection (3) the management fee is "untaxed" if and to the extent that the fee would not (apart from this section)—
  (a) be charged to tax under ITEPA 2003 as employment income of the individual for any tax year, or
  (b) be brought into account in calculating the profits of a trade of the individual for the purposes of income tax for any tax year.

(5) In subsection (4) "trade" includes profession or vocation.

(6) In this Chapter "investment scheme" means—
  (a) a collective investment scheme, or

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(b) an investment trust.

809EZB **Meaning of "management fee" in section 809EZA**

(1) Subject as follows, for the purposes of section 809EZA "management fee" means any sum (including a sum in the form of a loan or advance or an allocation of profits) except so far as the sum constitutes—
  (a) a repayment (in whole or part) of an investment made directly or indirectly by the individual in the scheme,
  (b) an arm's length return on an investment made directly or indirectly by the individual in the scheme, or
  (c) carried interest (see sections 809EZC and 809EZD).

(2) For the purposes of subsection (1)(b) a return on an investment is "an arm's length return" if—
  (a) the return is on an investment which is of the same kind as investments in the scheme made by external investors,
  (b) the return on the investment is reasonably comparable to the return to external investors on those investments, and
  (c) the terms governing the return on the investment are reasonably comparable to the terms governing the return to external investors on those investments.

(3) In this Chapter "sum" includes any money or money's worth (and other expressions are to be construed accordingly).

(4) Where—
  (a) a sum in the form of money's worth arises to the individual from the scheme in the ordinary course of the scheme's business, and
  (b) the individual gives the scheme money in exchange for the sum,

  the sum constitutes a "management fee" only to the extent that its market value at the time it arises exceeds the amount of the money given by the individual.

809EZC **Meaning of "carried interest" in section 809EZB**

(1) For the purposes of section 809EZB "carried interest" means a sum which arises to the individual under the arrangements by way of profit-related return.

  This is subject to subsections (3) to (8) (sums where no significant risk of not arising); and see also section 809EZD (sums treated as carried interest).

(2) A sum which arises to the individual under the arrangements does so by way of "profit-related return" if under the arrangements—
  (a) the sum is to, or may, arise only if—
    (i) there are profits for a period on the investments, or on particular investments, made for the purposes of the scheme, or
    (ii) there are profits arising from a disposal of the investments, or of particular investments, made for those purposes,
  (b) the amount of the sum which is to, or may, arise is variable, to a substantial extent, by reference to those profits, and

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(c) returns to external investors are also determined by reference to those profits;

but where any part of the sum does not meet these conditions, that part is not to be regarded as arising by way of "profit-related return".

(3) Where—

(a) one or more sums ("actual sums") arise to the individual under the arrangements by way of profit-related return in a tax year, and

(b) there was no significant risk that a sum of at least a certain amount ("the minimum amount") would not arise to the individual,

so much of the actual sum, or of the aggregate of the actual sums, as is equal to the minimum amount is not "carried interest".

(See subsections (7) and (8) as to how the minimum amount is to be apportioned between the actual sums where more than one actual sum arises in the tax year.)

(4) For the purposes of subsection (3)(b) assess the risk both—

(a) in relation to each actual sum (and the investments to which it relates) individually, taking into account also any other sums that might have arisen to the individual under the arrangements instead of that sum, and

(b) in relation to the actual sum or sums and any other sums that might have arisen to the individual under the arrangements by way of profit-related return in the tax year (and the investments to which all those sums relate) taken as a whole;

(so that, in a particular case, some of the minimum amount may arise by assessing the risk in accordance with paragraph (a) and some by assessing it in accordance with paragraph (b)).

(5) For the purposes of subsection (3)(b) assess the risk as at the latest of—

(a) the time when the individual becomes party to the arrangements,

(b) the time when the individual begins to perform investment management services directly or indirectly in respect of the scheme under the arrangements, and

(c) the time when a material change is made to the arrangements so far as relating to the sums which are to, or may, arise to the individual.

(6) For the purposes of subsection (3)(b) ignore any risk that a sum is prevented from arising to the individual (by reason of insolvency or otherwise).

(7) Where more than one actual sum arises in the tax year, the minimum amount is to be apportioned between the actual sums as follows for the purposes of subsection (3)—

(a) so much of the minimum amount as is attributable to a particular actual sum is to be apportioned to that actual sum, and

(b) so much of the minimum amount as is not attributable to any particular actual sum is to be apportioned between the actual sums on a just and reasonable basis.

(8) For the purpose of subsection (7) any part of the minimum amount is attributable to a particular actual sum to the extent that there was no significant

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risk that that part would not arise to the individual in relation to that actual sum, assessing the risk in accordance with subsection (4)(a).

809EZD **Sums treated as "carried interest" for purposes of section 809EZB**

(1) A sum falling within subsection (2) or (3)—
  (a) is to be assumed to meet the requirements of section 809EZC, and
  (b) accordingly, is to be treated as constituting "carried interest" for the purposes of section 809EZB.

(2) A sum falls within this subsection if, under the arrangements, it is to, or may, arise to the individual out of profits on the investments made for the purposes of the scheme, but only after—
  (a) all, or substantially all, of the investments in the scheme made by the participants have been repaid to the participants, and
  (b) each external investor has received a preferred return on all, or substantially all, of the investor's investments in the scheme.

(3) A sum falls within this subsection if, under the arrangements, it is to, or may, arise to the individual out of profits on a particular investment made for the purposes of the scheme, but only after—
  (a) all, or substantially all, of the relevant investments made by participants have been repaid to those participants, and
  (b) each of those participants who is an external investor has received a preferred return on all, or substantially all, of the investor's relevant investments;

  and for this purpose "relevant investments" means those investments in the scheme to which the particular investment made for the purposes of the scheme is attributable.

(4) In this section "preferred return" means a return of not less than the amount that would be payable on the investment by way of interest if—
  (a) compound interest were payable on the investment for the whole of the period during which it was invested in the scheme, and
  (b) the interest were calculated at a rate of 6% per annum, with annual rests.

809EZE **Interpretation of Chapter**

(1) In this Chapter—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"collective investment scheme" has the meaning given by section 235 of FISMA 2000;

"external investor", in relation to an investment scheme and any arrangements, means a participant in the scheme other than—
  (a) an individual who performs investment management services directly or indirectly in respect of the scheme, or

(b) a person through whom sums are to, or may, arise directly or indirectly to such an individual from the scheme under the arrangements;

"investment management services", in relation to an investment scheme, includes—

(a) seeking funds for the purposes of the scheme from participants or potential participants,

(b) researching potential investments to be made for the purposes of the scheme,

(c) acquiring, managing or disposing of property for the purposes of the scheme, and

(d) acting for the purposes of the scheme with a view to assisting a body in which the scheme has made an investment to raise funds;

"investment trust" means a company in relation to which conditions A to C in section 1158 of CTA 2010 are met (or treated as met); and for this purpose "company" has the meaning given by section 1121 of CTA 2010;

"market value" has the same meaning as in TCGA 1992 (see sections 272 and 273 of that Act);

"participant"—

(a) in relation to a collective investment scheme, is construed in accordance with section 235 of FISMA 2000;

(b) in relation to an investment trust, means a member of the investment trust;

"profits", in relation to an investment made for the purposes of an investment scheme, means profits (including unrealised profits) arising from the acquisition, holding, management or disposal of the investment (taking into account items of a revenue nature and items of a capital nature).

(2) In this Chapter a reference to an investment made by a person in an investment scheme is a reference to a contribution by the person (whether by way of capital, loan or otherwise) towards the property subject to the scheme (but does not include a sum committed but not yet invested).

(3) For the purposes of subsection (2) a person who holds a share in an investment scheme which is a company limited by shares and who acquired the share from a person other than the scheme is to be taken to have made a contribution towards the property subject to the scheme equal to—

(a) the consideration given by the person for the acquisition of the share, or

(b) if less, the market value of the share at the time of the acquisition.

(4) In this Chapter, in relation to an investment scheme which is a company limited by shares—

(a) references to a repayment of, or a return on, an investment in the scheme include a repayment of, or a return on, an investment represented by a share in the scheme resulting from—

(i) the purchase of the share by the scheme,

(ii) the redemption of the share by the scheme,

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(iii) the distribution of assets in respect of the share on the winding up of the scheme, or

(iv) any similar process;

(b) references to a return on an investment in the scheme include a dividend or similar distribution in respect of a share in the scheme representing the investment.

809EZF **Disguised investment management fees: anti-avoidance**

In determining whether section 809EZA applies in relation to an individual, no regard is to be had to any arrangements the main purpose, or one of the main purposes, of which is to secure that that section does not apply in relation to—

(a) the individual, or

(b) the individual and one or more other individuals.

809EZG **Disguised investment management fees: avoidance of double taxation**

(1) This section applies where—

(a) income tax is charged on an individual by virtue of section 809EZA in respect of a disguised fee, and

(b) at any time, a tax (whether income tax or another tax) is charged on the individual otherwise than by virtue of section 809EZA in relation to the disguised fee.

(2) This section also applies where—

(a) income tax is charged on an individual by virtue of section 809EZA in respect of a disguised fee which arises to the individual under the arrangements by way of a loan or advance,

(b) at any time, a tax (whether income tax or another tax) is charged on the individual in relation to another sum which arises to the individual under the arrangements, and

(c) some or all of the loan or advance has to be repaid as a result of the other sum having arisen to the individual.

(3) In order to avoid a double charge to tax, the individual may make a claim for one or more consequential adjustments to be made in respect of the tax charged as mentioned in subsection (1)(b) or (2)(b).

(4) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(5) The value of any consequential adjustments must not exceed the lesser of the income tax charged on the individual as mentioned in subsection (1)(a) or (2)(a) and—

(a) where subsection (1) applies, the tax charged as mentioned in subsection (1)(b);

(b) where subsection (2) applies, the tax charged as mentioned in subsection (2)(b) in relation to so much of the other sum as does not exceed the amount of the loan or advance that has to be repaid as mentioned in subsection (2)(c).

(6) Consequential adjustments may be made—
(a) in respect of any period,
(b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
(c) despite any time limit imposed by or under any enactment.

809EZH **Powers to amend Chapter**

(1) The Treasury may by regulations amend this Chapter—
(a) so as to change the definition of "investment scheme" for the purposes of this Chapter;
(b) so as to change the definition of "participant" for those purposes;
(c) so as to change what is "carried interest" for the purposes of section 809EZB.

(2) Regulations under this section may—
(a) make different provision for different purposes, and
(b) contain incidental, supplemental, consequential and transitional provision and savings.

(3) A statutory instrument containing regulations under this section to which subsection (4) applies may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

(4) This subsection applies if the regulations contain any provision which has or may have the effect of increasing any person's liability to tax.

(5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons."

(2) In section 2 of ITA 2007 (overview of Act), in subsection (13)—
(a) after paragraph (h) insert—
"(ha) disposals of assets through partnerships (Chapter 5D),";
(b) after paragraph (ha) insert—
"(hb) disguised investment management fees (Chapter 5E),".

(3) In Schedule 4 to ITA 2007 (index of defined expressions), at the appropriate places insert—

"arrangements (in Chapter 5E of Part 13)	section 809EZE(1)"
"collective investment scheme (in Chapter 5E of Part 13)	section 809EZE(1)"
"disguised fee (in Chapter 5E of Part 13)	section 809EZA(3)"
"external investor (in Chapter 5E of Part 13)	section 809EZE(1)"
"investment (in investment scheme) (in Chapter 5E of Part 13)	section 809EZE(2)"

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"investment management services (in Chapter 5E of Part 13)	section 809EZE(1)"
"investment scheme (in Chapter 5E of Part 13)	section 809EZA(6)"
"investment trust (in Chapter 5E of Part 13)	section 809EZE(1)"
"market value (in Chapter 5E of Part 13)	section 809EZE(1)"
"participant (in Chapter 5E of Part 13)	section 809EZE(1)"
"profits (on investment made for purposes of investment scheme) (in Chapter 5E of Part 13)	section 809EZE(1)"
"repayment of, and return on, investment in certain investment schemes (in Chapter 5E of Part 13)	section 809EZE(4)"
"sum (in Chapter 5E of Part 13)	section 809EZB(3)".

(4) The amendments made by subsections (1), (2)(b) and (3) have effect in relation to sums arising on or after 6 April 2015 (whenever the arrangements under which the sums arise were made).

22 Miscellaneous loss relief

(1) Chapter 7 of Part 4 of ITA 2007 (losses from miscellaneous transactions) is amended as follows.

(2) In section 152 (losses from miscellaneous transactions)—

(a) for subsection (1) substitute—

"(1) If in a tax year ("the loss-making year") a person makes a loss in a relevant transaction, the person may make a claim for loss relief against relevant miscellaneous income.";

(b) in subsection (2)(a), for "section 1016 income" substitute " income on which income tax is charged under, or by virtue of, a relevant section 1016 provision ("the relevant provision") ";

(c) after subsection (2) insert—

"(2A) A relevant section 1016 provision" means a provision to which section 1016 applies, other than—

(a) regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) (treatment of participants in non-reporting funds: charge to tax on disposal of asset), or

(b) Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc).";

(d) in subsection (4), after "person's" insert " relevant ";

(e) in subsection (5), for "A person's miscellaneous income" substitute " The person's "relevant miscellaneous income", in relation to the loss, ";

(f) for paragraph (b) of that subsection substitute—

"(b) income on which income tax is charged under, or by virtue of, the relevant provision.";

(g) in subsection (7), before "miscellaneous", in both places it appears, insert " relevant ";

(h) omit subsection (8);

(i) in subsection (9), omit the "and" at the end of paragraph (b) and after that paragraph insert—

"(ba) section 154A (anti-avoidance), and".

(3) In section 153 (how relief works), before "miscellaneous", in each place it appears, insert " relevant ".

(4) In section 154 (transactions in deposit rights), in subsection (3)—

(a) after "against" insert " relevant ", and

(b) for the words from the second "miscellaneous" to the end substitute " relevant miscellaneous income, for the tax year, in relation to the loss. "

(5) Before section 155 (time limit for claiming relief), but after the italic heading before that section (supplementary), insert—

"154A **Anti-avoidance**

(1) Subsection (2) applies if—

(a) a person makes a loss in a relevant transaction, and

(b) that loss arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.

(2) The person is not to be given loss relief under section 152 for the loss.

(3) Subsection (4) applies if—

(a) a person has income on which income tax is chargeable under, or by virtue of, a relevant section 1016 provision, and

(b) that income arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.

(4) The person is not to be given loss relief against that income under section 152.

(5) In this section "relevant tax avoidance arrangements" means arrangements—

(a) to which the person is party, and

(b) the main purpose, or one of the main purposes, of which is to obtain a reduction in tax liability by means of loss relief under section 152.

(6) In subsection (5) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

(6) In section 155 (time limit for claiming relief), in subsections (1) and (2), before "miscellaneous" insert " relevant ".

(7) In consequence of subsection (2)(h), in FA 2009, omit section 69.

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(8) The amendments made by subsections (2)(a) to (h), (3), (4), (6) and (7)—
  (a) have effect for the tax year 2015-16 and subsequent tax years, and
  (b) apply in relation to a loss whether it is made before, during or after that tax year.

(9) The amendments made by subsections (2)(i) and (5) have effect in relation to losses and income arising on or after 3 December 2014 directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements (whenever the arrangements are made).

(10) Subsection (4) of section 154A of ITA 2007 (inserted by subsection (5) of this section) applies in relation to loss relief, under section 152 of that Act, for losses whenever made.

(11) In relation to income arising on or after 3 December 2014 but before the beginning of the tax year 2015-16, section 154A of ITA 2007 has effect as if for paragraph (a) of subsection (3) of that section there were substituted—
  "(a) a person has section 1016 income (within the meaning of section 152), and".

23 Exceptions from duty to deduct tax: qualifying private placements

(1) In Chapter 3 of Part 15 of ITA 2007 (deduction of tax from certain payments of yearly interest), after section 888 insert—

"888A Qualifying private placements

(1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on a qualifying private placement.

(2) "Qualifying private placement" means a security—
  (a) which represents a loan relationship to which a company is a party as debtor,
  (b) which is not listed on a recognised stock exchange, and
  (c) in relation to which such other conditions as the Treasury may specify by regulations are met.

(3) The conditions which may be specified under subsection (2)(c) include conditions relating to—
  (a) the security itself,
  (b) the loan relationship represented by the security,
  (c) the terms on which, or circumstances under which, the security or loan relationship is entered into,
  (d) the company which is party to the loan relationship as debtor,
  (e) any person by or through whom a payment of interest on the security is made, or
  (f) the holder of the security.

(4) Regulations under this section may make provision about the consequences of failing to make a deduction under section 874, in respect of a payment of interest on a security, in cases where the person required to make the deduction

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had a reasonable, but mistaken, belief that the security was a qualifying private placement.

(5) Regulations under this section may—

(a) make different provision for different cases;

(b) contain incidental, supplemental, consequential and transitional provision and savings.

(6) In this section "loan relationship" has the same meaning as in Part 5 of CTA 2009."

(2) Any power conferred on the Treasury by virtue of subsection (1) to make regulations comes into force on the day on which this Act is passed.

(3) So far as not already brought into force by subsection (2), the amendment made by this section comes into force on such day as the Treasury may by regulations appoint.

(4) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply to regulations under subsection (3).

24 Increased remittance basis charge

(1) Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.

(2) In section 809C (claim for remittance basis by long-term UK resident: nomination of foreign income and gains to which section 809H(2) is to apply)—

(a) in subsection (1)(b), after "meets" insert " the 17-year residence test, ";

(b) after subsection (1) insert—

"(1ZA) An individual meets the 17-year residence test for a tax year if the individual has been UK resident in at least 17 of the 20 tax years immediately preceding that year.";

(c) in subsection (1A), after "the individual" insert—

"(a) does not meet the 17-year residence test for that year, but (b)";

(d) in subsection (1B)(a), after "meet" insert " the 17-year residence test or ";

(e) in subsection (4)—

(i) before paragraph (a) insert—

"(za) for an individual who meets the 17-year residence test for that year, £90,000;";

(ii) in paragraph (a), for "£50,000" substitute " £60,000 ".

(3) In section 809H (claim for remittance basis by long-term UK resident: charge)—

(a) in subsection (1)(c), after "meets" insert " the 17-year residence test, ";

(b) in subsection (1A)—

(i) for "809C(1A)" substitute " 809C(1ZA), (1A) ";

(ii) after "meets" insert " the 17-year residence test, ";

(c) in subsection (5B)—

(i) before paragraph (a) insert—

"(za) if the individual meets the 17-year residence test for the relevant tax year, £90,000;";

(ii) in paragraph (a), for "£50,000" substitute " £60,000 ".

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(4) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

CHAPTER 3

CORPORATION TAX: GENERAL

25 Loan relationships: repeal of certain provisions relating to late interest etc

(1) Part 5 of CTA 2009 (loan relationships) is amended as follows.

(2) Omit the following provisions—
- (a) section 374 (connection between debtor and person standing in position of creditor),
- (b) section 377 (party to loan relationship having major interest in other party),
- (c) section 407 (postponement until redemption of debits for connected companies' deeply discounted securities), and
- (d) section 408 (companies connected for section 407).

(3) In section 372 (introduction to Chapter 8), in subsection (3)—
- (a) omit paragraph (a),
- (b) at the end of paragraph (b), insert " and ", and
- (c) omit paragraph (c) (including the "and" at the end).

(4) In section 373 (late interest treated as not accruing until paid in some cases), in subsection (1)(b), for "374, 375, 377" substitute " 375 ".

(5) In section 406 (introduction to provisions dealing with deeply discounted securities)—
- (a) omit subsection (1)(a), and
- (b) in subsections (2), (3) and (4), for "407" substitute " 409 ".

(6) Subsections (2)(a) and (b), (3) and (4) have effect—
- (a) in relation to debtor relationships entered into by a company on or after 3 December 2014, and
- (b) in relation to debtor relationships entered into by a company before 3 December 2014, where the actual accrual period (within the meaning of Chapter 8 of Part 5 of CTA 2009) begins on or after 1 January 2016.

(7) Subsections (2)(c) and (d) and (5) have effect—
- (a) in relation to debtor relationships entered into by a company on or after 3 December 2014, and
- (b) in relation to debtor relationships entered into by a company before 3 December 2014, where the relevant period (within the meaning of section 407 of CTA 2009) begins on or after 1 January 2016.

(8) Subsections (6)(b) and (7)(b) are subject to subsections (9) to (14).

(9) In the case of a company which has an accounting period beginning before 1 January 2016 and ending on or after that date ("the straddling period"), so much of the straddling period as falls before that date, and so much of that period as falls on or

after that date, are treated for the purposes of subsections (6)(b) and (7)(b) as separate accounting periods.

(10) If a debtor relationship entered into by a company before 3 December 2014 is modified on or after 3 December 2014 and before 1 January 2016, subsections (2)(a) and (b), (3) and (4) have effect in relation to that debtor relationship where the actual accrual period (within the meaning of Chapter 8 of Part 5 of CTA 2009) begins on or after the date on which the modification takes effect.

(11) For the purposes of subsection (10) a debtor relationship of a company is modified if—
- (a) there is a material change in the terms of the relationship, or
- (b) there is a change in the person standing in the position of creditor.

(12) If a the terms of a deeply discounted security issued by a company before 3 December 2014 are modified on or after 3 December 2014 and before 1 January 2016, subsections (2)(c) and (d) and (5) have effect in relation to the debtor relationship represented by that security where the relevant period (within the meaning of section 407 of CTA 2009) begins on or after the day on which the modification takes effect.

(13) For the purposes of subsection (12) the terms of a deeply discounted security are modified if—
- (a) there is a material change in the terms of the security, or
- (b) there is a change in the person standing in the position of creditor.

(14) Where subsection (10) or (12) applies, an accounting period is to be taken for the purposes of that subsection to end immediately before the day on which the modification takes effect, and a new accounting period is to be taken for those purposes to begin with that day.

[F5]26 Intangible fixed assets: goodwill etc acquired from a related party

. . . . . .

Textual Amendments

F5 S. 26 omitted (with effect in accordance with s. 33(9)(10) of the commencing Act) by virtue of Finance (No. 2) Act 2015 (c. 33), **s. 33(8)**

27 Amount of relief for expenditure on research and development

(1) CTA 2009 is amended as follows.

(2) In Chapter 6A of Part 3 (trade profits: R&D expenditure credits), in section 104M (amount of R&D expenditure credit), in subsection (3), for "10%" substitute " 11% ".

(3) In Chapter 2 of Part 13 (relief for SMEs: cost of R&D incurred by SME)—
- (a) in section 1044 (additional deduction in calculating profits of trade), in subsection (8), for "125%" substitute " 130% ",
- (b) in section 1045 (alternative treatment for pre-trading expenditure: deemed trading loss), in subsection (7), for "225%" substitute " 230% ", and
- (c) in section 1055 (tax credit: meaning of "Chapter 2 surrenderable loss"), in subsection (2)(b), for "225%" substitute " 230% ".

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(4) In consequence of subsection (3), in Schedule 3 to FA 2012, omit paragraph 2(2) to (4).

(5) The amendments made by this section have effect in relation to expenditure incurred on or after 1 April 2015.

28 Expenditure on research and development: consumable items

(1) CTA 2009 is amended as follows.

(2) In Part 13 (additional relief for expenditure on research and development), in section 1126 (software or consumable items: attributable expenditure), after subsection (6) insert—

"(7) This section is subject to sections 1126A and 1126B."

(3) After section 1126 insert—

"**1126A Attributable expenditure: special rules**

(1) Expenditure on consumable items is not to be treated as attributable to relevant research and development if—
   (a) the relevant research and development relates to an item that is produced in the course of the research and development,
   (b) the consumable items form part of the item produced,
   (c) the item produced is transferred by a relevant person for consideration in money or money's worth, and
   (d) the transfer is made in the ordinary course of the relevant person's business.

(2) Expenditure on consumable items is not to be treated as attributable to relevant research and development if—
   (a) the relevant research and development relates to a process of producing an item,
   (b) the consumable items form part of an item produced in the course of that research and development,
   (c) the item produced is transferred by a relevant person for consideration in money or money's worth, and
   (d) the transfer is made in the ordinary course of the relevant person's business.

(3) If—
   (a) the item produced as described in subsection (1) or (2) may be divided, and
   (b) only a proportion ("the appropriate proportion") of that item is transferred by a relevant person as described in subsection (1)(c) and (d) or (2)(c) and (d),

   the appropriate proportion of the expenditure on the consumable items is not to be treated as attributable to the relevant research and development.

(4) If—
   (a) a number of items are produced in the course of the relevant research and development described in subsection (2), and

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(b) only a proportion ("the appropriate proportion") of those items is transferred by a relevant person as described in subsection (2)(c) and (d),

the appropriate proportion of the expenditure on the consumable items is not to be treated as attributable to the relevant research and development.

(5) A reference in this section to producing an item includes a reference to preparing an item for transfer.

(6) For the purposes of this section a consumable item forms part of an item produced if—

(a) it is incorporated into the item produced, or

(b) it is turned into, or it and other materials are turned into, the item produced or a part of the item produced.

(7) A reference in this section to the transfer of an item is a reference to—

(a) the transfer of ownership of an item to another person (whether by sale or otherwise), or

(b) the transfer of possession of an item to another person (whether by letting on hire or otherwise),

and a reference to the transfer of an item includes, where the item is incorporated into another item, the transfer of that other item.

(8) For the purposes of this section the provision of information obtained in testing an item is not to be regarded as consideration for the transfer of that item.

(9) For the purposes of this section a transfer of an item produced in the course of research and development is not to be regarded as a transfer in the ordinary course of business if the item being transferred is waste.

(10) In this section—

"item" includes any substance;

"relevant person", in relation to relevant research and development, means—

(a) the company that incurs the cost of the research and development, whether it is undertaken by itself or contracted out,

(b) the company to which the research and development is contracted out, whether it is undertaken by itself or contracted out,

(c) the person (other than a company) who contracts out the research and development to a company and incurs the cost of the research and development,

(d) the person (other than a company) to whom the research and development is contracted out, or

(e) a person who is connected to a company or person described in paragraph (a), (b), (c) or (d).

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1126B Attributable expenditure: further provision

(1) The Treasury may by regulations make provision for the purpose of identifying when expenditure on consumable items is attributable to relevant research and development, including provision modifying the effect of section 1126 or 1126A.

(2) Regulations under this section may include provision about—
- (a) the circumstances in which expenditure on consumable items employed directly in relevant research and development is, or is not, to be treated as attributable to that relevant research and development;
- (b) the circumstances in which consumable items are, or are not, to be treated as employed directly in relevant research and development.

(3) Regulations under this section may—
- (a) make different provision for different purposes;
- (b) make incidental, consequential, supplementary or transitional provision or savings.

(4) Regulations under this section may amend—
- (a) section 1126;
- (b) section 1126A;
- (c) any other provision of this Act, if that is appropriate in consequence of provision made under paragraph (a) or (b).

(5) Regulations under this section may make provision that has effect in relation to expenditure incurred before the making of the regulations, provided that it does not increase any person's liability to tax.”

(4) In each of the following, after “1126” insert “ to 1126B ”
- (a) section 104D(5);
- (b) section 104E(5);
- (c) section 104G(6);
- (d) section 104H(7);
- (e) section 104J(6);
- (f) section 104K(7);
- (g) section 1052(7);
- (h) section 1053(6);
- (i) section 1066(5);
- (j) section 1067(5);
- (k) section 1071(7);
- (l) section 1072(8);
- (m) section 1077(6);
- (n) section 1078(7);
- (o) section 1101(7);
- (p) section 1102(6).

(5) In section 104Y(2), for “and 1126” substitute “ to 1126B ”.

(6) In section 1310(4) (orders and regulations subject to affirmative procedure), after paragraph (za) insert—

"(zb) section 1126B (provision about when expenditure on consumable items is attributable to relevant research and development),".

(7) The amendments made by this section have effect in relation to expenditure incurred on or after 1 April 2015.

29 Film tax relief

(1) Part 15 of CTA 2009 (film production) is amended as follows.

(2) In section 1184 (definitions of terms including "limited-budget film")—

(a) omit subsections (2) and (3), and

(b) in the heading for that section omit "and "limited-budget film"".

(3) For section 1200(3) (film tax relief: amount of additional deduction: rate of enhancement) substitute—

"(3) The rate of enhancement is 100%."

(4) In section 1202 (surrendering of loss and amount of film tax credit)—

(a) in subsection (2) for "R is the payable credit rate (see subsection (3))" substitute " R is 25% ", and

(b) omit subsection (3).

(5) Omit section 1215 (film tax relief on basis that film is limited-budget film).

(6) In Schedule 4 (index of defined expressions) omit the entry for "limited-budget film".

(7) In consequence of subsection (4), in section 32 of FA 2014—

(a) omit subsection (3),

(b) in subsection (4) for "amendments made by subsections (2) and (3) have" substitute " amendment made by subsection (2) has ",

(c) omit subsection (5), and

(d) in subsection (7) for "sections 1198(1) and 1202(2) and (3)" substitute " section 1198(1) ".

(8) The amendments made by this section have effect in relation to films the principal photography of which is not completed before such day as the Treasury may specify by regulations.

(9) The specified day may be before the day on which the regulations are made, but may not be before 1 April 2015.

(10) Section 1171(4) of CTA 2010 (orders and regulations subject to negative resolution procedure) does not apply in relation to any regulations made under subsection (8).

Modifications etc. (not altering text)

C1 S. 29 having effect as specified (2.10.2015) by The Finance Act 2015, Section 29 (Film Tax Relief) (Specified Day) Regulations 2015 (S.I. 2015/1741), **reg. 2**

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30 Reliefs for makers of children's television programmes

(1) Part 15A of CTA 2009 (television production reliefs) is amended as follows.

(2) In section 1216AB(2) (programmes that are not animation can be relevant programmes only if conditions C and D are met in addition to conditions A and B) for "not animation" substitute " neither animation nor a children's programme ".

(3) In section 1216AB(3) (condition A: types of programme that can be relevant programmes)—
- (a) omit the "or" after paragraph (b), and
- (b) after paragraph (c) insert ", or
  - (d) a children's programme."

(4) In section 1216AC (types of programme: definitions) after subsection (2) insert—

"(2A) A programme is a children's programme if, when television production activities begin, it is reasonable to expect that the persons who will make up the programme's primary audience will be under the age of 15."

(5) In section 1216AD(1) (meaning of "excluded programme") after "For the purposes of this Part" insert " , but subject to section 1216ADA, ".

(6) After section 1216AD insert—

"**1216ADA Certain children's programmes not to be excluded programmes**

(1) A children's programme is not an excluded programme for the purposes of this Part if—
- (a) the programme falls within—
  - (i) sub-head 3A set out in subsection (2), or
  - (ii) Head 4 set out in section 1216AD(5), and
- (b) the prize total (see subsection (3)) does not exceed £1,000.

(2) Sub-head 3A is any quiz show or game show.

(3) "The prize total" for a programme is the total of—
- (a) the amount of each relevant prize that is a money prize, and
- (b) the amount spent on each other relevant prize by, or on behalf of, its provider,

and here "relevant prize" means a prize offered in connection with participation in a quiz, game, competition or contest in, or promoted by, the programme.

(4) The Treasury may by regulations amend subsection (1)(b) for the purpose of increasing the amount of the money limit for the time being specified in subsection (1)(b)."

(7) The amendments made by this section have effect in relation to accounting periods beginning on or after 1 April 2015.

(8) Subsections (9) and (10) apply where—
- (a) a company has an accounting period beginning before, and ending on or after, 1 April 2015 ("the straddling period"),

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(b) in the part of the straddling period beginning with 1 April 2015 and ending with the end of the straddling period, the company carries on activities in relation to a television programme that—

(i) is within the definition of "children's programme" given by the new section 1216AC(2A), but

(ii) is not a relevant programme for the purposes of Part 15A of CTA 2009, and

(c) if that part of the straddling period were a separate accounting period, in that separate accounting period—

(i) the programme would be a relevant programme for the purposes of Part 15A of CTA 2009,

(ii) the company would for those purposes be the television production company in relation to the programme, and

(iii) the conditions for television tax relief (see section 1216C(2) of CTA 2009) would be met in relation to the programme.

(9) For the purposes of calculating for corporation tax purposes the company's profits or losses for the straddling period of its activities in relation to the programme—

(a) so much of the straddling period as falls before 1 April 2015, and

(b) so much of that period as falls on or after that date,

are to be treated as separate accounting periods.

(10) Any amounts brought into account for the purposes of calculating for corporation tax purposes the company's profits or losses for the straddling period of its activities in relation to the programme are to be apportioned to the two separate accounting periods on such basis as is just and reasonable.

31 Television tax relief

(1) In section 1216CE(1) of CTA 2009 (television tax relief: UK expenditure condition) for "25%" substitute " 10% ".

(2) The amendment made by subsection (1) has effect in relation to relevant programmes the principal photography of which is not completed before 1 April 2015.

32 Restrictions applying to certain deductions made by banking companies

Schedule 2 contains provision restricting the amount of deductions which banking companies may make in respect of certain losses carried forward from previous accounting periods.

33 Tax avoidance involving carried-forward losses

Schedule 3 contains provision restricting the circumstances in which companies may make a deduction in respect of certain losses carried forward from previous accounting periods.

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CHAPTER 4

OTHER PROVISIONS

Pensions

34 Pension flexibility: annuities etc

Schedule 4 contains provision about pension annuities, and other pension, paid in respect of deceased members of pension schemes.

Flood and coastal defence

35 Relief for contributions to flood and coastal erosion risk management projects

Schedule 5 makes provision about relief for contributions to flood and coastal erosion risk management projects.

Investment reliefs

36 Investment reliefs: excluded activities

Schedule 6 makes provision about excluded activities for the purposes of the following provisions of ITA 2007—

(a) Part 5 (enterprise investment scheme) and, by virtue of section 257DA(9) of that Act, Part 5A (seed enterprise investment scheme),
(b) Part 5B (tax relief for social investments), and
(c) Part 6 (venture capital trusts).

Capital gains tax

37 Disposals of UK residential property interests by non-residents etc

Schedule 7 contains provision about capital gains tax on the disposal of UK residential property interests—

(a) by a person who is not resident in the United Kingdom, or
(b) by an individual, in the overseas part of a split tax year.

38 Relevant high value disposals: gains and losses

Schedule 8 contains provision about the calculation of relevant high value disposals within the meaning of section 2C of TCGA 1992.

39 Private residence relief

Schedule 9 contains amendments of TCGA 1992 in connection with private residence relief.

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40 Wasting assets

(1) In section 45 of TCGA 1992 (exemption for certain wasting assets), after subsection (3) insert—

"(3A) But subsection (3) does not apply in the case of a disposal in relation to which subsection (3B) disapplies subsection (1).

(3B) Subsection (1) does not apply to a disposal of, or of an interest in, an asset if—

(a) at any time in the period of ownership of the person making the disposal, the asset is used for the purposes of a trade, profession or vocation carried on by another person,

(b) as a result of that use, the asset becomes plant,

(c) but for the asset therefore being regarded under section 44(1)(c) as having a predictable life of less than 50 years, the disposal would not be of, or of an interest in, a wasting asset, and

(d) the disposal is not within subsection (3C).

(3C) A disposal of, or of an interest in, an asset is within this subsection if the asset is plant used for the purpose of leasing under a long funding lease and—

(a) the disposal takes place after the commencement of the term of the lease but before the termination of the lease, or

(b) the disposal is the deemed disposal of the asset under section 25A(3)(a) on the termination of the lease.

(3D) Section 25A(5) applies for the purposes of subsection (3C)."

(2) The amendment made by this section has effect—

(a) for corporation tax purposes, in relation to disposals on or after 1 April 2015, and

(b) for capital gains tax purposes, in relation to disposals on or after 6 April 2015.

41 Entrepreneurs' relief: associated disposals

(1) Section 169K of TCGA 1992 (disposal associated with relevant material disposal) is amended as follows.

(2) For subsections (1) and (2) substitute—

"(1) There is a disposal associated with a relevant material disposal if—

(a) condition A1, A2 or A3 is met, and

(b) conditions B and C are met.

(1A) Condition A1 is that an individual ("P") makes a material disposal of business assets which consists of the disposal of the whole or part of P's interest in the assets of a partnership, and—

(a) P's disposed of interest is at least a 5% interest in the partnership's assets, and

(b) at the date of the disposal, no partnership purchase arrangements exist.

(1B) Condition A2 is that P makes a material disposal of business assets which consists of the disposal of shares in a company, all or some of which are ordinary shares, and at the date of the disposal—

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(a) the ordinary shares disposed of—

(i) constitute at least 5% of the company's ordinary share capital, and

(ii) carry at least 5% of the voting rights in the company, and

(b) no share purchase arrangements exist.

(1C) But condition A2 is not met if the disposal of shares is a disposal by virtue of section 122, other than such a disposal treated as made in consideration of a capital distribution from a company which is made in the course of dissolving or winding up the company.

(1D) Condition A3 is that P makes a material disposal of business assets which consists of the disposal of securities of a company, and at the date of the disposal—

(a) the securities disposed of constitute at least 5% of the value of the securities of the company, and

(b) no share purchase arrangements exist.

(1E) For the purposes of conditions A2 and A3, in relation to the disposal of shares in or securities of a company ("company A"), "share purchase arrangements" means arrangements under which P or a person connected with P is entitled to acquire shares in or securities of—

(a) company A, or

(b) a company which is a member of a trading group of which company A is a member.

(2) For the purposes of subsection (1E)(b), a company is treated as a member of a trading group of which company A is a member if, at the date of the disposal mentioned in condition A2 or A3, arrangements exist which it is reasonable to assume will result in the company and company A becoming members of the same trading group."

(3) In subsection (3)—

(a) for "the individual", in the first place it occurs, substitute " P ", and

(b) for "the withdrawal of the individual" substitute " P's withdrawal ".

(4) After subsection (3) insert—

"(3A) The disposal mentioned in condition B is not treated as part of P's withdrawal from participation in the business carried on by a partnership if at the date of that disposal there exist any partnership purchase arrangements.

(3B) The disposal mentioned in condition B is not treated as part of P's withdrawal from participation in the business carried on by a company ("company A") if at the date of that disposal there exist any arrangements under which P or a person connected with P is entitled to acquire shares in or securities of—

(a) company A, or

(b) a company which is a member of a trading group of which company A is a member.

(3C) For the purposes of subsection (3B)(b), a company is treated as a member of a trading group of which company A is a member if, at the date of the disposal mentioned in condition B, arrangements exist which it is reasonable to assume

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will result in the company and company A becoming members of the same trading group."

(5) After subsection (5) insert—

"(6) In this section, in relation to a partnership, "partnership purchase arrangements" means arrangements under which P or a person connected with P is entitled to acquire any interest in, or increase that person's interest in, the partnership (including a share of the profits or assets of the partnership or an interest in such a share).

(7) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"securities" includes an interest in securities, and an "interest in securities" includes (in particular) an option to acquire securities;

"shares" includes an interest in shares, and an "interest in shares" includes (in particular) an option to acquire shares.

(8) For the purposes of this section, a person is treated as entitled to acquire anything which the person—

(a) is entitled to acquire at a future date, or

(b) will at a future date be entitled to acquire.

(9) For the purposes of this section the assets of—

(a) a Scottish partnership, or

(b) a partnership under the law of any other country or territory under which assets of a partnership are regarded as held by or on behalf of the partnership as such,

are to be treated as held by the members of the partnership in the proportions in which they are entitled to share in the profits of the partnership.

References in this section to an individual's interest in the partnership's assets are to be construed accordingly."

(6) The amendments made by this section have effect in relation to disposals made on or after 18 March 2015.

42 Entrepreneurs' relief: exclusion of goodwill in certain circumstances

(1) Chapter 3 of Part 5 of TCGA 1992 (entrepreneurs' relief) is amended as follows.

(2) In section 169H (introduction), in subsection (3), for "section 169L" substitute " sections 169L and 169LA ".

(3) In section 169L (relevant business assets), in subsection (2), after "including" insert " , subject to section 169LA, ".

(4) After that section insert—

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"169LA Relevant business assets: goodwill transferred to a related party etc

(1) Subsection (4) applies if—

(a) as part of a qualifying business disposal, a person ("P") disposes of goodwill directly or indirectly to a close company ("C"),

(b) at the time of the disposal, P is a related party in relation to C, and

(c) P is not a retiring partner.

(2) P is a related party in relation to C for the purposes of this section if P is a related party in relation to C for the purposes of Part 8 of CTA 2009 (intangible fixed assets) (see Chapter 12 of that Part (related parties) and, in particular, section 835(5) of that Act).

(3) P is a retiring partner if the goodwill is goodwill in a business carried on, immediately before the disposal, by a partnership of which P is a member and at the time of the disposal—

(a) P is not, and no arrangements exist under which P could become, a participator in C or in a company that has control of, or holds a major interest in, C (a "relevant participator"),

(b) P is a related party in relation to C because P is an associate of one or more relevant participators, and

(c) P is only an associate of each of those relevant participators because they are also members of the partnership.

(4) For the purposes of this Chapter, the goodwill is not one of the relevant business assets comprised in the qualifying business disposal.

(5) If a company—

(a) is not resident in the United Kingdom, but

(b) would be a close company if it were resident in the United Kingdom,

the company is to be treated as being a close company for the purposes of this section (including for the purposes of determining whether a person is a related party in relation to the company for the purposes of this section).

(6) If a person—

(a) disposes of goodwill as part of a qualifying business disposal, and

(b) is party to relevant avoidance arrangements,

subsection (4) applies (if it would not otherwise do so).

(7) In subsection (6) "relevant avoidance arrangements" means arrangements the main purpose, or one of the main purposes, of which is to secure—

(a) that subsection (4) does not apply in relation to the goodwill, or

(b) that the person is not a related party (for whatever purposes) in relation to a company to which the disposal of goodwill is directly or indirectly made.

(8) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

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"associate", "control", "major interest" and "participator" have the same meaning as in Chapter 12 of Part 8 of CTA 2009 (see, in particular, sections 836, 837 and 841 of that Act)."

(5) The amendments made by this section have effect in relation to qualifying business disposals made on or after 3 December 2014.

43 Entrepreneurs' relief: trading company etc

(1) Section 169S of TCGA 1992 (entrepreneurs' relief - interpretation) is amended as follows.

(2) After subsection (4) insert—

"(4A) In this Chapter "trading company" and "trading group" have the same meaning as in section 165 (see section 165A), except that, for the purposes of this Chapter—

(a) subsections (7) and (12) of section 165A are to be disregarded;

(b) in determining whether a company which is a member of a partnership is a trading company, activities carried on by the company as a member of that partnership are to be treated as not being trading activities (see section 165A(4)); and

(c) in determining whether a group of companies is a trading group in a case where any one or more companies in the group is a member of a partnership, activities carried on by such a company as a member of the partnership are to be treated as not being trading activities (see section 165A(9))."

(3) In subsection (5), omit the entry relating to "trading company" and "trading group" and the "and" preceding that entry.

(4) For the purposes of conditions B and D in section 169I of TCGA 1992 (material disposal of business assets), any reference to a company ceasing to be a trading company or ceasing to be a member of a trading group does not include a case where a company ceases to be a trading company or ceases to be a member of a trading group by virtue only of the coming into force of subsections (2) and (3).

(5) This section comes into force on 18 March 2015.

44 Deferred entrepreneurs' relief on invested gains

(1) In Part 5 of TCGA 1992 (transfer of business assets) after Chapter 3 (entrepreneurs' relief) insert—

"**CHAPTER 4**

ENTREPRENEURS' RELIEF WHERE HELD-OVER GAINS BECOME CHARGEABLE

169T **Overview of Chapter**

This Chapter makes provision about claiming entrepreneurs' relief in certain cases where, in relation to held-over gains that originally arose on a business disposal, there is a chargeable event for the purposes of Schedule 5B or 8B

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(relief for gains invested under the enterprise investment scheme or in social enterprises).

169U **Eligibility conditions for deferred entrepreneurs' relief**

(1) Section 169V applies if, ignoring the operation of section 169V(2)(b), each of the following conditions is met.

(2) The first condition is that a chargeable gain ("the first eventual gain") accrues as a result of the operation of—

paragraph 4 of Schedule 5B (enterprise investment scheme), or

paragraph 5 of Schedule 8B (investments in social enterprises).

(3) If the first condition is met, the paragraph and Schedule mentioned in subsection (2) that apply in the case are referred to in this section, and section 169V, as "the relevant paragraph" and "the applicable Schedule".

(4) The second condition is—

(a) that the first eventual gain accrues in a case in which the original gain would, but for the operation of the applicable Schedule, have accrued on a relevant business disposal, or

(b) where the first eventual gain accrues in a case in which the original gain would, but for the operation of the applicable Schedule, have accrued as a result of the operation of either of the paragraphs mentioned in subsection (2), that the underlying disposal is a relevant business disposal.

(5) The third condition is that a claim for entrepreneurs' relief in respect of the first eventual gain is made, on or before the first anniversary of the 31 January following the tax year in which the first eventual gain accrues, by the individual who made the disposal mentioned in subsection (4)(a) or (b).

(6) The fourth condition is that the first eventual gain is the first gain to accrue in the case as a result of the operation of the relevant paragraph.

(7) In subsection (4) "the underlying disposal" means the disposal (not being a disposal within paragraph 3 of Schedule 5B or paragraph 6 of Schedule 8B) by virtue of which Schedule 5B or 8B has effect.

(8) For the purposes of subsection (4), whether the disposal on which the original gain would have accrued is a relevant business disposal, or whether the underlying disposal is a relevant business disposal, is to be decided according to the law applicable to disposals made at the time the disposal was made.

(9) In this section—

"the original gain", in relation to a particular case, has the same meaning as in the applicable Schedule,

"relevant business asset" has the meaning given by section 169L, and

"relevant business disposal" means—

(a) a disposal—

(i) within section 169H(2)(a) or (c) (qualifying business disposals), and

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(ii) consisting of the disposal of (or of interests in) shares in or securities of a company, or

(b) a disposal of relevant business assets which is comprised in a disposal—

(i) within section 169H(2)(a) or (c), and

(ii) not consisting of the disposal of (or of interests in) shares in or securities of a company.

169V **Operation of deferred entrepreneurs' relief**

(1) Where this section applies, the following rules have effect.

(2) The gain mentioned in section 169U(2) ("the first eventual gain")—

(a) is treated for ER purposes as the amount resulting from a calculation under section 169N(1) carried out—

(i) in respect of a qualifying business disposal made when the first eventual gain accrues, and

(ii) because of the claim mentioned in section 169U(5), and

(b) except for ER purposes, is not to be taken into account under this Act as a chargeable gain.

(3) If the first eventual gain is a part only of the original gain in the case concerned, each part of the original gain that subsequently accrues as a chargeable gain as a result of the operation of the relevant paragraph—

(a) is treated for ER purposes as the amount resulting from a calculation under section 169N(1) carried out—

(i) in respect of a qualifying business disposal made when that chargeable gain so accrues, and

(ii) because of the claim mentioned in section 169U(5), and

(b) except for ER purposes, is not to be taken into account under this Act as a chargeable gain.

(4) If the disposal mentioned in paragraph (a) or (b) of section 169U(4) is a disposal within section 169H(2)(c) (qualifying business disposal: disposal associated with a relevant material disposal)—

(a) a disposal mentioned in subsection (2) or (3) of this section is treated for the purposes of section 169P(1) as a disposal associated with a relevant material disposal, but

(b) section 169P applies in relation to that disposal as if the disposal referred to in section 169P(4) were the disposal mentioned in section 169U(4)(a) or (b).

(5) In this section "ER purposes" means the purposes of—

(a) section 169N(2) to (4B), (7) and (8), and

(b) section 169P."

(2) The amendment made by subsection (1) has effect in relation to cases where the disposal mentioned in the new section 169U(4)(a) or (b) is made on or after 3 December 2014.

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Capital allowances

45 Zero-emission goods vehicles

(1) CAA 2001 is amended as follows.

(2) In section 45DA(1)(a) (period during which first-year qualifying expenditure may be incurred), for "5 years" substitute " 8 years ".

(3) Section 45DB (exclusions from allowances under section 45DA) is amended in accordance with subsections (4) to (7).

(4) In subsection (7), omit "notified" (in both places).

(5) In subsection (8), omit "to that extent".

(6) In subsection (11), omit the definition of "notified State aid".

(7) After that subsection insert—

"(11A) Nothing in this section limits references to "State aid" to State aid which is required to be notified to and approved by the European Commission."

(8) The amendments made by subsections (3) to (7) have effect—

(a) in relation to a relevant grant or relevant payment made at any time (whether before or on or after the specified day) towards expenditure incurred on or after that day, and

(b) in relation to a relevant grant or relevant payment made on or after the specified day towards expenditure incurred before that day.

(9) "The specified day" means—

(a) for income tax purposes, 6 April 2015, and

(b) for corporation tax purposes, 1 April 2015.

46 Plant and machinery allowances: anti-avoidance

Schedule 10 contains provision about plant and machinery allowances.

Oil and gas

47 Extension of ring fence expenditure supplement

Schedule 11 contains provision enabling the ring fence expenditure supplement to be claimed for an additional 4 accounting periods (and as a result repeals provision for the extended ring fence expenditure supplement for onshore activities).

48 Reduction in rate of supplementary charge

(1) In section 330 of CTA 2010 (supplementary charge in respect of ring fence trades), in subsection (1), for "32%" substitute " 20% ".

(2) The amendment made by subsection (1) has effect in relation to accounting periods beginning on or after 1 January 2015 (but see also subsection (3)).

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(3) Subsections (4) to (6) apply where a company has an accounting period beginning before 1 January 2015 and ending on or after that date ("the straddling period").

(4) For the purpose of calculating the amount of the supplementary charge on the company for the straddling period—

(a) so much of that period as falls before 1 January 2015, and so much of that period as falls on or after that date, are treated as separate accounting periods, and

(b) the company's adjusted ring fence profits for the straddling period are apportioned to the two separate accounting periods in proportion to the number of days in those periods.

(5) Sections 330A and 330B of CTA 2010 do not apply in relation to the straddling period (but do apply in relation to the separate accounting period ending on 31 December 2014).

(6) The amount of the supplementary charge on the company for the straddling period is the sum of the amounts of supplementary charge that would, in accordance with subsections (4) and (5), be chargeable on the company for those separate accounting periods.

(7) In this section—

"adjusted ring fence profits" has the same meaning as in section 330 of CTA 2010;

"supplementary charge" means any sum chargeable under section 330(1) of CTA 2010 as if it were an amount of corporation tax.

49 Supplementary charge: investment allowance

Schedule 12 contains provision about the reduction of adjusted ring fence profits by means of an investment allowance.

50 Supplementary charge: cluster area allowance

Schedule 13 contains provision about the reduction of adjusted ring fence profits by means of a cluster area allowance.

51 Amendments relating to investment allowance and cluster area allowance

Schedule 14 contains further amendments related to the amendments made by Schedules 12 and 13.

PART 2

EXCISE DUTIES AND OTHER TAXES

Petroleum revenue tax

52 Reduction in rate of petroleum revenue tax

(1) OTA 1975 is amended as follows.

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(2) In section 1(2) (rate of petroleum revenue tax) for "50" substitute " 35 ".

(3) In paragraph 17(5)(b) of Schedule 2 (relevant percentage in relation to the amount of loss which is treated as reducing assessable profit) after "60 per cent" insert " if that later repayment period ends on or before 31 December 2015, and 45 per cent if it ends after 31 December 2015 ".

(4) The amendment made by subsection (2) has effect with respect to chargeable periods ending after 31 December 2015.

Alcohol

53 Rates of alcoholic liquor duties

(1) ALDA 1979 is amended as follows.

(2) In section 5 (rate of duty on spirits), for "£28.22" substitute " £27.66 ".

(3) In section 36(1AA) (rates of general beer duty)—
- (a) in paragraph (za) (rate of duty on lower strength beer), for "£8.62" substitute " £8.10 ", and
- (b) in paragraph (a) (standard rate of duty on beer), for "£18.74" substitute " £18.37 ".

(4) In section 37(4) (rate of high strength beer duty), for "£5.29" substitute " £5.48 ".

(5) In section 62(1A) (rates of duty on cider)—
- (a) in paragraph (b) (cider of strength exceeding 7.5% which is not sparkling cider) for "£59.52" substitute " £58.75 ", and
- (b) in paragraph (c) (other cider), for "£39.66" substitute " £38.87 ".

(6) For Part 2 of the table in Schedule 1 substitute—

"**PART 2**

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT

Description of wine or made-wine	***Rates of duty per litre of alcohol in wine or made-wine £***
Wine or made-wine of a strength exceeding 22 per cent	27.66".

(7) The amendments made by this section are treated as having come into force on 23 March 2015.

54 Wholesaling of controlled liquor

(1) ALDA 1979 is amended as set out in subsections (2) to (5).

(2) In section 4 (interpretation)—

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(a) in subsection (1), in the definition of "wholesale", after " "wholesale"" insert " (except in Part 6A) ",

(b) in the Table in subsection (3), at the appropriate place insert—

"excise duty point", and

(c) in subsection (4), after "Act" insert " (except in Part 6A) ".

(3) After Part 6 insert—

"PART 6A

WHOLESALING OF CONTROLLED LIQUOR

88A Definitions

(1) This section defines certain expressions used in this Part.

(2) A sale is of "controlled liquor" if—

(a) it is a sale of dutiable alcoholic liquor on which duty is charged under this Act at a rate greater than nil, and

(b) the excise duty point for the liquor falls at or before the time of the sale.

(3) Controlled liquor is sold "wholesale" if—

(a) the sale is of any quantity of the liquor,

(b) the seller is carrying on a trade or business and the sale is made in the course of that trade or business,

(c) the sale is to a buyer carrying on a trade or business, for sale or supply in the course of that trade or business, and

(d) the sale is not an incidental sale, a group sale or an excluded sale,

and a reference to buying controlled liquor wholesale is to be read accordingly.

(4) A sale is an "incidental sale" if—

(a) the seller makes authorised retail sales of alcoholic liquor of any description, and

(b) the sale is incidental to those sales.

(5) A sale is an "authorised retail sale" if it is made by retail under and in accordance with a licence or other authorisation under an enactment regulating the sale and supply of alcohol.

(6) A sale is a "group sale" if the seller and the buyer are both bodies corporate which are members of the same group (see section 88J).

(7) A sale is an "excluded sale" if it is of a description prescribed by or under regulations made by the Commissioners.

(8) "Controlled activity" means—

(a) selling controlled liquor wholesale,

(b) offering or exposing controlled liquor for sale in circumstances in which the sale (if made) would be a wholesale sale, or

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(c) arranging in the course of a trade or business for controlled liquor to be sold wholesale, or offered or exposed for sale in circumstances in which the sale (if made) would be a wholesale sale.

(9) "UK person" means a person who is UK-established for the purposes of value added tax (see paragraph 1(10) of Schedule 1 to the Value Added Tax Act 1994).

(10) "Enactment" includes an enactment contained in—
(a) an Act of the Scottish Parliament;
(b) an Act or Measure of the National Assembly for Wales;
(c) Northern Ireland legislation.

88B Further provision relating to definitions

(1) The Commissioners may by regulations make provision as to the cases in which sales are, or are not, to be treated for the purposes of this Part as—
(a) wholesale sales,
(b) sales of controlled liquor,
(c) incidental sales,
(d) authorised retail sales, or
(e) group sales.

(2) The Commissioners may by regulations make provision as to the cases in which a person is, or is not, to be treated for the purposes of this Part as carrying on a controlled activity by virtue of section 88A(8)(b) or (c) (offering and exposing for sale and arranging for sale etc).

88C Approval to carry on controlled activity

(1) A UK person may not carry on a controlled activity otherwise than in accordance with an approval given by the Commissioners under this section.

(2) The Commissioners may approve a person under this section to carry on a controlled activity only if they are satisfied that the person is a fit and proper person to carry on the activity.

(3) The Commissioners may approve a person under this section to carry on a controlled activity for such periods and subject to such conditions or restrictions as they may think fit or as they may by or under regulations made by them prescribe.

(4) The conditions or restrictions may include conditions or restrictions requiring the controlled activity to be carried on only at or from premises specified or approved by the Commissioners.

(5) The Commissioners may at any time for reasonable cause revoke or vary the terms of an approval under this section.

(6) In this Part "approved person" means a person approved under this section to carry on a controlled activity.

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88D The register of approved persons

(1) The Commissioners must maintain a register of approved persons.

(2) The register is to contain such information relating to approved persons as the Commissioners consider appropriate.

(3) The Commissioners may make publicly available such information contained in the register as they consider necessary to enable those who deal with a person who carries on a controlled activity to determine whether the person in question is an approved person in relation to that activity.

(4) The information may be made available by such means (including on the internet) as the Commissioners consider appropriate.

88E Regulations relating to approval, registration and controlled activities

(1) The Commissioners may by regulations make provision—

(a) regulating the approval and registration of persons under this Part,

(b) regulating the variation or revocation of any such approval or registration or of any condition or restriction to which such an approval or registration is subject,

(c) about the register maintained under section 88D,

(d) regulating the carrying on of controlled activities, and

(e) imposing obligations on approved persons.

(2) The regulations may, in particular, make provision—

(a) requiring applications, and other communications with the Commissioners, to be made electronically,

(b) as to the procedure for the approval and registration of bodies corporate which are members of the same group and for members of such a group to be jointly and severally liable for any penalties imposed under—

(i) the regulations, or

(ii) Schedule 2B,

(c) requiring approved persons to keep and make available for inspection such records relating to controlled activities as may be prescribed by or under the regulations,

(d) imposing a penalty of an amount prescribed by the regulations (which must not exceed £1,000) for a contravention of—

(i) the regulations, or

(ii) any condition or restriction imposed under this Part,

(e) for the assessment and recovery of such a penalty, and

(f) for dutiable alcoholic liquor (whether or not charged with any duty and whether or not that duty has been paid) to be subject to forfeiture for a contravention of—

(i) this Part or the regulations, or

(ii) any condition or restriction imposed under this Part.

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88F Restriction on buying controlled liquor wholesale

A person may not buy controlled liquor wholesale from a UK person unless the UK person is an approved person in relation to the sale.

88G Offences

(1) A person who contravenes section 88C(1) by selling controlled liquor wholesale is guilty of an offence if the person knows or has reasonable grounds to suspect that—
  (a) the buyer is carrying on a trade or business, and
  (b) the liquor is for sale or supply in the course of that trade or business.

(2) A person who contravenes section 88C(1) by offering or exposing controlled liquor for sale in circumstances in which the sale (if made) would be a wholesale sale is guilty of an offence if the person intends to make a wholesale sale of the liquor.

(3) A person who contravenes section 88C(1) by arranging in the course of a trade or business for controlled liquor to be sold wholesale, or offered or exposed for sale in circumstances in which the sale (if made) would be a wholesale sale, is guilty of an offence if the person intends to arrange for the liquor to be sold wholesale.

(4) A person who contravenes section 88F is guilty of an offence if the person knows or has reasonable grounds to suspect that the UK person from whom the controlled liquor is bought is not an approved person in relation to the sale.

(5) A person guilty of an offence under this section is liable on summary conviction—
  (a) in England and Wales to—
    (i) imprisonment for a term not exceeding 12 months,
    (ii) a fine, or
    (iii) both,
  (b) in Scotland to—
    (i) imprisonment for a term not exceeding 12 months,
    (ii) a fine not exceeding the statutory maximum, or
    (iii) both, and
  (c) in Northern Ireland to—
    (i) imprisonment for a term not exceeding 6 months,
    (ii) a fine not exceeding the statutory maximum, or
    (iii) both.

(6) A person guilty of an offence under this section is liable on conviction on indictment to—
  (a) imprisonment for a period not exceeding 7 years,
  (b) a fine, or
  (c) both.

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(7) The reference in subsection (5)(a)(i) to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.

88H **Penalties**

Schedule 2B contains provision about penalties for contraventions of this Part.

88I **Regulations**

Regulations under this Part—

(a) may make provision which applies generally or only for specified cases or purposes,

(b) may make different provision for different cases or purposes,

(c) may include incidental, consequential, transitional or transitory provision, and

(d) may confer a discretion on the Commissioners.

88J **Groups**

(1) Two or more bodies corporate are members of a group for the purposes of this Part if each is established or has a fixed establishment in the United Kingdom and—

(a) one of them controls each of the others,

(b) one person (whether a body corporate or an individual) controls all of them, or

(c) two or more individuals carrying on a business in partnership control all of them.

(2) For the purposes of this section, a body corporate is to be taken to control another body corporate if—

(a) it is empowered by or under an enactment to control that body's activities, or

(b) it is that body's holding company within the meaning of section 1159 of, and Schedule 6 to, the Companies Act 2006.

(3) For the purposes of this section—

(a) an individual or individuals are to be taken to control a body corporate if the individual or individuals (were the individual or individuals a company) would be that body's holding company within the meaning of section 1159 of, and Schedule 6 to, the Companies Act 2006, and

(b) a body corporate is established or has a fixed establishment in the United Kingdom if it is so established or has such an establishment for the purposes of value added tax.

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This Table lists the places where some of the expressions used in this Part are defined or otherwise explained.

(4) In section 90 (procedure for regulations)—

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(a) after subsection (1) insert—

"(1A) A statutory instrument containing regulations under Part 6A is subject to annulment in pursuance of a resolution of the House of Commons.", and

(b) in subsection (2), after "containing" insert " any other ".

(5) After Schedule 2A insert—

"SCHEDULE 2B Section 88H

PENALTIES FOR CONTRAVENTIONS OF PART 6A

Liability to penalty

1 A penalty is payable by a person ("P") who contravenes section 88C(1) or 88F.

Amount of penalty

2 (1) If the contravention is deliberate and concealed, the amount of the penalty is the maximum amount (see paragraph 10).

(2) If the contravention is deliberate but not concealed, the amount of the penalty is 70% of the maximum amount.

(3) In any other case, the amount of the penalty is 30% of the maximum amount.

(4) The contravention is—

(a) "deliberate and concealed" if the contravention is deliberate and P makes arrangements to conceal the contravention, and

(b) "deliberate but not concealed" if the contravention is deliberate but P does not make arrangements to conceal the contravention.

Reductions for disclosure

3 (1) Paragraph 4 provides for reductions in penalties under this Schedule where P discloses a contravention.

(2) P discloses a contravention by—

(a) telling the Commissioners about it,

(b) giving the Commissioners reasonable help in identifying any other contraventions of section 88C(1) or 88F of which P is aware, and

(c) allowing the Commissioners access to records for the purpose of identifying such contraventions.

(3) Disclosure of a contravention—

(a) is "unprompted" if made at a time when P has no reason to believe that the Commissioners have discovered or are about to discover the contravention, and

(b) otherwise, is "prompted".

(4) In relation to disclosure "quality" includes timing, nature and extent.

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4 (1) Where P discloses a contravention, the Commissioners must reduce the penalty to one that reflects the quality of the disclosure.

(2) If the disclosure is prompted, the penalty may not be reduced below—
- (a) in the case of a contravention that is deliberate and concealed, 50% of the maximum amount,
- (b) in the case of a contravention that is deliberate but not concealed, 35% of the maximum amount, and
- (c) in any other case, 20% of the maximum amount.

(3) If the disclosure is unprompted, the penalty may not be reduced below—
- (a) in the case of a contravention that is deliberate and concealed, 30% of the maximum amount,
- (b) in the case of a contravention that is deliberate but not concealed, 20% of the maximum amount, and
- (c) in any other case, 10% of the maximum amount.

Special reduction

5 (1) If the Commissioners think it right because of special circumstances, they may reduce a penalty under this Schedule.

(2) In sub-paragraph (1) "special circumstances" does not include ability to pay.

(3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—
- (a) staying a penalty, and
- (b) agreeing a compromise in relation to proceedings for a penalty.

Assessment

6 (1) Where P becomes liable for a penalty under this Schedule, the Commissioners must—
- (a) assess the penalty,
- (b) notify P, and
- (c) state in the notice the contravention in respect of which the penalty is assessed.

(2) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(3) An assessment is to be treated as an amount of duty due from P under this Act and may be recovered accordingly.

(4) An assessment of a penalty under this Schedule may not be made later than one year after evidence of facts sufficient in the opinion of the Commissioners to indicate the contravention comes to their knowledge.

(5) Two or more contraventions may be treated by the Commissioners as a single contravention for the purposes of assessing a penalty under this Schedule.

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Reasonable excuse

7 (1) Liability to a penalty does not arise under this Schedule in respect of a contravention which is not deliberate if P satisfies the Commissioners or (on an appeal made to the appeal tribunal) the tribunal that there is a reasonable excuse for the contravention.

(2) For the purposes of sub-paragraph (1), where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the contravention.

Companies: officer's liability

8 (1) Where a penalty under this Schedule is payable by a company in respect of a contravention which was attributable to an officer of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as the Commissioners may specify by written notice to the officer.

(2) Sub-paragraph (1) does not allow the Commissioners to recover more than 100% of a penalty.

(3) In the application of sub-paragraph (1) to a body corporate other than a limited liability partnership, "officer" means—

(a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006),

(b) a manager, and

(c) a secretary.

(4) In the application of sub-paragraph (1) to a limited liability partnership, "officer" means a member.

(5) In the application of sub-paragraph (1) in any other case, "officer" means—

(a) a director,

(b) a manager,

(c) a secretary, and

(d) any other person managing or purporting to manage any of the company's affairs.

(6) Where the Commissioners have specified a portion of a penalty in a notice given to an officer under sub-paragraph (1)—

(a) paragraph 5 applies to the specified portion as to a penalty,

(b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,

(c) sub-paragraphs (3) to (5) of paragraph 6 apply as if the notice were an assessment of a penalty, and

(d) paragraph 9 applies as if the officer were liable to a penalty.

(7) In this paragraph "company" means any body corporate or unincorporated association, but does not include a partnership.

Double jeopardy

9 P is not liable to a penalty under this Schedule in respect of a contravention in respect of which P has been convicted of an offence.

The maximum amount

10 (1) In this Schedule "the maximum amount" means £10,000.

(2) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, they may by regulations substitute for the sum for the time being specified in sub-paragraph (1) such other sum as appears to them to be justified by the change.

(3) In sub-paragraph (2), "relevant date" means—

(a) the date on which the Finance Act 2015 is passed, and

(b) each date on which the power conferred by that sub-paragraph has been exercised.

(4) Regulations under this paragraph do not apply to any contravention which occurred before the date on which they come into force.

Appeal tribunal

11 In this Schedule "appeal tribunal" has the same meaning as in Chapter 2 of Part 1 of the Finance Act 1994."

(6) In section 13A(2) of FA 1994 (meaning of "relevant decision"), after paragraph (e) insert—

"(ea) any decision by HMRC that a person is liable to a penalty, or as to the amount of the person's liability, under—

(i) regulations under section 88E of the Alcoholic Liquor Duties Act 1979; or

(ii) Schedule 2B to that Act;".

(7) In Schedule 5 to that Act (decisions subject to review and appeal), in paragraph 3(1), after paragraph (o) insert—

"(p) any decision for the purposes of Part 6A (wholesaling of controlled liquor) as to whether or not, and in which respects, any person is to be, or to continue to be, approved and registered or as to the conditions or restrictions subject to which any person is approved and registered.".

(8) Subject as follows, the amendments made by this section come into force on the day on which this Act is passed.

(9) So far as relating to section 88C(1) of ALDA 1979, subsection (3) comes into force on 1 January 2016 (but see subsection (12) for the application of section 88C(1) in cases where an application has been made but not disposed of by that date).

(10) So far as relating to section 88F of ALDA 1979, subsection (3) comes into force on such day as the Treasury may by regulations made by statutory instrument appoint.

(11) An application for a person to be approved under section 88C of ALDA 1979 may not be made before 1 October 2015.

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(12) Where such an application made before 1 January 2016 has not been disposed of by that date, section 88C(1) of ALDA 1979 does not apply in relation to the person until the application is disposed of.

(13) An application is "disposed of" when—

(a) it is determined by Her Majesty's Revenue and Customs,

(b) it is withdrawn, or

(c) it is abandoned or otherwise ceases to have effect.

Tobacco

55 Rates of tobacco products duty

(1) For the table in Schedule 1 to TPDA 1979 substitute—

"1. Cigarettes	An amount equal to 16.5 per cent of the retail price plus £189.49 per thousand cigarettes
2. Cigars	£236.37 per kilogram
3. Hand-rolling tobacco	£185.74 per kilogram
4. Other smoking tobacco and chewing tobacco	£103.91 per kilogram".

(2) The amendment made by this section is treated as having come into force at 6 pm on 18 March 2015.

56 Excise duty on tobacco: anti-forestalling restrictions

After section 6 of TPDA 1979 (alteration of rates of duty) insert—

"**6A Anti-forestalling notices in connection with anticipated alteration of rate of duty**

(1) If the Commissioners consider that an alteration to a rate of duty charged under section 2 on tobacco products may be made (whether under section 6 or otherwise), they may publish a notice under this section (an "anti-forestalling notice").

(2) An anti-forestalling notice—

(a) must specify a period of up to 3 months ("the controlled period"),

(b) may impose such restrictions ("anti-forestalling restrictions"), as to the quantities of the tobacco products that may during the controlled period be removed for home use, as the Commissioners consider to be reasonable for the purpose of protecting the public revenue,

(c) may make provision for, and in connection with, the controlled period coming to an end early (including provision modifying an anti-forestalling restriction in such circumstances),

(d) may make provision for the removal of tobacco products for home use to be disregarded for the purposes of one or more anti-forestalling restrictions in certain circumstances, and

(e) may make different provision for different cases.

(3) The anti-forestalling restrictions that may be imposed include, in particular—

(a) restrictions as to the total quantity of the tobacco products, or of the tobacco products of a particular description, that may, during the controlled period, be removed for home use, and

(b) restrictions as to the quantity of the tobacco products, or the tobacco products of a particular description, that may be removed for home use during any month, or any period of two weeks, in the controlled period.

This is subject to subsections (4) and (5).

(4) An anti-forestalling notice may not restrict a person, during the controlled period, to removing for home use a total quantity of the tobacco products, or of the tobacco products of a particular description, that is less than 80% of—

$$\frac{\text{TPY}}{365} \times \text{DCP}$$

where—

TPY is the total quantity of the tobacco products, or (as the case may be) of the tobacco products of a particular description, removed for home use by the person in the period of 12 months ending with the third month before the month in which the controlled period begins, and

DCP is the number of days in the controlled period.

(5) An anti-forestalling notice may not restrict a person, in any month of the controlled period, to removing for home use less than 30% of the total quantity of the tobacco products, or of the tobacco products of a particular description, that could, under the anti-forestalling restrictions imposed by the notice, be removed for home use during the whole controlled period.

(6) If, before the end of the controlled period, it appears to the Commissioners that the rate of duty—

(a) will not be altered during the controlled period, but

(b) may be altered within a month of the end of the controlled period,

the Commissioners may publish an extension notice.

(7) An extension notice may—

(a) extend the controlled period by up to one month, and

(b) in accordance with subsections (2) to (5), make such other modifications of the anti-forestalling notice as the Commissioners think appropriate in consequence of the extension.

(8) The Commissioners may vary or revoke an anti-forestalling notice—

(a) as it applies generally, or

(b) if the Commissioners consider that exceptional circumstances justify doing so, in relation to a particular person.

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(9) This section does not affect the Commissioners' powers—
  (a) under section 128 of the Customs and Excise Management Act 1979 (restriction of delivery of goods), or
  (b) to make regulations under section 7 of this Act in relation to periods specified under that section of that Act.

6B Anti-forestalling notices: sanctions

(1) This section applies if a person fails to comply with an anti-forestalling notice published under section 6A by, on one or more occasions, removing tobacco products for home use during the controlled period in contravention of an anti-forestalling restriction.

(2) The failure to comply attracts a penalty under section 9 of the Finance Act 1994 (civil penalties) of an amount determined in accordance with subsection (3) (rather than that section).

(3) The person is liable to a penalty of—
  (a) if the person has given an admission notice, 150% of the lost duty, and
  (b) otherwise, 200% of the lost duty.

(4) An "admission notice" is a notice—
  (a) in which the person admits that the person—
    (i) has failed to comply with the anti-forestalling notice, and
    (ii) is liable to a penalty determined in accordance with subsection (3), and
  (b) that is in such form, and that provides such information, as the Commissioners may specify.

(5) An admission notice cannot be given if, at any time in the period of 3 years ending with the day before the controlled period, the person has given an admission notice in relation to a failure to comply with another anti-forestalling notice.

(6) An admission notice cannot be given—
  (a) at a time when the person has reason to believe that Her Majesty's Revenue and Customs have discovered, or are about to discover, that the person has failed to comply with the anti-forestalling notice, or
  (b) after the end of the controlled period.

(7) The "lost duty" is the amount (if any) by which the duty that would have been charged under section 2 on the excess tobacco products if they had, immediately after the end of the controlled period, been removed for home use exceeds the duty that was charged under that section on those tobacco products.

(8) The "excess tobacco products" are the tobacco products mentioned in subsection (1) that the person removed, for home use, in contravention of an anti-forestalling restriction.

(9) See section 6A for the meaning of "anti-forestalling notice", "anti-forestalling restriction" and "controlled period"."

Air passenger duty

57 Air passenger duty: exemption for children in standard class

(1) In section 31 of FA 1994 (passengers: exceptions), after subsection (4) insert—

"(4ZA) A child who has not attained the age of 16 years is not a chargeable passenger in relation to a flight if the child's agreement for carriage—

(a) is evidenced by a ticket, and

(b) provides for standard class travel in relation to every flight on the child's journey.

(4ZB) Subsections (10) to (12) of section 30 (meaning of "standard class travel") apply for the purposes of subsection (4ZA) as they apply for the purposes of that section."

(2) The amendment made by this section has effect in relation to any carriage of a passenger which begins on or after 1 May 2015.

But, in relation to any carriage of a passenger which begins before 1 March 2016, section 31(4ZA) of FA 1994 has effect as if for "16 years" there were substituted " 12 years ".

Vehicle excise duty

58 VED rates for light passenger vehicles and motorcycles

(1) Schedule 1 to VERA 1994 (annual rates of duty) is amended as follows.

(2) In paragraph 1B (graduated rates of duty for light passenger vehicles)—

(a) for the tables substitute—

"Table 1

RATES PAYABLE ON FIRST VEHICLE LICENCE FOR VEHICLE

CO_2 emissions figure		***Rate***	
(1)	**(2)**	***(3)***	***(4)***
Exceeding	***Not exceeding***	***Reduced rate***	***Standard rate***
g/km	***g/km***	***£***	***£***
130	140	120	130
140	150	135	145
150	165	170	180
165	175	285	295
175	185	340	350
185	200	480	490
200	225	630	640

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225	255	860	870
255		1090	1100

Table 2

RATES PAYABLE ON ANY OTHER VEHICLE LICENCE FOR VEHICLE

CO_2 emissions figure		***Rate***	
(1)	***(2)***	***(3)***	***(4)***
Exceeding	***Not exceeding***	***Reduced rate***	***Standard rate***
g/km	***g/km***	***£***	***£***
100	110	10	20
110	120	20	30
120	130	100	110
130	140	120	130
140	150	135	145
150	165	170	180
165	175	195	205
175	185	215	225
185	200	255	265
200	225	280	290
225	255	480	490
255		495	505”;

(b) in the sentence immediately following the tables, for paragraphs (a) and (b) substitute—

“(a) in column (3), in the last two rows, “280” were substituted for “480” and “ 495 ”, and

(b) in column (4), in the last two rows, “290” were substituted for “490” and “ 505 ”.”

(3) In paragraph 2(1) (VED rates for motorcycles)—

(a) in paragraph (c), for “£58” substitute “ £59 ”, and

(b) in paragraph (d), for “£80” substitute “ £81 ”.

(4) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2015.

59 VED: extension of old vehicles exemption from 1 April 2016

(1) In Schedule 2 to VERA 1994 (exempt vehicles) in paragraph 1A(1) (exemption for old vehicles) for the words from “constructed” to the end substitute “ constructed before 1 January 1976 ”.

(2) The amendment made by subsection (1) comes into force on 1 April 2016; but nothing in that subsection has the effect that a nil licence is required to be in force in respect of a vehicle while a vehicle licence is in force in respect of it.

Gaming duty

60 Rates of gaming duty

(1) In section 11(2) of FA 1997 (rates of gaming duty) for the table substitute—

"TABLE

Part of gross gaming yield	***Rate***
The first £2,347,500	15 per cent
The next £1,618,000	20 per cent
The next £2,833,500	30 per cent
The next £5,981,000	40 per cent
The remainder	50 per cent"

(2) The amendment made by this section has effect in relation to accounting periods beginning on or after 1 April 2015.

Aggregates levy

61 Tax credit in Northern Ireland

(1) Part 2 of FA 2001 (aggregates levy) is amended in accordance with subsections (2) to (6).

(2) After section 30A insert—

"**30B Special tax credit in Northern Ireland**

(1) The Commissioners may by regulations make provision of the kind described in section 30(2) (entitlement to tax credit) in relation to cases within subsection (3) below.

(2) Tax credit to which a person is entitled under the regulations is referred to in this section as "special tax credit".

(3) The cases are where—

(a) a person has been charged with, and has fully accounted for, aggregates levy in respect of the commercial exploitation of a quantity of aggregate, and

(b) the exploitation was of imported aggregate and occurred in Northern Ireland in the period defined in subsection (5).

(4) For this purpose aggregate is "imported" if it was won from a site in a member State other than the United Kingdom.

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(5) The period mentioned in subsection (3)(b)—
- (a) begins with 1 April 2004, and
- (b) ends with 30 November 2010.

(6) Regulations may in particular—
- (a) provide that a person is not entitled to special tax credit unless the Department of the Environment in Northern Ireland ("the Department") has certified under section 30D(4) that it is satisfied that specified requirements were met in relation to the site from which the aggregate originates during a period which includes the time when the aggregate was won from the site (and the certification has not been revoked);
- (b) specify further conditions for entitlement to special tax credit;
- (c) make provision about the rate at which special tax credit is to be given (including provision restricting the amount of special tax credit in cases where entitlement to a tax credit has already arisen);
- (d) provide for compound interest at the applicable rate (see section 30C) to be treated as added, for such period and for such purposes as may be prescribed, to the amount of any special tax credit;
- (e) authorise the Commissioners to adjust a person's claim for special tax credit in specified circumstances.

(7) Regulations under subsection (6)(a) may specify the requirements in question by reference to any provisions of a notice published by the Department in pursuance of the regulations and not withdrawn by a further notice.

(8) Subsection (3) of section 30 (except paragraph (f) of that subsection) applies to regulations under this section as it applies to regulations under that section.

(9) Section 32(1) (time limit for claims) does not apply to a claim for repayment of aggregates levy made under regulations under this section.

30C Special tax credit: applicable rate of interest

(1) The reference in section 30B(6)(d) to the applicable rate is to a rate provided for in regulations made by the Treasury.

(2) Regulations under this section may—
- (a) provide for the rate to be determined, and to change from time to time, by reference to a rate referred to in the regulations;
- (b) include provision for different rates to apply at different times in a period for which interest is due to a person.

(3) Regulations under this section are to be made by statutory instrument.

(4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

30D Special tax credit: certification by Department

(1) A person may, for the purpose of making a claim for special tax credit, apply to the Department for a certification under subsection (4)(a).

(2) The application must specify—
  (a) a site, and
  (b) a time ("the relevant time").

(3) Where a certification relating to a site has been wholly or partly revoked by virtue of subsection (7)(b), an application specifying that site may not specify a time falling within the period with respect to which the revocation has effect.

(4) Where an application is made and the Department has not previously made a certification under paragraph (a) relating to both the specified site and a period that includes the relevant time, the Department must either—
  (a) certify that it is satisfied that any requirements specified by virtue of section 30B(6)(a) were met in relation to the site during a period (specified in the certification) that includes the relevant time, or
  (b) refuse the application.

(5) If the Department makes a certification under subsection (4)(a) (a "special tax credit certification") it must give a written notice of the certification to—
  (a) the applicant, and
  (b) HMRC.

(6) Where an application is made and the Department has previously made a special tax credit certification relating to both the specified site and a period that includes the relevant time, the Department must give the applicant a written notice of that certification.

(7) The Commissioners may by regulations—
  (a) make provision about the time within which an application under subsection (1) must be made and the form and content of such an application;
  (b) authorise the Department to revoke a special tax credit certification with respect to the whole or part of the period to which the certification relates if the Department is satisfied that its decision as regards the meeting of the relevant requirements (or that decision, so far as relating to the relevant part of that period) was not correct;
  (c) make any other provision that is necessary in connection with paragraph (b) and subsection (8);
  (d) provide that a revocation by virtue of paragraph (b) may not be made after a specified date.

(8) A special tax credit certification is to be treated as never having had effect in relation to any period with respect to which it is revoked by virtue of subsection (7)(b).

(9) Regulations under this section which make provision such as is mentioned in subsection (7)(b) must require the Department to inform the Commissioners, and any other person to whom the Department has given a written notice of the certification, if the Department revokes a special tax credit certification.

(10) Any expenses of the Department under or by virtue of this section or section 30B are to be appropriated from the Consolidated Fund of Northern Ireland by Act of the Northern Ireland Assembly.

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(11) In this section "the Department" and "special tax credit" have the same meaning as in section 30B."

(3) In section 17 (meaning of "aggregate" and "taxable aggregate"), in subsection (6)(a), for "or 30A" substitute " , 30A or 30B ".

(4) In section 48(1) (interpretation of Part), in the definition of "tax credit regulations", for "or 30A" substitute " , 30A or 30B ".

(5) In paragraph 9A of Schedule 6 (incorrect records etc evidencing claim for tax credit), in sub-paragraph (1)(a)—

(a) omit the "or" at the end of sub-paragraph (i), and

(b) after sub-paragraph (ii) insert ", or

(iii) section 30B(3) of this Act (special tax credit in Northern Ireland);".

(6) In paragraph 2 of Schedule 8 (interest payable by the Commissioners), in sub-paragraph (3)—

(a) in paragraph (b), for "of this Act; but" substitute " or 30B(6)(d); ", and

(b) after paragraph (b) insert—

"(ba) do not include the amount of any tax credit to which a person is entitled by virtue of section 30B(1); but".

Climate change levy

62 Climate change levy: main rates from 1 April 2016

(1) In paragraph 42(1) of Schedule 6 to FA 2000 (climate change levy: amount payable by way of levy) for the table substitute—

"TABLE

Taxable commodity supplied	***Rate at which levy payable if supply is not a reduced-rate supply***
Electricity	£0.00559 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00195 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.01251 per kilogram
Any other taxable commodity	£0.01526 per kilogram"

(2) The amendment made by this section has effect in relation to supplies treated as taking place on or after 1 April 2016.

63 Combined heat and power stations

(1) Schedule 6 to FA 2000 (climate change levy) is amended as follows.

(2) In paragraph 24B (deemed taxable supply: commodities to be used in combined heat and power station)—

(a) in sub-paragraph (2), at the end insert " to which sub-paragraph (2A) does not apply ",

(b) after that sub-paragraph insert—

"(2A) This sub-paragraph applies to electricity so far as—

(a) it is included in the CHP Qualifying Power Output of the combined heat and power station's CHPQA scheme, and

(b) either condition A or B is met.

(2B) Condition A is that the producer of the electricity makes no supply of it to another person, but causes it to be consumed in the United Kingdom.

(2C) Condition B is that the electricity is supplied (within the meaning of Part 1 of the Electricity Act 1989 (see section 64 of that Act)) by a person who is an exempt unlicensed electricity supplier.",

(c) in sub-paragraph (3), after "electricity" insert " to which sub-paragraph (2A) does not apply ", and

(d) for sub-paragraph (7) substitute—

"(7) For the purposes of this paragraph—

"CHP Qualifying Power Output" has the meaning given by section 4 of the Combined Heat and Power Quality Assurance Standard, Issue 5 (November 2013), prepared by the Department of Energy and Climate Change or, if that issue of the Standard has been replaced by another issue, by the current issue of the Standard (taking account, in either case, of any amendment which has been made to the issue);

"CHPQA scheme", in relation to a combined heat and power station, means the scheme in relation to which the station's CHPQA certificate was issued;

"CHPQA site", in relation to a fully exempt combined heat and power station or a partly exempt combined heat and power station, means the site of the CHPQA scheme."

(3) In paragraph 24C (initial determination under paragraph 24B(3) superseded by later determination), in sub-paragraph (1)—

(a) in paragraph (a), at the end insert " to which paragraph 24B(2A) does not apply ", and

(b) in paragraph (c)(i), after "electricity" insert " to which paragraph 24B(2A) does not apply ".

(4) In paragraph 62 (tax credits), in sub-paragraph (1)(bb), after "electricity", in both places, insert " to which paragraph 24B(2A) does not apply ".

(5) The amendments made by this section have effect in relation to carbon price support rate commodities brought onto, or arriving at, a CHPQA site of a combined heat and power station in Great Britain on or after 1 April 2015.

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

Landfill tax

64 Landfill tax: rates from 1 April 2016

(1) Section 42 of FA 1996 (amount of landfill tax) is amended as follows.

(2) In subsection (1) (standard rate), for paragraph (a) (but not the "or" following it) substitute—

"(a) £84.40 for each whole tonne disposed of and a proportionately reduced sum for any additional part of a tonne,".

(3) In subsection (2) (reduced rate for certain disposals), for the words from "reference" to the end substitute " reference to £84.40 were to £2.65. "

(4) The amendments made by this section have effect in relation to disposals made (or treated as made) on or after 1 April 2016.

65 Landfill tax: material consisting of fines

Schedule 15 makes provision about the treatment of fines for the purposes of landfill tax.

Value added tax

66 VAT: refunds to certain charities

(1) In Part 2 of VATA 1994 (reliefs, exemptions and repayments), after section 33B insert—

"**33C Refunds of VAT to charities within section 33D**

(1) This section applies to a charity that falls within any of the descriptions in section 33D.

A charity to which this section applies is referred to in this section as a "qualifying charity".

(2) This section applies where—

(a) VAT is chargeable on—

(i) the supply of goods or services to a qualifying charity,

(ii) the acquisition of any goods from another member State by a qualifying charity, or

(iii) the importation of any goods from a place outside the member States by a qualifying charity, and

(b) the supply, acquisition or importation is not for the purpose of any business carried on by the qualifying charity.

(3) The Commissioners shall, on a claim made by the qualifying charity at such time and in such form and manner as the Commissioners may determine, refund to the qualifying charity the amount of the VAT so chargeable.

(4) A claim under subsection (3) above in respect of a supply, acquisition or importation must be made before the end of the period of 4 years beginning

with the day on which the supply is made or the acquisition or importation takes place.

(5) Subsection (6) applies where goods or services supplied to, or acquired or imported by, a qualifying charity otherwise than for the purpose of any business carried on by the qualifying charity cannot be conveniently distinguished from goods or services supplied to, or acquired or imported by, the qualifying charity for the purpose of such a business.

(6) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, or acquisition or importation by, the qualifying charity such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business.

(7) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.

33D Charities to which section 33C applies

Palliative care charities

Palliative care charities

(1) "Palliative care charity" means a charity the main purpose of which is the provision of palliative care at the direction of, or under the supervision of, a medical professional to persons who are in need of such care as a result of having a terminal illness.

(2) In subsection (1) "medical professional" means—
  (a) a registered medical practitioner, or
  (b) a registered nurse.

Air ambulance charities

Air ambulance charities

(3) "Air ambulance charity" means a charity the main purpose of which is to provide an air ambulance service in pursuance of arrangements made by, or at the request of, a relevant NHS body.

(4) In subsection (3) "relevant NHS body" means a body the main purpose of which is to provide ambulance services and which is—
  (a) an NHS foundation trust in England,
  (b) an NHS trust in Wales,
  (c) a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978, or
  (d) a Health and Social Care trust established under the Health and Personal Social Services (Northern Ireland) Order 1991.

Search and rescue charities

Search and rescue charities

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(5) "Search and rescue charity" means a charity that meets condition A or B.

(6) Condition A is that—

(a) the main purpose of the charity is to carry out search and rescue activities in the United Kingdom or the UK marine area, and

(b) the search and rescue activities carried out by the charity are co-ordinated by a relevant authority.

(7) Condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.

(8) For the purposes of subsection (6)—

"search and rescue activities" means searching for, and rescuing, persons who are, or may be, at risk of death or serious injury;

"relevant authority" means—

(a) the Secretary of State;

(b) a police force;

(c) the Scottish Fire and Rescue Service;

(d) any other person or body specified for the purposes of subsection (6) by an order made by the Treasury;

"police force" means—

(a) a police force within the meaning of the Police Act 1996;

(b) the Police Service of Scotland;

(c) the Police Service of Northern Ireland;

(d) the Police Service of Northern Ireland Reserve;

(e) the British Transport Police Force;

(f) the Civil Nuclear Constabulary;

(g) the Ministry of Defence Police;

"UK marine area" has the meaning given by section 42(1) of the Marine and Coastal Access Act 2009.

Medical courier charities

Medical courier charities

(9) "Medical courier charity" means a charity that meets condition A or B.

(10) Condition A is that the main purpose of the charity is to provide services for the transportation of items intended for use for medical purposes, including in particular—

(a) blood;

(b) medicines and other medical supplies;

(c) items relating to people who are undergoing medical treatment.

(11) Condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.

(12) In subsection (10) "item" includes any substance."

(2) In section 79 of VATA 1994 (repayment supplement in respect of certain delayed payments or refunds)—

(a) in subsection (1), after paragraph (d) insert "or

(e) a charity which is registered is entitled to a refund under section 33C,";

(b) in subsection (5), after paragraph (d) insert ", and

(e) a supplement paid to a charity under subsection (1)(e) shall be treated as an amount due to the charity by way of refund under section 33C.";

(c) in subsection (6)(b), for "or 33B" substitute " , 33B or 33C ".

(3) In section 90 of VATA 1994 (failure of resolution under Provisional Collection of Taxes Act 1968), in subsection (3), after "33B," insert " 33C, ".

(4) In Schedule 9 to VATA 1994 (exemptions), in Group 14 (supplies of goods where input tax cannot be recovered), in Note (9), after "33B," insert " 33C, ".

(5) The amendments made by this section have effect in relation to supplies made, and acquisitions and importations taking place, on or after 1 April 2015.

(6) Until section 179 of the Health and Social Care Act 2012 (which abolishes NHS trusts in England) is fully brought into force, references in section 33D of VATA 1994 to an NHS foundation trust in England include an NHS trust in England.

67 VAT: refunds to strategic highways companies

(1) In section 41 of VATA 1994 (application of Act to the Crown), in subsection (7)—

(a) after "subsection (6)" insert " each of the following is to be regarded as a body of persons exercising functions on behalf of a Minister of the Crown ",

(b) omit the "and" after paragraph (j), and

(c) for the words after paragraph (k) substitute—

"(l) a strategic highways company appointed under section 1 of the Infrastructure Act 2015."

(2) The amendments made by this section come into force on 1 April 2015.

Stamp duty land tax

68 SDLT: alternative property finance relief

(1) FA 2003 is amended as follows.

(2) In section 73BA (meaning of "financial institution"), after subsection (2) insert—

"(3) In sections 71A, 73AB and 73B, "financial institution" also includes a person with permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity specified in Article 63F(1) of the Financial Services and Markets Act (Regulated Activities) Order 2001 (S.I. 2001/544) (entering into regulated home purchase plans as home purchase provider)."

(3) In paragraph 9 of Schedule 4A (higher rate for certain SDLT transactions: interpretation), for the definition of "financial institution" substitute—

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""financial institution" is to be read in accordance with subsections (1) and (2) of section 73BA and, in paragraphs 6A to 6H, also in accordance with subsection (3) of that section;".

(4) The amendment made by subsection (2) has effect where the effective date of the first transaction is, or is after, the day on which this Act is passed.

(5) In subsection (4) "first transaction" means the first transaction within the meaning of section 71A(1)(a) of FA 2003.

69 SDLT: multiple dwellings relief

(1) After paragraph 2(6) of Schedule 6B to FA 2003 (stamp duty land tax: superior interest in dwellings subject to a long lease excluded from multiple dwellings relief) insert—

"(7) Sub-paragraph (6) does not apply where—

(a) the vendor is a qualifying body within the meaning of paragraph 5 of Schedule 9,

(b) the transaction is a sale under a sale and leaseback arrangement within the meaning of section 57A(2),

(c) that sale is the grant of a leasehold interest, and

(d) the leaseback element of that arrangement is exempt from charge under section 57A."

(2) The amendment made by this section has effect in relation to any land transaction of which the effective date is, or is after, the day on which this Act is passed.

Annual tax on enveloped dwellings

70 ATED: annual chargeable amount

(1) In section 99 of FA 2013 (amount of tax chargeable), in the table in subsection (4), for the last four entries substitute—

"£23,350	More than £2 million but not more than £5 million.
£54,450	More than £5 million but not more than £10 million.
£109,050	More than £10 million but not more than £20 million.
£218,200	More than £20 million."

(2) The amendment made by subsection (1) has effect for the chargeable period beginning on 1 April 2015 and, subject to section 101 of FA 2013, for subsequent chargeable periods.

(3) Section 101(1) of FA 2013 does not apply in relation to the chargeable period beginning on 1 April 2015.

(4) Accordingly, the Treasury is not required to make an order under section 101(5) of FA 2013 in respect of that period.

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71 ATED: taxable value

In section 102 of FA 2013 (annual tax on enveloped dwellings: taxable value), after subsection (2) insert—

"(2A) But a day that is a valuation date only because of subsection (2)(b) (a "5-yearly valuation date") is to be treated as if it were not a valuation date for the purpose of determining the taxable value of a single-dwelling interest on any day in the chargeable period beginning with that 5-yearly valuation date."

72 ATED: interests held by connected persons

(1) Section 110 of FA 2013 (interests held by connected persons) is amended as follows.

(2) In subsection (1), after "If on any day" insert " ("the relevant day") ".

(3) In subsection (2)—

(a) omit "on the day in question";

(b) after "P's single dwelling interest" insert " on the relevant day ";

(c) for "£500,000" substitute " £250,000 ".

(4) After subsection (2) insert—

"(2A) Subsection (2B) applies in any case where—

(a) C would (without subsection (2B)) be treated, as a result of subsection (1) (read with section 109), as entitled to a single-dwelling interest with a taxable value (on the relevant day) of more than £2 million, but

(b) C would not be so treated if the value specified in subsection (2) were £500,000 (instead of £250,000).

(2B) Subsection (2) has effect as if the value specified in it were £500,000 (instead of £250,000)."

(5) The amendments made by this section have effect in relation to chargeable periods beginning on or after 1 April 2015.

73 ATED: returns

(1) Part 3 of FA 2013 (annual tax on enveloped dwellings) is amended as follows.

(2) In section 159 (annual tax on enveloped dwellings return), after subsection (3) insert—

"(3A) Where a person—

(a) would (apart from this subsection) be required in accordance with subsection (2) to deliver a return for a chargeable period ("the later period") by 30 April in that period, and

(b) is also required in accordance with subsection (3) to deliver a return for the previous chargeable period by a date ("the later date") which is later than 30 April in the later period,

subsection (2) has effect as if it required the return mentioned in paragraph (a) to be delivered by the later date."

(3) After section 159 insert—

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"159A Relief declaration returns

(1) "Relief declaration return" means an annual tax on enveloped dwellings return which—
  (a) states that it is a relief declaration return,
  (b) relates to one (and only one) of the types of relief listed in the table in subsection (9), and
  (c) specifies which type of relief it relates to.

(2) A relief declaration return may be made in respect of one or more single-dwelling interests.

(3) A relief declaration return delivered to an officer of Revenue and Customs on a particular day ("the day of the claim") is treated as made in respect of any single-dwelling interest in relation to which the conditions in subsection (4) are met (but need not contain information which identifies the particular single-dwelling interest or interests concerned).

(4) The conditions are that—
  (a) the person making the return is within the charge with respect to the single-dwelling interest on the day of the claim;
  (b) the day of the claim is relievable in relation to the single-dwelling interest by virtue of a provision which relates to the type of relief specified in the return (see subsection (9));
  (c) none of the days in the pre-claim period is a taxable day.

(5) The statement under subsection (1)(a) in a relief declaration return is treated as a claim for interim relief (see section 100) with respect to the single-dwelling interest (or interests) in respect of which the return is made.

(6) Subsection (7) applies where—
  (a) a person has delivered to an officer of Revenue and Customs on any day a relief declaration return for a chargeable period with respect to one or more single-dwelling interests ("the existing return"), and
  (b) there is a subsequent day ("day S") in the same chargeable period on which the relevant conditions are met in relation to another single-dwelling interest.

(7) The existing return is treated as also made with respect to that other single-dwelling interest.

(8) For the purposes of subsection (6)(b), the "relevant conditions" are the same as the conditions in subsection (4), except that for this purpose references in subsection (4) to the day of the claim are to be read as references to day S.

(9) This table sets out the numbered types of relief to which the provisions specified in the left hand column relate—

Provision	***Type of relief to which it relates***
Section 133 or 134 (property rental business)	1

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Section 137 (dwellings opened to the public)	2
Section 138 or 139 (property developers)	3
Section 141 (property traders)	4
Section 143 (financial institutions acquiring dwellings)	5
Section 145 (dwellings used for trade purposes: occupation by certain employees or partners)	6
Section 148 (farmhouses)	7
Section 150 (providers of social housing)	8

(10) Where a person—

(a) has failed to make annual tax on enveloped dwellings returns in respect of two or more single-dwelling interests, and

(b) could have discharged the duties in question by making a single relief declaration return in respect of all the interests,

the failure may be taken, for the purposes of Schedule 55 to FA 2009, to be a failure to make a single annual tax on enveloped dwellings return.

(11) In this section—

"pre-claim period" has the same meaning as in section 100;

"taxable day", in relation to a person and a single-dwelling interest, means a day on which the person is within the charge with respect to the interest, other than a day which is relievable in relation to the interest."

(4) In section 161 (return to include self-assessment), for subsection (2) substitute—

"(2) In subsection (1) "return" means—

(a) an annual tax on enveloped dwellings return, or

(b) a return of the adjusted chargeable amount.

(2A) The reference in subsection (2)(a) to an annual tax on enveloped dwellings return does not include a relief declaration return."

(5) In Schedule 33 (annual tax on enveloped dwellings: returns etc)—

(a) in paragraph 2(a), after "159" insert " , 159A ";

(b) in paragraph 20(1), for "in question, the self assessment included in that return" substitute " in question containing a self assessment, that self assessment ".

(6) The amendments made by subsections (1) to (5) have effect for chargeable periods beginning on or after 1 April 2015.

(7) In a case (not falling within section 109(5) of FA 2014) which falls within subsection (8), section 159 of FA 2013 (annual tax on enveloped dwellings return) has effect with the same modifications as are set out in section 109(6) of FA 2014 (which provides for extended filing periods in certain cases).

(8) The case is where—

(a) a person has a duty to deliver to an officer of Revenue and Customs an annual tax on enveloped dwellings return with respect to a single-dwelling interest for the chargeable period beginning with 1 April 2015, and

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(b) the circumstances on the first day in that chargeable period on which that person is within the charge with respect to that single-dwelling interest are such that that duty could be discharged by the delivery to an officer of Revenue and Customs on that day of a relief declaration return.

Inheritance tax

74 Inheritance tax: exemption for decorations and other awards

(1) In section 6 of IHTA 1984 (excluded property), for subsection (1B) substitute—

"(1B) A relevant decoration or award is excluded property if it has never been the subject of a disposition for a consideration in money or money's worth.

(1BA) In subsection (1B) "relevant decoration or award" means a decoration or other similar award—

(a) that is designed to be worn to denote membership of—

(i) an Order that is, or has been, specified in the Order of Wear published in the London Gazette ("the Order of Wear"), or

(ii) an Order of a country or territory outside the United Kingdom,

(b) that is, or has been, specified in the Order of Wear,

(c) that was awarded for valour or gallant conduct,

(d) that was awarded for, or in connection with, a person being, or having been, a member of, or employed or engaged in connection with, the armed forces of any country or territory,

(e) that was awarded for, or in connection with, a person being, or having been, an emergency responder within the meaning of section 153A (death of emergency service personnel etc), or

(f) that was awarded by the Crown or a country or territory outside the United Kingdom for, or in connection with, public service or achievement in public life."

(2) The amendment made by subsection (1) has effect in relation to transfers of value made, or treated as made, on or after 3 December 2014.

75 Inheritance tax: exemption for emergency service personnel etc

(1) IHTA 1984 is amended as follows.

(2) After section 153 insert—

"Emergency services

153A Death of emergency service personnel etc

(1) The reliefs in subsection (2) apply where a person—

(a) dies from an injury sustained, accident occurring or disease contracted at a time when that person was responding to emergency circumstances in that person's capacity as an emergency responder, or

(b) dies from a disease contracted at some previous time, the death being due to, or hastened by, the aggravation of the disease during a period when that person was responding to emergency circumstances in that person's capacity as an emergency responder.

(2) The reliefs are—

(a) that no potentially exempt transfer made by the person becomes a chargeable transfer under section 3A(4) because of the death,

(b) that section 4 (transfers on death) does not apply in relation to the death, and

(c) that no additional tax becomes due under section 7(4) because of a transfer made by the person within 7 years of the death.

(3) "Emergency circumstances" means circumstances which are present or imminent and are causing or likely to cause—

(a) the death of a person,

(b) serious injury to, or the serious illness of, a person,

(c) the death of an animal,

(d) serious injury to, or the serious illness of, an animal,

(e) serious harm to the environment (including the life and health of plants and animals),

(f) serious harm to any building or other property, or

(g) a worsening of any such injury, illness or harm.

(4) A person is "responding to emergency circumstances" if the person—

(a) is going anywhere for the purpose of dealing with emergency circumstances occurring there, or

(b) is dealing with emergency circumstances, preparing to do so imminently or dealing with the immediate aftermath of emergency circumstances.

(5) For the purposes of this section, circumstances to which a person is responding are to be taken to be emergency circumstances if the person believes and has reasonable grounds for believing they are or may be emergency circumstances.

(6) "Emergency responder" means—

(a) a person employed, or engaged, in connection with the provision of fire services or fire and rescue services,

(b) a person employed for the purposes of providing, or engaged to provide, search services or rescue services (or both),

(c) a person employed for the purposes of providing, or engaged to provide, medical, ambulance or paramedic services,

(d) a constable or a person employed for police purposes or engaged to provide services for police purposes,

(e) a person employed for the purposes of providing, or engaged to provide, services for the transportation of organs, blood, medical equipment or medical personnel, or

(f) a person employed, or engaged, by the government of a state or territory, an international organisation or a charity in connection with the provision of humanitarian assistance.

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(7) For the purposes of subsection (6)—

(a) it is immaterial whether the employment or engagement is paid or unpaid, and

(b) "international organisation" means an organisation of which—

(i) two or more sovereign powers are members, or

(ii) the governments of two or more sovereign powers are members.

(8) The Treasury may, by regulations made by statutory instrument, extend the definition of "emergency responder" in subsection (6).

(9) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons."

(3) In section 154 (death on active service)—

(a) in subsection (1), for "Section 4 shall not apply" substitute " The reliefs in subsection (1A) apply ",

(b) after that subsection insert—

"(1A) The reliefs are—

(a) that no potentially exempt transfer made by the deceased becomes a chargeable transfer under section 3A(4) because of the death,

(b) that section 4 (transfers on death) does not apply in relation to the death, and

(c) that no additional tax becomes due under section 7(4) because of a transfer made by the deceased within 7 years of the death.",

(c) in subsection (2) omit "either" and after paragraph (b) insert "or

(c) responding to emergency circumstances in the course of the person's duties as a member of any of those armed forces or as a civilian subject to service discipline.", and

(d) after that subsection insert—

"(2A) Section 153A(3) to (5) applies for the purposes of this section."

(4) After section 155 insert—

"Constables and service personnel

155A Death of constables and service personnel targeted because of their status

(1) The reliefs in subsection (3) apply where a person—

(a) dies from an injury sustained or disease contracted in circumstances where the person was deliberately targeted by reason of his or her status as a constable or former constable, or

(b) dies from a disease contracted at some previous time, the death being due to, or hastened by, the aggravation of the disease by an injury sustained or disease contracted in circumstances mentioned in paragraph (a).

(2) The reliefs in subsection (3) apply where it is certified by the Defence Council or the Secretary of State that a person—

(a) died from an injury sustained or disease contracted in circumstances where the person was deliberately targeted by reason of his or her status as a service person or former service person, or

(b) died from a disease contracted at some previous time, the death being due to, or hastened by, the aggravation of the disease by an injury sustained or disease contracted in circumstances mentioned in paragraph (a).

(3) The reliefs are—

(a) that no potentially exempt transfer made by the person becomes a chargeable transfer under section 3A(4) because of the death,

(b) that section 4 (transfers on death) does not apply in relation to the death, and

(c) that no additional tax becomes due under section 7(4) because of a transfer made by the person within 7 years of the death.

(4) For the purposes of this section, it is immaterial whether a person who was a constable or service person at the time the injury was sustained or the disease was contracted was acting in the course of his or her duties as such at that time (and for this purpose ignore the references in subsections (1)(b) and (2)(b) to a disease contracted at some previous time).

(5) "Service person" means a person who is a member of the armed forces of the Crown or a civilian subject to service discipline (within the meaning of the Armed Forces Act 2006).

(6) This section does not apply where section 153A or 154 applies in relation to a person's death."

(5) The amendments made by this section have effect in relation to deaths occurring on or after 19 March 2014.

The bank levy

76 The bank levy: rates from 1 April 2015

(1) Schedule 19 to FA 2011 (bank levy) is amended as follows.

(2) In paragraph 6 (steps for determining the amount of the bank levy), in sub-paragraph (2)—

(a) for "0.078%" substitute " 0.105% ", and

(b) for "0.156%" substitute " 0.21% ".

(3) In paragraph 7 (special provision for chargeable periods falling wholly or partly before 1 January 2014)—

(a) in sub-paragraph (1) for "1 January 2014" substitute " 1 April 2015 ";

(b) in sub-paragraph (2), in the first column of the table in the substituted Step 7, for " Any time on or after 1 January 2014 " substitute "1 January 2014 to 31 March 2015";

(c) at the end of that table add—

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"Any time on or after 1 April 2015	0.105%	0.21%";

(d) in the italic heading before paragraph 7, for "1 January 2014" substitute " 1 April 2015 ".

(4) The amendments made by subsections (2) and (3) come into force on 1 April 2015.

(5) Subsections (6) to (12) apply where—

(a) an amount of the bank levy is treated as if it were an amount of corporation tax chargeable on an entity ("E") for an accounting period of E,

(b) the chargeable period in respect of which the amount of the bank levy is charged begins before but ends on or after 1 April 2015, and

(c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of E for the accounting period, were treated as becoming due and payable before 1 April 2015 ("pre-commencement instalment payments").

(6) Subsections (1) to (4) are to be ignored for the purpose of determining the amount of any pre-commencement instalment payment.

(7) If there is at least one instalment payment, in respect of the total liability of E for the accounting period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after 1 April 2015 ("post-commencement instalment payments"), the amount of that instalment payment, or the first of them, is to be increased by the adjustment amount.

(8) If there are no post-commencement instalment payments, a further instalment payment, in respect of the total liability of E for the accounting period, of an amount equal to the adjustment amount is to be treated as becoming due and payable on 30 April 2015.

(9) "The adjustment amount" is the difference between—

(a) the aggregate amount of the pre-commencement instalment payments determined in accordance with subsection (6), and

(b) the aggregate amount of those instalment payments determined ignoring subsection (6) (and so taking account of subsections (1) to (4)).

(10) In the Instalment Payment Regulations—

(a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of those Regulations are to be read as including a reference to subsections (5) to (9) (and in regulation 7(2) "the regulation in question", and in regulation 8(2) "that regulation", are to be read accordingly), and

(b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to subsections (5) to (9).

(11) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E is to be read as including a reference to subsections (5) to (10).

(12) In this section—

"the chargeable period" is to be construed in accordance with paragraph 4 or (as the case may be) 5 of Schedule 19 to FA 2011;

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"the Instalment Payment Regulations" means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175);

and references to the total liability of E for an accounting period are to be construed in accordance with regulation 2(3) of the Instalment Payment Regulations.

PART 3

DIVERTED PROFITS TAX

Introduction and overview

77 Introduction to the tax

(1) A tax (to be known as "diverted profits tax") is charged in accordance with this Part on taxable diverted profits arising to a company in an accounting period.

(2) Taxable diverted profits arise to a company in an accounting period only if one or more of sections 80, 81 and 86 applies or apply in relation to the company for that period.

78 Overview of Part 3

(1) Sections 80 and 81 relate to cases involving entities or transactions which lack economic substance.

(2) In these cases—
  (a) sections 82 to 85 deal with the calculation of taxable diverted profits (and ensure appropriate account is taken of any transfer pricing adjustments already made), and
  (b) section 96 deals with the estimation of those profits when initially imposing a charge.

(3) Section 86 relates to cases where, despite activity being carried on in the United Kingdom, a company avoids carrying on its trade in the United Kingdom in circumstances where—
  (a) provision is made or imposed which involves entities or transactions lacking economic substance, or
  (b) there are tax avoidance arrangements.

(4) In these cases—
  (a) sections 88 to 91 deal with the calculation of taxable diverted profits, and
  (b) section 97 deals with the estimation of those profits when initially imposing a charge.

(5) There is an exception from section 86 for cases involving limited UK-related sales or expenses (see section 87).

(6) Key terms used in this Part are defined in sections 106 to 114.

(7) Other provisions in this Part—

ensure HMRC are notified of companies potentially within the scope of the tax (see section 92);

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deal with the process for imposing a charge to diverted profits tax (see sections 93 to 97);

deal with payment of the tax and make provision about credits given for other tax paid on the same profits (see sections 98 to 100); and

provide for reviews of, and appeals against, decisions to impose a charge to diverted profits tax (see sections 101 and 102).

Charge to tax

79 Charge to tax

(1) A charge to diverted profits tax is imposed for an accounting period by a designated HMRC officer issuing to the company a charging notice in accordance with section 95 or a supplementary charging notice in accordance with section 101(8).

(2) **[**[F6]Subject to subsections (3) and (3A), the**]** amount of tax charged by a notice is the sum of—

(a) 25% of the amount of taxable diverted profits specified in the notice, and

(b) the interest (if any) on the amount within paragraph (a) determined under subsection (4).

(3) **[**[F7]If**]**, and to the extent that, the taxable diverted profits are adjusted ring fence profits or notional adjusted ring fence profits, and determined under section 84 or 85, subsection (2)(a) has effect in relation to those profits as if the rate specified were 55% rather than 25%.

[[F8](3A) If, and to the extent that, the taxable diverted profits are banking surcharge profits or notional banking surcharge profits, subsection (2)(a) has effect in relation to those profits as if the rate specified were 33% rather than 25%.**]**

(4) The interest mentioned in subsection (2)(b) is interest at the rate applicable under section 178 of FA 1989 for the period (if any) which—

(a) begins 6 months after the end of the accounting period to which the charge relates, and

(b) ends with the day the notice imposing the charge to tax is issued.

(5) In this section—

"adjusted ring fence profits" has the same meaning as in section 330 of CTA 2010 (supplementary charge in respect of ring fence trades);

[[F9]"banking surcharge profits" means surcharge profits within the meaning of Chapter 4 of Part 7A of that Act (see section 269DA(2) of that Act);**]**

"notional adjusted ring fence profits", in relation to the company, means the total of—

(a) profits within section 85(5)(a), to the extent that (assuming they were profits of the company chargeable to corporation tax) they would have been adjusted ring fence profits, and

(b) any amounts of relevant taxable income of a company ("CC") within section 85(4)(b) or (5)(b), to the extent that (assuming those amounts were profits of CC chargeable to corporation tax) they would have been adjusted ring fence profits of CC.

[[F10]"notional banking surcharge profits", in relation to the company, means the total of—

(a) profits within section 85(5)(a) or 91(5)(a), to the extent that (assuming they were profits of the company chargeable to corporation tax) they would have been banking surcharge profits, and

(b) any amounts of relevant taxable income of a company ("CC") within section 85(4)(b) or (5)(b) or 91(4)(b) or (5)(b), to the extent that (assuming those amounts were profits of CC chargeable to corporation tax) they would have been banking surcharge profits of CC.**]**

Textual Amendments

F6 Words in s. 79(2) substituted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 12(2)**

F7 Word in s. 79(3) substituted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 12(3)**

F8 S. 79(3A) inserted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 12(4)**

F9 Words in s. 79(5) inserted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 12(5)(a)**

F10 Words in s. 79(5) inserted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 12(5)(b)**

Involvement of entities or transactions lacking economic substance

80 UK company: involvement of entities or transactions lacking economic substance

(1) This section applies in relation to a company ("C") for an accounting period if—

(a) C is UK resident in that period,

(b) provision has been made or imposed as between C and another person ("P") (whether or not P is UK resident) by means of a transaction or series of transactions ("the material provision"),

(c) the participation condition is met in relation to C and P (see section 106),

(d) the material provision results in an effective tax mismatch outcome, for the accounting period, as between C and P (see sections 107 and 108),

(e) the effective tax mismatch outcome is not an excepted loan relationship outcome (see section 109),

(f) the insufficient economic substance condition is met (see section 110), and

(g) C and P are not both small or medium-sized enterprises for that period.

(2) For the purposes of subsection (1)(b) provision made or imposed as between a partnership of which C is a member and another person is to be regarded as provision made or imposed as between C and that person.

81 Non-UK company: involvement of entities or transactions lacking economic substance

(1) This section applies in relation to a company ("the foreign company") for an accounting period if—

(a) it is non-UK resident in that period,

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(b) by reason of the foreign company carrying on a trade in the United Kingdom through a permanent establishment in the United Kingdom ("UKPE"), Chapter 4 of Part 2 of CTA 2009 (non-UK resident companies: chargeable profits) applies to determine the chargeable profits of the foreign company for that period, and

(c) section 80 would apply to UKPE for that period were it treated for the purposes of section 80 and sections 106 to 110—

(i) as a distinct and separate person from the foreign company (whether or not it would otherwise be so treated),

(ii) as a UK resident company under the same control as the foreign company, and

(iii) as having entered into any transaction or series of transactions entered into by the foreign company to the extent that the transaction or series is relevant to UKPE.

(2) For the purposes of subsection (1)(c)(iii) a transaction or series of transactions is "relevant" to UKPE only if, and to the extent that, it is relevant, for corporation tax purposes, when determining the chargeable profits of the foreign company attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE.

(3) Where section 1313(2) of CTA 2009 (UK sector of the continental shelf: profits of foreign company deemed to be profits of trade carried on by the company in the UK through a permanent establishment in the UK) applies to treat profits arising to a company as profits of a trade carried on by the company in the United Kingdom through a permanent establishment in the United Kingdom, this Part applies as if the company actually carried on that trade in the United Kingdom through that permanent establishment.

(4) In this section "control" is to be construed in accordance with section 1124 of CTA 2010.

Calculation of taxable diverted profits: section 80 or 81 cases

82 Calculation of taxable diverted profits in section 80 or 81 case: introduction

(1) If section 80 or 81 applies in relation to a company ("the relevant company") for an accounting period—

(a) no taxable diverted profits arise, in relation to the material provision in question, if section 83 applies, and

(b) in other cases, section 84 or 85 applies to determine the taxable diverted profits in relation to that material provision.

(2) But see also section 96 for how a designated HMRC officer estimates those profits when issuing a preliminary notice under section 93 or a charging notice under section 95.

(3) Subsections (4) to (9) define some key expressions used in sections 83 to 85 and this section.

(4) "The material provision" has the same meaning as in section 80.

(5) "The relevant alternative provision" means the alternative provision which it is just and reasonable to assume would have been made or imposed as between the relevant

company and one or more companies connected with that company, instead of the material provision, had tax (including any non-UK tax) on income not been a relevant consideration for any person at any time.

(6) For the purposes of subsection (5), making or imposing no provision is to be treated as making or imposing an alternative provision to the material provision.

(7) "The actual provision condition" is met if—

(a) the material provision results in expenses of the relevant company for which (ignoring Part 4 of TIOPA 2010 (transfer pricing)) a deduction for allowable expenses would be allowed in computing—

(i) in a case where section 80 applies, its liability for corporation tax for the accounting period, and

(ii) in a case where section 81 applies, its chargeable profits attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE, and

(b) the relevant alternative provision—

(i) would also have resulted in allowable expenses of the relevant company of the same type and for the same purposes (whether or not payable to the same person) as so much of the expenses mentioned in paragraph (a) as results in the effective tax mismatch outcome mentioned in section 80(1)(d), but

(ii) would not have resulted in relevant taxable income of a connected company for that company's corresponding accounting period.

(8) "Relevant taxable income" of a company for a period is—

(a) income of the company, for the period, which would have resulted from the relevant alternative provision and in relation to which the company would have been within the charge to corporation tax had that period been an accounting period of the company, less

(b) the total amount of expenses which it is just and reasonable to assume would have been incurred in earning that income and would have been allowable expenses of the company for that period.

(9) "Connected company" means a company which is or, if the relevant alternative provision had been made, would have been connected with the relevant company.

83 Section 80 or 81 cases where no taxable diverted profits arise

(1) Where section 80 or 81 applies in relation to a company for an accounting period, no taxable diverted profits arise to the company in that period in relation to the material provision in question if—

(a) the actual provision condition is met, and

(b) either—

(i) there are no diverted profits of that company for the accounting period, or

(ii) the full transfer pricing adjustment has been made.

(2) "Diverted profits" of the company for the accounting period means an amount—

(a) in respect of which the company is chargeable to corporation tax for that period by reason of the application of Part 4 of TIOPA 2010 (transfer pricing) to the results of the material provision, and

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(b) which, in a case where section 81 applies, is attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE.

(3) "The full transfer pricing adjustment" is made if all of the company's diverted profits for the accounting period are taken into account in an assessment to corporation tax included, before the end of the review period, in the company's company tax return for the accounting period.

84 Section 80 or 81: calculation of profits by reference to the actual provision

(1) This section applies where—

(a) section 80 or 81 applies in relation to a company for an accounting period,

(b) the actual provision condition is met, and

(c) section 83 (cases where no taxable diverted profits arise) does not apply for that period.

(2) In relation to the material provision in question, the taxable diverted profits that arise to the company in the accounting period are the amount (if any)—

(a) in respect of which the company is chargeable to corporation tax for that period by reason of the application of Part 4 of TIOPA 2010 (transfer pricing) to the results of the material provision,

(b) which, in a case where section 81 applies, is attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE, and

(c) which is not taken into account in an assessment to corporation tax which is included before the end of the review period in the company's company tax return for that accounting period.

85 Section 80 or 81: calculation of profits by reference to the relevant alternative provision

(1) This section applies where—

(a) section 80 or 81 applies in relation to a company ("the relevant company") for an accounting period, and

(b) the actual provision condition is not met.

(2) The taxable diverted profits that arise to the relevant company in the accounting period in relation to the material provision in question are determined in accordance with subsections (3) to (5).

(3) Subsection (4) applies if the actual provision condition would have been met but for the fact that the relevant alternative provision would have resulted in relevant taxable income of a company for that company's corresponding accounting period.

(4) The taxable diverted profits that arise to the relevant company in the accounting period are an amount equal to the sum of—

(a) the amount described in section 84(2), and

(b) the total amount of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision.

(5) If subsection (4) does not apply, the taxable diverted profits that arise to the relevant company in the accounting period are the sum of—

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(a) the notional additional amount (if any) arising from the relevant alternative provision, and

(b) the total amount (if any) of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision,

(6) In subsection (5) "the notional additional amount" means the amount by which—

(a) the amount in respect of which the company would have been chargeable to corporation tax for that period had the relevant alternative provision been made or imposed instead of the material provision, exceeds

(b) the amount—

(i) in respect of which the company is chargeable to corporation tax for that period by reason of the application of Part 4 of TIOPA 2010 (transfer pricing) to the results of the material provision,

(ii) which, in a case where section 81 applies, is attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE, and

(iii) which is taken into account in an assessment to corporation tax which is included before the end of the review period in the company's company tax return for that accounting period.

Avoidance of a UK taxable presence

86 Non-UK company avoiding a UK taxable presence

(1) This section applies in relation to a company ("the foreign company") for an accounting period if—

(a) the company is non-UK resident in that period,

(b) it carries on a trade during that period (or part of it),

(c) a person ("the avoided PE"), whether or not UK resident, is carrying on activity in the United Kingdom in that period in connection with supplies of services, goods or other property made by the foreign company in the course of that trade,

(d) section 87 (exception for companies with limited UK-related sales or expenses) does not operate to prevent this section applying in relation to the foreign company for the accounting period,

(e) it is reasonable to assume that any of the activity of the avoided PE or the foreign company (or both) is designed so as to ensure that the foreign company does not, as a result of the avoided PE's activity, carry on that trade in the United Kingdom for the purposes of corporation tax (whether or not it is also designed to secure any commercial or other objective),

(f) the mismatch condition (see subsection (2)) or the tax avoidance condition (see subsection (3)) is met or both those conditions are met,

(g) the avoided PE is not excepted by subsection (5), and

(h) the avoided PE and the foreign company are not both small or medium-sized enterprises for that period.

(2) "The mismatch condition" is that—

(a) in connection with the supplies of services, goods or other property mentioned in subsection (1)(c) (or in connection with those supplies and other supplies), arrangements are in place as a result of which provision is made or imposed

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as between the foreign company and another person ("A") by means of a transaction or series of transactions ("the material provision"),

(b) the participation condition is met in relation to the foreign company and A (see section 106),

(c) the material provision results in an effective tax mismatch outcome, for the accounting period, as between the foreign company and A (see sections 107 and 108),

(d) the effective tax mismatch outcome is not an excepted loan relationship outcome (see section 109),

(e) the insufficient economic substance condition is met (see section 110), and

(f) the foreign company and A are not both small or medium-sized enterprises for the accounting period.

(3) "The tax avoidance condition" is that, in connection with the supplies of services, goods or other property mentioned in subsection (1)(c) (or in connection with those supplies and other supplies), arrangements are in place the main purpose or one of the main purposes of which is to avoid or reduce a charge to corporation tax.

(4) In subsection (1)(e) the reference to activity of the avoided PE or the foreign company includes any limitation which has been imposed or agreed in respect of that activity.

(5) The avoided PE is "excepted" if—

(a) activity of the avoided PE is such that, as a result of section 1142 or 1144 of CTA 2010, the foreign company would not be treated as carrying on a trade in the United Kingdom in the accounting period through a permanent establishment in the United Kingdom by reason of that activity, and

(b) in a case where—

(i) section 1142(1) of that Act applies, but

(ii) the avoided PE is not regarded for the purposes of section 1142(1) of that Act as an agent of independent status by virtue of section 1145, 1146 or 1151 of that Act,

the foreign company and the avoided PE are not connected at any time in the accounting period.

(6) Where the foreign company is a member of a partnership—

(a) for the purposes of subsection (1)—

(i) a trade carried on by the partnership is to be regarded as a trade carried on by the foreign company, and

(ii) supplies made by the partnership in the course of that trade are to be regarded as supplies made by the foreign company in the course of that trade, and

(b) for the purposes of subsection (2)(a) provision made or imposed as between the partnership and another person is to be regarded as made between the foreign company and that person.

(7) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

87 Exception for companies with limited UK-related sales or expenses

(1) Section 86 does not apply to the foreign company for an accounting period if one or both of the following conditions is or are met.

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(2) The first condition is that, for the accounting period, the total of—
  (a) the UK-related sales revenues of the foreign company, and
  (b) the UK-related sales revenues of companies connected with the foreign company,

does not exceed £10,000,000.

(3) The second condition is that the total of—
  (a) the UK-related expenses of the foreign company incurred in the accounting period, and
  (b) the UK-related expenses of companies connected with the foreign company incurred in that period,

does not exceed £1,000,000.

(4) But if the accounting period is a period of less than 12 months, the amounts specified in subsections (2) and (3) are to be reduced proportionally.

(5) In this section—

"the foreign company" has the same meaning as in section 86;

"UK activity" means activity carried on in the United Kingdom in connection with supplies of services, goods or other property made by the foreign company in the course of the trade mentioned in section 86(1)(b);

"UK-related expenses", of a company, means the expenses of that company which relate to UK activity;

"UK-related sales revenues" means—
  (a) in the case of the foreign company, the sales revenues of that company from UK-related supplies, and
  (b) in the case of a company connected with the foreign company, the sales revenues of the first mentioned company to the extent that they—
    (i) are from UK-related supplies, and
    (ii) are trading receipts which are not taken into account in calculating the profits of that company which are chargeable to corporation tax;

"UK-related supplies" means supplies of services, goods or other property which are made—
  (a) by the foreign company or a company connected with the foreign company, and
  (b) relate to UK activity.

(6) For the purposes of this section "revenues" or "expenses" of a company, in the relevant accounting period, are amounts which, in accordance with generally accepted accounting practice ("GAAP"), are recognised as revenue or (as the case may be) expenses in the company's profit and loss account or income statement for that period.

(7) Where a company does not draw up accounts for the relevant accounting period in accordance with GAAP, the reference in subsection (6) to any amounts which in accordance with GAAP are recognised as revenue or expenses in the company's profit and loss account or income statement for the relevant accounting period is to be read as a reference to any amounts which would be so recognised if the company had drawn up such accounts for the relevant accounting period.

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(8) "Generally accepted accounting practice" is to be construed in accordance with section 1127 of CTA 2010.

(9) The Treasury may by regulations, made by statutory instrument, substitute a different figure for the figure for the time being specified in subsection (2) or (3).

(10) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons.

Calculation of taxable diverted profits: section 86 cases

88 Calculation of taxable diverted profits in section 86 case: introduction

(1) If section 86 applies for an accounting period, section 89, 90 or 91 applies to determine the taxable diverted profits of the foreign company.

(2) But see also section 97 for how a designated HMRC officer estimates those profits when issuing a preliminary notice under section 93 or a charging notice under section 95.

(3) Subsections (4) to (12) define some key expressions used in sections 89 to 91 and this section.

(4) "The foreign company" has the same meaning as in section 86.

(5) "The notional PE profits", in relation to an accounting period, means the profits which would have been the chargeable profits of the foreign company for that period, attributable (in accordance with sections 20 to 32 of CTA 2009) to the avoided PE, had the avoided PE been a permanent establishment in the United Kingdom through which the foreign company carried on the trade mentioned in section 86(1)(b).

(6) "The material provision" has the same meaning as in section 86.

(7) "The relevant alternative provision" means the alternative provision which it is just and reasonable to assume would have been made or imposed as between the foreign company and one or more companies connected with that company, instead of the material provision, had tax (including any non-UK tax) on income not been a relevant consideration for any person at any time.

(8) For the purposes of subsection (7), making or imposing no provision is to be treated as making or imposing an alternative provision to the material provision.

(9) "The actual provision condition" is met if—

(a) the material provision results in expenses of the foreign company for which (ignoring Part 4 of TIOPA 2010 (transfer pricing)) a deduction for allowable expenses would be allowed in computing what would have been the notional PE profits for the accounting period, and

(b) the relevant alternative provision—

(i) would also have resulted in allowable expenses of the foreign company of the same type and for the same purposes (whether or not payable to the same person) as so much of the expenses mentioned in paragraph (a) as results in the effective tax mismatch outcome mentioned in section 86(2)(c), but

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(ii) would not have resulted in relevant taxable income of a connected company for that company's corresponding accounting period.

(10) "Relevant taxable income" of a company for a period is—

(a) income of the company, for the period, which would have resulted from the relevant alternative provision and in relation to which the company would have been within the charge to corporation tax had that period been an accounting period of the company, less

(b) the total amount of expenses which it is just and reasonable to assume would have been incurred in earning that income and would have been allowable expenses of the company for that period.

(11) "Connected company" means a company which is or, if the relevant alternative provision had been made, would have been connected with the foreign company.

(12) "The mismatch condition" has the same meaning as in section 86.

89 Section 86: calculation of profits where only tax avoidance condition is met

(1) This section applies where—

(a) section 86 applies for an accounting period, and

(b) the mismatch condition is not met.

(2) The taxable diverted profits that arise to the foreign company in the accounting period by reason of that section applying are an amount equal to the notional PE profits for that period.

90 Section 86: mismatch condition is met: calculation of profits by reference to the actual provision

(1) This section applies where—

(a) section 86 applies for an accounting period,

(b) the mismatch condition is met, and

(c) the actual provision condition is met.

(2) The taxable diverted profits that arise to the foreign company in the accounting period, in relation to the material provision in question, are an amount equal to the notional PE profits for that period.

91 Section 86: mismatch condition is met: calculation of profits by reference to the relevant alternative provision

(1) This section applies where —

(a) section 86 applies for an accounting period,

(b) the mismatch condition is met, and

(c) the actual provision condition is not met.

(2) The taxable diverted profits that arise to the foreign company in the accounting period, in relation to the material provision in question, are determined in accordance with subsections (3) to (5).

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(3) Subsection (4) applies if the actual provision condition would have been met but for the fact that the relevant alternative provision would have resulted in relevant taxable income of a company for that company's corresponding accounting period.

(4) The taxable diverted profits that arise to the foreign company in the accounting period are an amount equal to the sum of—
   (a) the notional PE profits for the accounting period, and
   (b) the total amount of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision.

(5) If subsection (4) does not apply, the taxable diverted profits that arise to the foreign company in the accounting period are the sum of—
   (a) what would have been the notional PE profits of the foreign company for that period had the relevant alternative provision been made or imposed instead of the material provision, and
   (b) the total amount of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision.

Duty to notify if within scope

92 Duty to notify if potentially within scope of tax

(1) Where a company meets the requirements in subsection (3) or (4) in relation to an accounting period of the company, the company must notify an officer of Revenue and Customs to that effect.

This is subject to subsections (7) and (8).

(2) A notification under subsection (1) must be made—
   (a) in writing, and
   (b) within the period of 3 months beginning at the end of the accounting period to which it relates ("the notification period").

See also subsection (9) for provision about the content of notifications.

(3) A company meets the requirements of this subsection if—
   (a) section 80 or 81 applies in relation to the company for the accounting period, and
   (b) in that period, the financial benefit of the tax reduction is significant relative to the non-tax benefits of the material provision.

(4) A company meets the requirements of this subsection if—
   (a) section 86 applies in relation to the company for the accounting period, and
   (b) where that section applies by reason of the mismatch condition being met, in that period the financial benefit of the tax reduction is significant relative to the non-tax benefits of the material provision.

(5) For the purposes of subsections (3) and (4), this Part has effect subject to the following modifications—
   (a) in section 80, ignore subsection (1)(f),

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(b) in section 86, for subsection (1)(e) substitute—

"(e) the foreign company is not, as a result of the avoided PE's activity, within the charge to corporation tax by reason of the foreign company carrying on a trade in the United Kingdom,",

(c) in subsection (2) of that section, ignore paragraph (e), and

(d) in subsection (3) of that section, for "the main purpose or one of the main purposes of which is to avoid or reduce a charge to corporation tax" substitute " that result in the reduction of a charge to corporation tax in consequence of which there is an overall reduction in the amount of tax (including foreign tax) that would otherwise have been payable in respect of the activity mentioned in subsection (1)(c) ".

(6) In subsections (3)(b) and (4)(b), "non-tax benefits" means financial benefits other than—

(a) the financial benefit of the tax reduction, and

(b) any financial benefits which derive (directly or indirectly) from any reduction, elimination or delay of any liability of any person to pay any tax (including any non-UK tax).

(7) The duty under subsection (1) does not apply in relation to an accounting period of the company ("the current period")—

(a) if, at the end of the notification period, it is reasonable (ignoring the possibility of future adjustments being made in accordance with Part 4 of TIOPA 2010 (transfer pricing)) for the company to conclude that no charge to diverted profits tax will arise to the company for the current period,

(b) if, before the end of the notification period, an officer of Revenue and Customs has confirmed that the company does not have to notify an officer in relation to the current period because—

(i) the company, or a company which is connected with it, has provided HMRC with sufficient information to enable a designated HMRC officer to determine whether or not to give a preliminary notice under section 93 to the first mentioned company in respect of the accounting period, and

(ii) HMRC has examined that information (whether in the course of an enquiry made into a return or otherwise and whether in relation to diverted profits tax or otherwise),

(c) if, at the end of the notification period, it is reasonable for the company to conclude that sub-paragraphs (i) and (ii) of paragraph (b) apply, or

(d) if—

(i) the immediately preceding accounting period of the company is a period in respect of which notification was given under subsection (1), or not required to be given by virtue of paragraph (b) or (c) or this paragraph, and

(ii) at the end of the notification period for the current period, it is reasonable for the company to conclude that there has been no change in circumstances which is material to whether a charge to diverted profits tax may be imposed for the current period.

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(8) The Commissioners for Her Majesty's Revenue and Customs may also direct that the duty under subsection (1) does not apply in relation to an accounting period in other circumstances specified in the direction.

(9) A notification under subsection (1) must—

(a) state whether the obligation to notify arises by reason of section 80, 81 or 86 (as modified by subsection (5)) applying in relation to the company for the accounting period;

(b) if it states that section 86 applies, state the name of the avoided PE;

(c) if it states that section 80 or 81 applies, contain a description of the material provision in question and the parties between whom it has been made or imposed;

(d) if it states that section 86 applies—

(i) state whether or not the mismatch condition is met, and

(ii) if it is met, contain a description of the material provision in question and the parties between whom it has been made or imposed.

Process for imposing charge

93 Preliminary notice

(1) If a designated HMRC officer has reason to believe that—

(a) one or more of sections 80, 81 and 86 applies or apply in relation to a company for an accounting period, and

(b) as a result, taxable diverted profits arise to the company in the accounting period,

the officer must give the company a notice (a "preliminary notice") in respect of that period.

(2) See sections 96 and 97 for provision about the calculation of taxable diverted profits for the purposes of a preliminary notice.

(3) A preliminary notice must—

(a) state the accounting period of the company to which the notice applies;

(b) set out the basis on which the officer has reason to believe that one or more of sections 80, 81 and 86 applies or apply in relation to the company for that accounting period;

(c) explain the basis on which the proposed charge is calculated, including—

(i) how the taxable diverted profits to which the proposed charge would relate have been determined,

(ii) where relevant, details of the relevant alternative provision (see section 82(5) or 88(7)) by reference to which those profits have been determined, and

(iii) how the amount of interest comprised in that charge in accordance with section 79(2)(b) would be calculated,

(d) state who would be liable to pay the diverted profits tax;

(e) explain how interest is applied in accordance with section 101 of FA 2009 (late payment interest on sums due to HMRC) if the diverted profits tax is not paid, the period for which interest is charged and the rate at which it is charged.

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(4) Where the designated HMRC officer has insufficient information to determine or identify any of the matters set out in subsection (3), it is sufficient if the preliminary notice sets out those matters determined to the best of the officer's information and belief.

(5) Subject to subsection (6), a preliminary notice may not be issued more than 24 months after the end of the accounting period to which it relates.

(6) Where—
  (a) notification under section 92 has not been received by an officer of Revenue and Customs in respect of an accounting period of a company within the period specified in subsection (2)(b) of that section, and
  (b) a designated HMRC officer believes, in relation to that accounting period, that an amount of diverted profits tax that ought to have been charged under this Part has not been charged,

  a designated HMRC officer may issue to the company a preliminary notice in respect of that tax within the period of 4 years after the end of the accounting period.

(7) Where a preliminary notice is issued to a company, the officer must give a copy of the notice—
  (a) if the notice is issued on the basis that section 81 applies, to UKPE, and
  (b) if the notice is issued on the basis that section 86 applies, to the avoided PE.

94 Representations

(1) This section applies where a designated HMRC officer gives a preliminary notice, in respect of an accounting period, to a company under section 93 (and that notice is not withdrawn).

(2) The company has 30 days beginning with the day the notice is issued to send written representations to the officer in respect of the notice.

(3) Representations made in accordance with subsection (2) are to be considered by the officer only if they are made on the following grounds—
  (a) that there is an arithmetical error in the calculation of the amount of the diverted profits tax or the taxable diverted profits or an error in a figure on which an assumption in the notice is based;
  (b) that the small or medium-sized enterprise requirement is not met;
  (c) that in a case where the preliminary notice states that section 80 or 81 applies—
    (i) the participation condition is not met,
    (ii) the 80% payment test is met, or
    (iii) the effective tax mismatch outcome is an excepted loan relationship outcome;
  (d) that in a case where the preliminary notice states that section 86 applies—
    (i) section 87 (exception for companies with limited UK-related sales or expenses) operates to prevent section 86 from applying for the accounting period, or
    (ii) the avoided PE is "excepted" within the meaning of section 86(5);

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(e) that in a case where the preliminary notice states that section 86 applies and that the mismatch condition (within the meaning of section 86(2)) is met, the condition is not met because—

(i) the participation condition is not met,

(ii) the 80% payment test is met, or

(iii) the effective tax mismatch outcome is an excepted loan relationship outcome (within the meaning of section 109(2)).

(4) But, unless they are representations under subsection (3)(a) in respect of arithmetical errors, nothing in subsection (3) requires the officer to consider any representations if, and to the extent that, they relate to—

(a) any provision of Part 4 of TIOPA 2010 (transfer pricing), or

(b) the attribution of profits of a company to a permanent establishment in the United Kingdom through which the company carries on a trade (including any notional attribution made for the purposes of section 89, 90 or 91).

(5) "The small or medium-sized enterprise requirement" is—

(a) where the notice was issued on the basis that section 80 or 81 applies, the requirement in section 80(1)(g), and

(b) where the notice was issued on the basis that section 86 applies to the company, the requirement in subsection (1)(h) or (2)(f) of that section.

(6) "The participation condition" means—

(a) where the notice was issued on the basis that section 80 or 81 applies, the condition in section 80(1)(c), and

(b) where the notice was issued on the basis that section 86 applies to the company, the condition in subsection (2)(b) of that section.

(7) "The 80% payment test" means the requirement in section 107(3)(d).

95 Charging notice

(1) This section applies where a designated HMRC officer has given a company a preliminary notice under section 93 in relation to an accounting period.

(2) Having considered any representations in accordance with section 94, the officer must determine whether to—

(a) issue a notice under this section (a "charging notice") to the company for that accounting period, or

(b) notify the company that no charging notice will be issued for that accounting period pursuant to that preliminary notice,

and must take that action before the end of the period of 30 days immediately following the period of 30 days mentioned in section 94(2).

(3) A notification under subsection (2)(b) does not prevent a charging notice being issued for the same accounting period pursuant to any other preliminary notice the person may be given in respect of that period.

(4) See sections 96 and 97 for provision about the calculation of taxable diverted profits for the purposes of a charging notice.

(5) A charging notice must—

(a) state the amount of the charge to diverted profits tax imposed by the notice;

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(b) set out the basis on which the officer considers that section 80, 81 or 86 applies;

(c) state the accounting period of the company to which the notice applies;

(d) set out an explanation of the basis on which the charge is calculated, including—

(i) how the taxable diverted profits to which the charge relates have been determined,

(ii) where relevant, details of the relevant alternative provision (see section 82(5) or 88(7)) by reference to which those profits have been determined, and

(iii) how the amount of interest comprised in the charge under section 79(2)(b) has been calculated;

(e) state who is liable to pay the diverted profits tax;

(f) state when the tax is due and payable;

(g) explain how interest is applied in accordance with section 101 of FA 2009 (late payment interest on sums due to HMRC) if the diverted profits tax is not paid, the period for which interest is charged and the rate at which it is charged.

(6) Where a charging notice is issued to a company, the officer must give a copy of the notice—

(a) if the notice is issued by reason of section 81 applying, to UKPE, and

(b) if the notice is issued by reason of section 86 applying, to the avoided PE.

96 Section 80 or 81 cases: estimating profits for preliminary and charging notices

(1) Where taxable diverted profits arising to a company in an accounting period fall to be determined under section 84 or 85, for the purposes of issuing a preliminary notice under section 93 or a charging notice under section 95 the taxable diverted profits to be specified in the notice, in relation to the material provision in question, are determined in accordance with this section.

(2) The taxable diverted profits are such amount (if any) as the designated HMRC officer issuing the notice determines, on the basis of the best estimate that can reasonably be made at that time, to be the amount calculated in accordance with sections 84 or 85 (as the case may be).

But this is subject to subsections (4) to (6).

(3) For the purposes of this section, "the inflated expenses condition" is met if—

(a) the material provision results in expenses of the company for which a deduction has been taken into account by the company in computing—

(i) in a case where section 80 applies, its liability for corporation tax for the accounting period, and

(ii) in a case where section 81 applies, its chargeable profits attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE,

(b) the expenses result, or a part of the expenses results, in the effective tax mismatch outcome mentioned in section 80(1)(d), and

(c) in consequence of paragraphs (a) and (b), the designated HMRC officer issuing the notice considers that the relevant expenses might be greater than they would have been if they had resulted from provision made or imposed as between independent persons dealing at arm's length.

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(4) Subsection (5) applies where the designated HMRC officer issuing the notice considers that—

(a) the inflated expenses condition is met, and

(b) it is reasonable to assume that section 84 or 85(4) applies.

(5) Where this subsection applies, the best estimate made by the officer in accordance with subsection (2) is to be made on the assumption that—

(a) so much of the deduction mentioned in subsection (3)(a) as relates to the relevant expenses is reduced by 30%, and

(b) in relation to the relevant expenses, Part 4 of TIOPA 2010 (transfer pricing) is ignored.

(6) But—

(a) if the deduction for the expenses taken into account by the company in computing its liability for corporation tax takes account of an adjustment required by Part 4 of TIOPA 2010 (transfer pricing) which is reflected in the company's company tax return prior to the issue of the charging notice, and

(b) as a result that deduction is less than it would otherwise have been,

the reduction required by subsection (5)(a) is reduced (but not below nil) to take account of that adjustment.

(7) For the purposes of this section, sections 83(3) and 84(2)(c) have effect as if (in each case) the words "before the end of the review period" were omitted.

(8) The Treasury may by regulations, made by statutory instrument, substitute a different percentage for the percentage for the time being specified in subsection (5)(a).

(9) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons.

(10) In this section—

"the material provision" has the same meaning as in section 80;

"the relevant expenses" means so much of the expenses mentioned in subsection (3)(a) as result in the effective tax mismatch outcome as mentioned in subsection (3)(b).

97 Section 86 cases: estimating profits for preliminary and charging notices

(1) Where taxable diverted profits arising to the foreign company in an accounting period fall to be determined under section 89, 90 or 91, for the purposes of issuing a preliminary notice under section 93 or a charging notice under section 95 the taxable diverted profits to be specified in the notice are determined instead in accordance with this section.

(2) The taxable diverted profits are such amount as the designated HMRC officer issuing the notice determines, on the basis of the best estimate that can reasonably be made at that time, to be the amount calculated in accordance with section 89, 90 or 91 (as the case may be).

But this is subject to subsections (4) and (5).

(3) For the purposes of subsection (4), "the inflated expenses condition" is met if—

(a) the mismatch condition is met,

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(b) the material provision results in expenses of the foreign company for which (ignoring Part 4 of TIOPA 2010 (transfer pricing)) a deduction for allowable expenses would be allowed in computing the notional PE profits of the foreign company for the accounting period,

(c) the expenses result, or a part of the expenses results, in the effective tax mismatch outcome mentioned in section 86(2)(c), and

(d) in consequence of paragraphs (a) to (c), the designated HMRC officer issuing the notice considers that the relevant expenses might be greater than they would have been if they had resulted from provision made or imposed as between independent persons dealing at arm's length.

(4) Subsection (5) applies where the designated HMRC officer issuing the notice considers that—

(a) the inflated expenses condition is met, and

(b) it is reasonable to assume that section 90 or 91(4) applies.

(5) Where this subsection applies, the best estimate made by the officer in accordance with subsection (2) is to be made on the assumption that—

(a) so much of the deduction mentioned in subsection (3)(b) as relates to the relevant expenses is reduced by 30%, and

(b) in relation to the relevant expenses, Part 4 of TIOPA 2010 (transfer pricing) is ignored.

(6) The Treasury may by regulations, made by statutory instrument, substitute a different percentage for the percentage for the time being specified in subsection (5)(a).

(7) Regulations under this section are subject to annulment in pursuance of a resolution of the House of Commons.

(8) In this section—

(a) "the relevant expenses" means so much of the expenses mentioned in subsection (3)(b) as result in the effective tax mismatch outcome as mentioned in section 86(2)(c), and

(b) "the foreign company", "the material provision" and "the mismatch condition" have the same meaning as in section 86.

Payment and recovery of tax

98 Payment of tax

(1) This section applies where a charging notice is issued to a company.

(2) Diverted profits tax charged by the notice must be paid within 30 days after the day the notice is issued.

(3) The company is liable to pay the tax.

(4) The payment of the tax may not be postponed on any grounds, and so the diverted profits tax charged by the charging notice remains due and payable despite any review being conducted under section 101 or any appeal in respect of the notice.

(5) In Schedule 16—

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(a) Part 1 contains provision treating a liability of a non-UK resident company to pay diverted profits tax as if it were also a liability of its UK representative;
(b) Part 2 contains provision enabling unpaid diverted profits tax due from a non-UK resident company to be recovered from a related company.

99 Diverted profits tax ignored for tax purposes

(1) In calculating income, profits or losses for any tax purpose—
(a) no deduction, or other relief, is allowed in respect of diverted profits tax, and
(b) no account is to be taken of any amount which is paid (directly or indirectly) by a person for the purposes of meeting or reimbursing the cost of diverted profits tax.

(2) An amount paid as mentioned in subsection (1)(b) is not to be regarded for the purposes of the Corporation Tax Acts as a distribution (within the meaning of CTA 2010).

100 Credit for UK or foreign tax on same profits

(1) Subsection (2) applies where a company has paid—
(a) corporation tax, or
(b) a tax under the law of a territory outside the United Kingdom which corresponds to corporation tax,

which is calculated by reference to profits of the company ("the taxed profits").

(2) Such credit as is just and reasonable is allowed in respect of that tax against any liability which either—
(a) that company has to diverted profits tax in respect of the taxed profits, or
(b) another company has to diverted profits tax in respect of taxable diverted profits arising to that other company which are calculated by reference to amounts which also constitute all or part of the taxed profits.

(3) Subsection (4) applies where a company has paid—
(a) the CFC charge within the meaning of Part 9A of TIOPA 2010 (controlled foreign companies) (see section 371VA), or
(b) a tax under the law of a territory outside the United Kingdom (by whatever name known) which is similar to the CFC charge,

which is calculated by reference to profits of another company ("the CFC profits").

(4) Such credit as is just and reasonable is allowed in respect of that charge or tax against any liability which a company has to diverted profits tax in respect of taxable diverted profits arising to that other company which are calculated by reference to amounts which also constitute all or part of the CFC profits.

(5) But nothing in this section allows a credit, against a liability to diverted profits tax, for an amount of tax or charge which was paid after the end of—
(a) the review period in respect of the charging notice which imposed the charge to diverted profits tax, or
(b) where the charge to diverted profits tax was imposed by a supplementary charging notice, the review period within which that notice was issued.

(6) For the purposes of subsection (1), any withholding tax paid on payments made to a person is (unless it is refunded) to be treated—

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(a) as tax within paragraph (a) or (b) of that subsection, and
(b) as paid by that person (and not the person making the payment).

(7) For the purposes of subsection (6), an amount of withholding tax paid on payments made to a person is refunded if and to the extent that—
(a) any repayment of tax, or any payment in respect of a credit for tax, is made to any person, and
(b) that repayment or payment is directly or indirectly in respect of the whole or part of the amount of that withholding tax.

Review and appeals

101 HMRC review of charging notice

(1) Where a charging notice is issued to a company for an accounting period, a designated HMRC officer, within the review period—
(a) must carry out a review of the amount of diverted profits tax charged on the company for the accounting period, and
(b) may carry out more than one such review.

(2) Subject to subsection (13), "the review period" means the period of 12 months beginning immediately after the period of 30 days mentioned in section 98(2).

(3) Subsection (4) applies if—
(a) the company has paid (in full) the amount of diverted profits tax charged by the charging notice, and
(b) the officer is satisfied that the total amount of diverted profits tax charged on the company for that period is excessive having regard to sections 83, 84, 85, 89, 90 and 91 (calculation of taxable diverted profits).

(4) The officer may, during the review period, issue to the company an amending notice which amends the charging notice so as to—
(a) reduce the amount of taxable diverted profits to which the notice relates, and
(b) accordingly, reduce the charge to diverted profits tax imposed on the company in respect of the accounting period.

(5) More than one amending notice may be issued to the company in respect of the charging notice.

(6) Where an amending notice is issued, any tax overpaid must be repaid.

(7) Subsection (8) applies if a designated HMRC officer is satisfied that the total amount of diverted profits tax charged on the company for the accounting period is insufficient having regard to sections 83, 84, 85, 89, 90 and 91 (calculation of taxable diverted profits).

(8) The officer may, during the review period, issue a notice (a "supplementary charging notice") to the company imposing an additional charge to diverted profits tax on the company in respect of the accounting period on taxable diverted profits which—
(a) arise to the company for that period, and
(b) are not already the subject of a charge to diverted profits tax.

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(9) Only one supplementary charging notice may be issued to the company in respect of a charging notice.

(10) No supplementary charging notice may be issued during the last 30 days of the review period.

(11) Subsections (3) to (6) (amending notices) apply in relation to a supplementary charging notice as they apply to the charging notice.

(12) Section 95(5) (content of charging notice) and section 98 (payment of tax) apply in relation to a supplementary charging notice as they apply in relation to a charging notice.

(13) If either of the following events occurs before the end of the period of 12 months referred to in subsection (2), the review period ends at the time of that event.

The events are—

(a) that following the issuing of a supplementary charging notice, the company notifies HMRC that it is terminating the review period;

(b) that a designated HMRC officer and the company agree (in writing) that the review period is to terminate.

(14) When determining on a review whether the total amount of taxable diverted profits charged on the company for an accounting period is excessive or insufficient—

(a) the designated HMRC officer must not take any account of section 96 or (as the case may be) section 97 (which apply only for the purposes of the officer estimating the taxable diverted profits for the purposes of issuing a preliminary notice or charging notice), and

(b) nothing in section 94 applies to restrict the representations which the officer may consider.

(15) Where a supplementary charging notice or an amending notice is issued to a company, the officer must give a copy of the notice—

(a) if the charging notice was issued by reason of section 81 applying, to UKPE, and

(b) if the charging notice was issued by reason of section 86 applying, to the avoided PE.

102 Appeal against charging notice or supplementary charging notice

(1) A company to which a charging notice or a supplementary charging notice is issued may appeal against the notice.

(2) Notice of an appeal must be given to HMRC, in writing, within 30 days after the end of the review period (see section 101(2) and (13)).

(3) The notice of appeal must specify the grounds of appeal.

(4) For the purposes of an appeal, sections 96 and 97 (which apply only for the purposes of the officer estimating the taxable diverted profits for the purposes of issuing a preliminary notice or charging notice) are to be ignored when determining whether the taxable diverted profits in respect of which a charge is imposed have been correctly calculated.

(5) On an appeal under this section the Tribunal may—

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(a) confirm the charging notice or supplementary charging notice to which the appeal relates,
(b) amend that charging notice or supplementary charging notice, or
(c) cancel that charging notice or supplementary charging notice.

(6) For the purposes of Part 5 of TMA 1970 (appeals etc), an appeal under this section is to be treated as if it were an appeal under the Taxes Acts (within the meaning of that Act), and for that purpose references in that Part to an assessment include a charging notice or supplementary charging notice under this Part.

(7) Subsection (6) is subject to section 98(4) (no postponement of payment of tax pending appeal etc).

Administration of tax

103 Responsibility for collection and management

The Commissioners for Her Majesty's Revenue and Customs are responsible for the collection and management of diverted profits tax.

104 Penalties etc

(1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended as follows.

(2) In the Table at the end of paragraph 1, after item 6ZA insert—

"6ZB	Diverted profits tax	Amount of diverted profits tax payable under Part 3 of FA 2015	The date when, in accordance with section 98(2) of FA 2015, the amount must be paid"

(3) In paragraph 3 (amount of penalty: occasional amounts and amounts in respect of periods of 6 months or more), after sub-paragraph (1)(a) insert—

"(aa) a payment of tax falling within item 6ZB in the Table,".

(4) Schedule 41 to FA 2008 (penalties: failure to notify etc) is amended as follows.

(5) In the Table in paragraph 1, after the entry for corporation tax insert—

"Diverted profits tax	Obligation under section 92 of FA 2015 (duty to notify if within scope of diverted profits tax)."

(6) In paragraph 7 (meaning of "potential lost revenue"), after sub-paragraph (4) insert—

"(4A) In the case of a relevant obligation relating to diverted profits tax, the potential lost revenue is the amount of diverted profits tax for which P would be liable at the end of the period of 6 months beginning immediately after the accounting period assuming—

(a) a charge to diverted profits tax had been imposed on P on the taxable diverted profits arising to P for the accounting period, and

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(b) that tax was required to be paid before the end of that period of 6 months."

105 Information and inspection powers etc

(1) In Schedule 23 to FA 2011 (data-gathering powers), in paragraph 45(1) (taxes to which powers apply), after paragraph (c) insert—

"(ca) diverted profits tax,".

(2) In Schedule 36 to FA 2008 (information and inspection powers), in paragraph 63(1) (taxes to which powers apply), after paragraph (c) insert—

"(ca) diverted profits tax,".

Interpretation

106 "The participation condition"

(1) This section applies for the purposes of sections 80 and 86(2).

(2) In this section "the first party" and "the second party" mean—

(a) where this section applies for the purposes of section 80, C and P (within the meaning of section 80) respectively, and

(b) where this section applies for the purposes of section 86(2), the foreign company and A (within the meaning of section 86) respectively.

(3) The participation condition is met in relation to the first party and the second party ("the relevant parties") if—

(a) condition A is met in relation to the material provision so far as the material provision is provision relating to financing arrangements, and

(b) condition B is met in relation to the material provision so far as the material provision is not provision relating to financing arrangements.

(4) Condition A is that, at the time of the making or imposition of the material provision or within the period of 6 months beginning with the day on which the material provision was made or imposed—

(a) one of the relevant parties was directly or indirectly participating in the management, control or capital of the other, or

(b) the same person or persons was or were directly or indirectly participating in the management, control or capital of each of the relevant parties.

(5) Condition B is that, at the time of the making or imposition of the material provision—

(a) one of the relevant parties was directly or indirectly participating in the management, control or capital of the other, or

(b) the same person or persons was or were directly or indirectly participating in the management, control or capital of each of the relevant parties.

(6) In this section "financing arrangements" means arrangements made for providing or guaranteeing, or otherwise in connection with, any debt, capital or other form of finance.

(7) For the purposes of this section—

(a) section 157(2) of TIOPA 2010 ("direct participation") applies, and

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(b) sections 158 to 163 of that Act ("indirect participation" in management, control or capital of a person) apply as if in those sections—

(i) references to section 148(2) of that Act included references to subsection (4) of this section,

(ii) references to paragraph (a) or (b) of section 148(2) of that Act included (respectively) references to paragraph (a) or (b) of subsection (4) of this section,

(iii) references to section 148(3) of that Act included references to subsection (5) of this section, and

(iv) references to paragraph (a) or (b) of section 148(3) of that Act included (respectively) references to paragraph (a) or (b) of subsection (5) of this section.

107 "Effective tax mismatch outcome"

(1) This section applies for the purposes of sections 80 and 86(2).

(2) In this section "the first party" and "the second party" mean—

(a) where this section applies for the purposes of section 80, C and P (within the meaning of section 80) respectively, and

(b) where this section applies for the purposes of section 86(2), the foreign company and A (within the meaning of section 86) respectively.

(3) The material provision results in an effective tax mismatch outcome as between the first party and the second party for an accounting period of the first party if—

(a) in that accounting period, in relation to a relevant tax, it results in one or both of—

(i) expenses of the first party for which a deduction has been taken into account in computing the amount of the relevant tax payable by the first party, or

(ii) a reduction in the income of the first party which would otherwise have been taken into account in computing the amount of a relevant tax payable by the first party,

(b) the resulting reduction in the amount of the relevant tax which is payable by the first party exceeds the resulting increase in relevant taxes payable by the second party for the corresponding accounting period of the second party,

(c) the results described in paragraphs (a) and (b) are not exempted by subsection (6), and

(d) the second party does not meet the 80% payment test.

(4) In this Part, references to "the tax reduction" are to the amount of the excess mentioned in subsection (3)(b).

(5) It does not matter whether the tax reduction results from the application of different rates of tax, the operation of a relief, the exclusion of any amount from a charge to tax, or otherwise.

(6) The results described in subsection (3)(a) and (b) are exempted if they arise solely by reason of—

(a) contributions paid by an employer under a registered pension scheme, or overseas pension scheme, in respect of any individual,

(b) a payment to a charity,

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(c) a payment to a person who, on the ground of sovereign immunity, cannot be liable for any relevant tax, or

(d) a payment to an offshore fund or authorised investment fund—

(i) which meets the genuine diversity of ownership condition (whether or not a clearance has been given to that effect), or

(ii) at least 75% of the investors in which are, throughout the accounting period, registered pension schemes, overseas pension schemes, charities or persons who cannot be liable for any relevant tax on the ground of sovereign immunity.

(7) "The 80% payment test" is met by the second party if the resulting increase in relevant taxes payable by the second party as mentioned in subsection (3)(b) is at least 80% of the amount of the resulting reduction in the amount of the relevant tax payable by the first party as mentioned in subsection (3)(b).

(8) In this section—

"authorised investment fund" means—

(a) an open-ended investment company within the meaning of section 613 of CTA 2010, or

(b) an authorised unit trust within the meaning of section 616 of that Act;

"employer" has the same meaning as in Part 4 of FA 2004 (see section 279(1) of that Act);

"genuine diversity of ownership condition" means—

(a) in the case of an offshore fund, the genuine diversity of ownership condition in regulation 75 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), and

(b) in the case of an authorised investment fund, the genuine diversity of ownership condition in regulation 9A of the Authorised Investment Fund (Tax) Regulations 2006 (S.I. 2006/964);

"offshore fund" has the same meaning as in section 354 of TIOPA 2010 (see section 355 of that Act);

"overseas pension scheme" has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act);

"registered pension scheme" has the same meaning as in that Part (see section 150(2) of that Act);

"relevant tax" means—

(a) corporation tax on income,

(aa) **[**[F11] a sum chargeable under section 269DA of CTA 2010 (surcharge on banking companies) as if it were an amount of corporation tax, **]**

(b) a sum chargeable under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades) as if it were an amount of corporation tax,

(c) income tax, or

(d) any non-UK tax on income.

(9) See section 108 for further provision about the determination of the tax reduction and the 80% payment test.

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Textual Amendments

F11 Words in s. 107(8) inserted (with effect in accordance with Sch. 3 Pt. 3 of the commencing Act) by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 13**

108 Provision supplementing section 107

(1) For the purposes of section 107(3)(b) and (7), the resulting reduction in the first party's liability to a relevant tax for an accounting period is—

$$A \times \mathrm{TR}$$

where—

A is the sum of—

(a) if there are expenses within section 107(3)(a)(i), the lower of the amount of the expenses and the amount of the deduction mentioned in that provision, and

(b) any reduction in income mentioned in section 107(3)(a)(ii), and

TR is the rate at which, assuming the first party has profits equal to A chargeable to the relevant tax for the accounting period, those profits would be chargeable to that tax.

(2) For the purposes of section 107(3)(b) and (7), the resulting increase in relevant taxes payable by the second party for the corresponding accounting period is any increase in the total amount of relevant taxes that would fall to be paid by the second party (and not refunded) assuming that—

(a) the second party's income for that period, in consequence of the material provision were an amount equal to A,

(b) account were taken of any deduction or relief (other than any qualifying deduction or qualifying loss relief) taken into account by the second party in determining its actual liability to any relevant tax in consequence of the material provision, and

(c) all further reasonable steps were taken—

(i) under the law of any part of the United Kingdom or any country or territory outside the United Kingdom, and

(ii) under double taxation arrangements made in relation to any country or territory,

to minimise the amount of tax which would fall to be paid by the second party in the country or territory in question (other than steps to secure the benefit of any qualifying deduction or qualifying loss relief).

(3) The steps mentioned in subsection (2)(c) include—

(a) claiming, or otherwise securing the benefit of, reliefs, deductions, reductions or allowances, and

(b) making elections for tax purposes.

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(4) For the purposes of this section, any withholding tax which falls to be paid on payments made to the second party is (unless it is refunded) to be treated as tax which falls to be paid by the second party (and not the person making the payment).

(5) For the purposes of this section, an amount of tax payable by the second party is refunded if and to the extent that—

(a) any repayment of tax, or any payment in respect of a credit for tax, is made to any person, and

(b) that repayment or payment is directly or indirectly in respect of the whole or part of the amount of tax payable by the second party,

but an amount refunded is to be ignored if and to the extent that it results from qualifying loss relief obtained by the second party.

(6) Where the second party is a partnership, in section 107 and this section—

(a) references to the second party's liability to any tax (however expressed) include a reference to the liabilities of all members of the partnership to the tax,

(b) references to any tax being payable by the second party (however expressed) include a reference to tax being payable by any member of the partnership, and

(c) references to loss relief obtained by the second party include a reference to loss relief obtained by any member of the partnership,

and subsection (4) applies to any member of the partnership as it applies to the second party.

(7) In this section—

"the first party" and "the second party" have the same meaning as in section 107;

"qualifying deduction" means a deduction which—

(a) is made in respect of actual expenditure of the second party,

(b) does not arise directly from the making or imposition of the material provision,

(c) is of a kind for which the first party would have obtained a deduction in calculating its liability to any relevant tax had it incurred the expenditure in respect of which the deduction is given, and

(d) does not exceed the amount of the deduction that the first party would have so obtained;

"qualifying loss relief" means—

(a) any means by which a loss might be used for corporation tax purposes to reduce the amount in respect of which the second party is liable to tax, and

(b) in the case of a non-UK resident company, any corresponding means by which a loss corresponding to a relevant CT loss might be used for the purposes of a non-UK tax corresponding to corporation tax to reduce the amount in respect of which the second party is liable to tax,

(and in paragraph (b) "relevant CT loss" means a loss which might be used as mentioned in paragraph (a));

"relevant tax" has the same meaning as in section 107.

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109 "Excepted loan relationship outcome"

(1) This section applies for the purposes of sections 80 and 86(2).

(2) The effective tax mismatch outcome is an "excepted loan relationship outcome" if the result described in section 107(3)(a) arises wholly from—

(a) anything that, if a company within the charge to corporation tax were party to it, would produce debits or credits under Part 5 of CTA 2009 (loan relationships and deemed loan relationships) ("a loan relationship"), or

(b) a loan relationship and a relevant contract (within the meaning of Part 7 of that Act (derivative contracts)) taken together, where the relevant contract is entered into entirely as a hedge of risk in connection with the loan relationship.

110 "The insufficient economic substance condition"

(1) This section applies for the purposes of sections 80 and 86(2).

(2) In this section "the first party" and "the second party" mean—

(a) where this section applies for the purposes of section 80, C and P (within the meaning of section 80) respectively, and

(b) where this section applies for the purposes of section 86(2), the foreign company and A (within the meaning of section 86) respectively.

(3) The insufficient economic substance condition is met if one or more of subsections (4), (5) and (6) apply.

(4) This subsection applies where—

(a) the effective tax mismatch outcome is referable to a single transaction, and

(b) it is reasonable to assume that the transaction was designed to secure the tax reduction,

unless, at the time of the making or imposition of the material provision, it was reasonable to assume that, for the first party and the second party (taken together) and taking account of all accounting periods for which the transaction was to have effect, the non-tax benefits referable to the transaction would exceed the financial benefit of the tax reduction.

(5) This subsection applies where—

(a) the effective tax mismatch outcome is referable to any one or more of the transactions in a series of transactions, and

(b) it is reasonable to assume that the transaction was, or the transactions were, designed to secure the tax reduction,

unless, at the time of the making or imposition of the material provision, it was reasonable to assume that, for the first party and the second party (taken together) and taking account of all accounting periods for which the transaction or series was to have effect, the non-tax benefits referable to the transaction or transactions would exceed the financial benefits of the tax reduction.

(6) This subsection applies where—

(a) a person is a party to the transaction, or to any one or more of the transactions in the series of transactions, to which section 80(1)(b) or section 86(2)(a) refers, and

(b) it is reasonable to assume that the person's involvement in the transaction or transactions was designed to secure the tax reduction,

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unless one or both of the conditions in subsection (7) is or are met.

(7) Those conditions are—

(a) that, at the time of the making or imposition of the material provision, it was reasonable to assume that, for the first party and the second party (taken together) and taking account of all accounting periods for which the transaction or series was to have effect, the non-tax benefits referable to the contribution made to the transaction or series by that person, in terms of the functions or activities that that person's staff perform, would exceed the financial benefit of the tax reduction;

(b) that, in the accounting period—

(i) the income attributable to the ongoing functions or activities of that person's staff in terms of their contribution to the transaction or transactions (ignoring functions or activities relating to the holding, maintaining or protecting of any asset from which income attributable to the transaction or transactions derives), exceeds

(ii) the other income attributable to the transaction or transactions.

(8) For the purposes of subsection (7) a person's staff include—

(a) any director or other officer of the person,

(b) if the person is a partnership, any individual who is a member of the partnership, and

(c) externally provided workers in relation to the person.

(9) For the purposes of subsections (4)(b), (5)(b) and (6)(b)—

(a) when determining whether it is reasonable to assume—

(i) that a transaction was, or transactions were, designed to secure the tax reduction, or

(ii) that a person's involvement in a transaction or transactions was designed to secure the tax reduction,

regard must be had to all the circumstances, including any liability for any additional tax that arises directly or indirectly as a consequence of the transaction or transactions, and

(b) a transaction or transactions, or a person's involvement in a transaction or transactions, may be designed to secure the tax reduction despite it or them also being designed to secure any commercial or other objective.

(10) In this section—

"externally provided worker" has the meaning given by section 1128 of CTA 2009, but as if in that section for "company" (in each place) there were substituted " person ";

"non-tax benefits" means financial benefits other than—

(a) the financial benefit of the tax reduction, and

(b) any other financial benefits which derive (directly or indirectly) from the reduction, elimination, or delay of any liability of any person to pay any tax;

"tax" includes non-UK tax.

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111 "Transaction" and "series of transactions"

(1) In this Part "transaction" includes arrangements, understandings and mutual practices (whether or not they are, or are intended to be, legally enforceable).

(2) References in this Part to a series of transactions include references to a number of transactions each entered into (whether or not one after the other) in pursuance of, or in relation to, the same arrangement.

(3) A series of transactions is not prevented by reason only of one or more of the matters mentioned in subsection (4) from being regarded for the purposes of this Part as a series of transactions by means of which provision has been made or imposed as between any two persons.

(4) Those matters are—

(a) that there is no transaction in the series to which both those persons are parties,

(b) that the parties to any arrangement in pursuance of which the transactions in the series are entered into do not include one or both of those persons, and

(c) that there is one or more transactions in the series to which neither of those persons is a party.

(5) In this section "arrangement" means any scheme or arrangement of any kind (whether or not it is, or is intended to be, legally enforceable).

112 Treatment of a person who is a member of a partnership

(1) This section applies where a person is a member of a partnership.

(2) Any references in this Part to the expenses, income or revenue of, or a reduction in the income of, the person includes a reference to the person's share of (as the case may be) the expenses, income or revenue of, or a reduction in the income of, the partnership.

(3) For this purpose "the person's share" of an amount is determined by apportioning the amount between the partners on a just and reasonable basis.

113 "Accounting period" and "corresponding accounting period"

(1) In this Part references to an accounting period of a company are to an accounting period of the company for the purposes of corporation tax.

(2) Subsection (3) applies where—

(a) a non-UK resident company ("FC") is not within the charge to corporation tax,

(b) a person, whether or not UK resident, is carrying on activity in the United Kingdom in connection with supplies of services, goods or other property made by FC in the course of a trade carried on by FC, and

(c) it is reasonable to assume that any of the activity of that person or FC (or both) is designed so as to ensure that FC does not, as a result of that person's activity, carry on that trade in the United Kingdom for the purposes of corporation tax (whether or not it is also designed to secure any commercial or other objective).

(3) For the purposes of this Part, FC is assumed to have such accounting periods for the purposes of corporation tax as it would have had if it had carried on a trade in the

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United Kingdom through a permanent establishment in the United Kingdom by reason of the activity of the person mentioned in subsection (2)(b).

(4) For the purposes of subsection (2)—

(a) the reference in that subsection to activity of the person includes any limitation which has been imposed or agreed in respect of that activity;

(b) where FC is a member of a partnership—

(i) a trade carried on by the partnership is to be regarded as a trade carried on by FC, and

(ii) supplies made by the partnership in the course of that trade are to be regarded as supplies made by FC in the course of that trade.

(5) Where the designated HMRC officer has insufficient information to identify, in accordance with subsection (3), the accounting periods of FC, for the purposes of this Part the officer is to determine those accounting periods to the best of the officer's information and belief.

(6) Where a company ("C1") does not have an actual accounting period which coincides with the accounting period of another company ("the relevant accounting period") (whether by reason of having no accounting periods or otherwise), in this Part—

(a) references to the corresponding accounting period of C1 in relation to the relevant accounting period are to the notional accounting period of C1 that would coincide with the relevant accounting period, and

(b) such apportionments as are just and reasonable are to be made to determine the income or tax liability of C1 for that corresponding accounting period.

Modifications etc. (not altering text)

C2 S. 113(1)-(5) modified (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 17(3)**

114 Other defined terms in Part 3

(1) In this Part—

"allowable expenses" means expenses of a kind in respect of which a deduction would be allowed for corporation tax purposes;

"the avoided PE" has the same meaning as in section 86;

"company" has the same meaning as in the Corporation Tax Acts (see section 1121 of CTA 2010);

"connected" is to be read in accordance with sections 1122 and 1123 of CTA 2010;

"designated HMRC officer" means an officer of Revenue and Customs who has been designated by the Commissioners for Her Majesty's Revenue and Customs for the purposes of diverted profits tax;

"HMRC" means Her Majesty's Revenue and Customs;

"non-UK resident" has the same meaning as in the Corporation Tax Acts (see section 1119 of CTA 2010);

"non-UK tax" has the meaning given by section 187 of CTA 2010;

"the notional PE profits" has the meaning given by section 88(5);

"partnership" includes—

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(a) a limited liability partnership to which section 1273 of CTA 2009 applies, and
(b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,

and "member" of a partnership is to be read accordingly;

"permanent establishment", in relation to a company, has the meaning given by Chapter 2 of Part 24 of CTA 2010 (and accordingly section 1141(1) of that Act has effect, for the purposes of this Part, as if the reference to the Corporation Tax Acts included a reference to this Part);

"small or medium-sized enterprise" means a small enterprise, or a medium-sized enterprise, within the meaning of section 172 of TIOPA 2010;

"the review period" has the meaning given by section 101;

"the tax reduction" has the meaning given by section 107(4);

"UK resident" has the same meaning as in the Corporation Tax Acts (see section 1119 of CTA 2010);

"UKPE" has the same meaning as in section 81.

(2) For the purposes of this Part a tax may correspond to corporation tax even though—
(a) it is chargeable under the law of a province, state or other part of a country, or
(b) it is levied by or on behalf of a municipality or other local body.

Final provisions

115 Application of other enactments to diverted profits tax

(1) In section 206(3) of FA 2013 (taxes to which the general anti-abuse rule applies), after paragraph (d) insert—

"(da) diverted profits tax,".

(2) In paragraph 7 of Schedule 6 to FA 2010 (enactments to which definition of "charity" in Part 1 of that Schedule applies) omit the "and" after paragraph (h) and after paragraph (i) insert ", and

(j) diverted profits tax."

(3) In section 1139 of CTA 2010 (definition of "tax advantage" for the purposes of provisions of the Corporation Tax Acts which apply this section), in subsection (2), omit the "or" at the end of paragraph (da) and after paragraph (e) insert ", or

(f) the avoidance or reduction of a charge to diverted profits tax."

(4) In section 178 of FA 1989 (setting rates of interest), in subsection (2), omit the "and" before paragraph (u) and after that paragraph insert ", and

(v) section 79 of FA 2015."

(5) In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions affecting income tax, purchase tax or customs or excise duties), in subsection (1), after "the bank levy," insert " diverted profits tax, ".

116 Commencement and transitional provision

(1) This Part has effect in relation to accounting periods beginning on or after 1 April 2015.

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(2) For the purposes of this Part, if an accounting period of a company begins before and ends on or after 1 April 2015 ("the straddling period")—
   (a) so much of that accounting period as falls before 1 April 2015 and so much of it as falls on or after that date are treated as separate accounting periods, and
   (b) where it is necessary to apportion amounts for the straddling period to the different parts of that period, that apportionment is to be made on a just and reasonable basis.

(3) For the purposes of any accounting period which ends on or before 31 March 2016, section 92 has effect as if in subsection (2)(b) of that section the reference to 3 months were a reference to 6 months.

(4) This Part does not apply in relation to any profits arising to a Lloyd's corporate member which are—
   (a) mentioned in section 220(2) of FA 1994 (Lloyd's underwriters: accounting period in which certain profits or losses arise), and
   (b) declared in the calendar year 2015 or a later calendar year,

   to the extent that those profits are referable, on a just and reasonable basis, to times before 1 April 2015.

(5) In subsection (4) "Lloyd's corporate member" means a body corporate which is a member of Lloyd's and is or has been an underwriting member.

PART 4

OTHER PROVISIONS

Anti-avoidance

117 Disclosure of tax avoidance schemes

Schedule 17 contains amendments relating to the disclosure of tax avoidance schemes.

118 Accelerated payments and group relief

Schedule 18 contains provision about the relationship between accelerated payments and group relief.

119 Promoters of tax avoidance schemes

Schedule 19 contains provision about promoters of tax avoidance schemes.

120 Penalties in connection with offshore matters and offshore transfers

(1) Schedule 20 contains provisions amending—
   (a) Schedule 24 to FA 2007 (penalties for errors),
   (b) Schedule 41 to FA 2008 (penalties for failure to notify), and
   (c) Schedule 55 to FA 2009 (penalties for failure to make returns etc).

(2) That Schedule comes into force on such day as the Treasury may by order appoint.

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(3) An order under subsection (2)—
  (a) may commence a provision generally or only for specified purposes, and
  (b) may appoint different days for different provisions or for different purposes.

(4) The power to make an order under this section is exercisable by statutory instrument.

121 Penalties in connection with offshore asset moves

Schedule 21 contains provision for imposing an additional penalty in cases where—
  (a) a person is liable for a penalty for a failure to comply with an obligation or provide a document, or for providing an inaccurate document, relating to income tax, capital gains tax or inheritance tax, and
  (b) there is a related transfer of, or change in the ownership arrangements for, an asset situated or held outside the United Kingdom.

Other tax-related matters

122 Country-by-country reporting

(1) The Treasury may make regulations for implementing the OECD's guidance on country-by-country reporting.

(2) "The OECD's guidance on country-by-country reporting" is the guidance on country-by-country reporting contained in the OECD's Guidance on Transfer Pricing Documentation and Country-by-Country Reporting, published in 2014 (or any other document replacing that Guidance).

(3) In subsection (1), the reference to implementing the OECD's guidance on country-by-country reporting is a reference to implementing the guidance to any extent, subject to such exceptions or other modifications as the Treasury consider appropriate.

(4) Regulations under this section may in particular—
  (a) require persons specified for the purposes of this paragraph ("reporting entities") to provide an officer of Revenue and Customs with information of specified descriptions;
  (b) require reporting entities to provide the information—
    (i) at specified times,
    (ii) in relation to specified periods of time, and
    (iii) in the specified form and manner;
  (c) impose obligations on reporting entities (including obligations to obtain information from specified persons for the purposes of complying with requirements imposed by virtue of paragraph (a));
  (d) make provision (including provision imposing penalties) about contravention of, or non-compliance with, the regulations;
  (e) make provision about appeals in relation to the imposition of any penalty.

"Specified" means specified in the regulations.

(5) The regulations may allow any requirement, obligation or other provision that may be imposed or made by virtue of subsection (4)(a), (b) or (c) to be imposed or

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made instead by a specific or general direction given by the Commissioners for Her Majesty's Revenue and Customs.

(6) The regulations may—
- (a) provide that a reference in the regulations to a provision of the Guidance mentioned in subsection (2) (or to a provision of any document replacing that Guidance) is to be read as a reference to the provision as amended from time to time;
- (b) make different provision for different purposes;
- (c) contain incidental, supplemental, transitional, transitory or saving provision.

(7) In this section, "the OECD" means the Organisation for Economic Co-operation and Development.

(8) The power of the Treasury to make regulations under this section is exercisable by statutory instrument; and any statutory instrument containing such regulations is subject to annulment in pursuance of a resolution of the House of Commons.

123 Status for tax purposes of certain bodies

In the enactments to which Part 1 of Schedule 6 to FA 2010 applies, any reference to a charity includes—
- (a) the Commonwealth War Graves Commission, and
- (b) the Imperial War Graves Endowment Fund Trustees.

Government stock

124 Redemption of undated government stocks

(1) The Treasury may redeem at par any stock—
- (a) which is described in Schedule 1 to the National Debt Act 1870, or
- (b) to which that Act applies by virtue of section 1(5) of the National Debt (Conversion of Stock) Act 1884 or section 2(5) of the National Debt (Conversion) Act 1888.

(2) The Treasury must give at least 3 months' notice in the London Gazette of their intention to redeem any stock under this section.

(3) The sums required to redeem the stock are charged on the National Loans Fund, with recourse to the Consolidated Fund (and section 22(2) of the National Loans Act 1968 applies for the purposes of this section as if this section were contained in that Act).

(4) The following do not apply in relation to a redemption under this section—
- (a) in section 5 of the National Debt Act 1870, the words from "All the annuities" to the end,
- (b) section 1(2) and (3) of the National Debt (Conversion of Stock) Act 1884, and
- (c) section 2(2) of the National Debt (Conversion) Act 1888.

(5) The following are repealed—
- (a) section 19 of the Revenue, Friendly Societies, and National Debt Act 1882,
- (b) the National Debt (Conversion of Stock) Act 1884, and
- (c) the National Debt (Conversion) Act 1888.

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(6) Subsection (5) comes into force on such day as the Treasury may by regulations made by statutory instrument appoint (and the regulations may appoint different days for different paragraphs of that subsection).

(7) The other provisions of this section come into force on the day on which this Act is passed.

Commencement Information

I2 S. 124 partly in force; s. 124(1)-(4)(6)(7) in force at Royal Assent; see s. 124(6)(7)

PART 5

FINAL PROVISIONS

125 Commencement orders and regulations

(1) In section 287(4) of TCGA 1992 (exceptions from negative resolution procedure), for paragraph (b) substitute—

"(b) if the order or regulations provide for any provision of an enactment relating to the taxation of chargeable gains to come into force or have effect in accordance with the order or regulations."

(2) In section 1014(6) of ITA 2007 (exceptions from negative resolution procedure), for paragraph (b) substitute—

"(b) if the order or regulations provide for any provision of the Income Tax Acts to come into force or have effect in accordance with the order or regulations,".

(3) In section 1171(6) of CTA 2010 (exceptions from negative resolution procedure), for paragraph (b) substitute—

"(b) if the order or regulations provide for any provision of the Corporation Tax Acts to come into force or have effect in accordance with the order or regulations."

(4) The amendments made by this section have effect only in relation to powers conferred after this Act is passed.

126 Interpretation

(1) In this Act—

"ALDA 1979" means the Alcoholic Liquor Duties Act 1979,
"CAA 2001" means the Capital Allowances Act 2001,
"CTA 2009" means the Corporation Tax Act 2009,
"CTA 2010" means the Corporation Tax Act 2010,
"IHTA 1984" means the Inheritance Tax Act 1984,
"ITA 2007" means the Income Tax Act 2007,
"ITEPA 2003" means the Income Tax (Earnings and Pensions) Act 2003,

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"ITTOIA 2005" means the Income Tax (Trading and Other Income) Act 2005,

"OTA 1975" means the Oil Taxation Act 1975,

"TCGA 1992" means the Taxation of Chargeable Gains Act 1992,

"TIOPA 2010" means the Taxation (International and Other Provisions) Act 2010,

"TMA 1970" means the Taxes Management Act 1970,

"TPDA 1979" means the Tobacco Products Duty Act 1979,

"VATA 1994" means the Value Added Tax Act 1994, and

"VERA 1994" means the Vehicle Excise and Registration Act 1994.

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

127 Short title

This Act may be cited as the Finance Act 2015.

Status: *Point in time view as at 30/11/2015. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULES

SCHEDULE 1

Section 13

EXTENSION OF BENEFITS CODE EXCEPT IN RELATION TO CERTAIN MINISTERS OF RELIGION

PART 1

AMENDMENTS OF ITEPA 2003

1 ITEPA 2003 is amended as follows.

2 In section 7 (meaning of "employment income", "general earnings" and "specific employment income"), in subsection (5)(b), for "11" substitute " 10 ".

3 In section 17 (UK resident employees: treatment of earnings for year in which employment not held), in subsection (4), for "11" substitute " 10 ".

4 In section 30 (remittance basis and non-UK resident employees: treatment of earnings for year in which employment not held), in subsection (4), for "11" substitute " 10 ".

5 (1) Section 63 (the benefits code) is amended as follows.

(2) In subsection (1)—

(a) at the end of the entry relating to Chapter 7 insert " and ", and

(b) omit the entry relating to Chapter 11 and the "and" before it.

(3) Omit subsections (2) to (4).

6 In section 66 (meaning of "employment" and related expressions), after subsection (4) insert—

"(5) In the benefits code "lower-paid employment as a minister of religion" has the same meaning as in Part 4 (see section 290D)."

7 In section 148 (reduction of cash equivalent where car is shared), omit subsection (3).

8 In section 157 (reduction of cash equivalent where van is shared), omit subsection (3).

9 (1) Section 169 (car available to more than one family member etc employed by same employer) is amended as follows.

(2) For subsection (2)(b) substitute—

"(b) M's employment is lower-paid employment as a minister of religion."

(3) Omit subsections (3) and (4).

10 (1) Section 169A (van available to more than one family member etc employed by same employer) is amended as follows.

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(2) For subsection (2)(b) substitute—

"(b) M's employment is lower-paid employment as a minister of religion."

(3) Omit subsections (3) and (4).

11 In section 184 (interest treated as paid), in subsection (3), for the words following "any of" substitute "the following Chapters of this Part—

Chapter 3 (taxable benefits: expenses payments);

Chapter 6 (taxable benefits: cars, vans and related benefits);

Chapter 10 (taxable benefits: residual liability to charge)."

12 (1) Section 188 (loan released or written off: amount treated as earnings) is amended as follows.

(2) In subsection (2), for "an excluded employment", in each place, substitute " lower-paid employment as a minister of religion ".

(3) In subsection (3)(a), for "excluded employment" substitute " lower-paid employment as a minister of religion ".

13 In section 228 (effect of exemptions in Part 4 on liability under provisions outside Part 2), in subsection (2)(d), for "290 and" substitute " 290, 290C to ".

14 (1) Section 239 (payments and benefits connected with taxable cars and vans and exempt heavy goods vehicles) is amended as follows.

(2) In subsection (8), for "excluded employment" substitute " lower-paid employment as a minister of religion (see section 290D) ".

(3) Omit subsection (9).

15 In section 266 (exemption of non-cash vouchers for exempt benefits), in subsection (5), for "excluded employment" substitute " lower-paid employment as a minister of religion ".

16 In section 267 (exemption of credit-tokens used for exempt benefits), in subsection (1)(b), for "excluded employment" substitute " lower-paid employment as a minister of religion ".

17 In section 269 (exemption where benefits or money obtained in connection with taxable car or van or exempt heavy goods vehicle), in subsection (4)(b), for "excluded employment" substitute " lower-paid employment as a minister of religion ".

18 In section 290 (accommodation benefits of ministers of religion), in subsection (2), for "excluded employment" substitute " lower-paid employment as a minister of religion (see section 290D) ".

19 In section 290A (accommodation outgoings of ministers of religion)—

(a) in subsection (1), for "a religious denomination" substitute " religion ",

(b) in subsection (3), omit the definition of "lower-paid employment", and

(c) in the heading of the section, after "outgoings of" insert " lower-paid ".

20 In section 290B (allowances paid to ministers of religion in respect of accommodation outgoings)—

(a) in subsection (1), for "a religious denomination" substitute " religion ",

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(b) in subsection (3), for "and "lower-paid employment" have the same meanings" substitute " has the same meaning ", and

(c) in the heading of the section, after "to" insert " lower-paid ".

21 (1) Part 2 of Schedule 1 (index of defined expressions) is amended as follows.

(2) Omit both entries relating to "excluded employment" and the entry relating to "lower-paid employment".

(3) At the appropriate place insert—

"lower-paid employment as a minister of religion (in the benefits code)	section 66(5)
lower-paid employment as a minister of religion (in Part 4)	section 290D".

22 (1) Schedule 7 (transitionals and savings) is amended as follows.

(2) In paragraph 17 (taxable benefits: benefits code)—

(a) in sub-paragraph (2), for "the Chapters" to "lower-paid employments)" substitute " Chapters 3, 6, 7 and 10 of the benefits code (provisions not applicable before the tax year 2016-17 to lower-paid employments) ", and

(b) omit sub-paragraph (4).

(3) In paragraph 27(3) (loans released or written off)—

(a) in paragraph (a), for " "not an excluded employment"" substitute " "not lower-paid employment as a minister of religion" ";

(b) in paragraph (b), for " "excluded employment"" substitute " "lower-paid employment as a minister of religion" ".

PART 2

AMENDMENTS OF OTHER ENACTMENTS

23 (1) The Social Security Contributions and Benefits Act 1992 is amended as follows.

(2) In section 10 (Class 1A contributions: benefits in kind etc), in subsection (1)(b)(ii), for "an excluded employment" substitute " lower-paid employment as a minister of religion ".

(3) In section 10ZB (non-cash vouchers provided by third parties), in subsection (2)—

(a) in paragraph (a), for "an excluded employment for the purposes of the benefits code" substitute " lower-paid employment as a minister of religion ", and

(b) in paragraph (b) and in the words following that paragraph, for "an excluded employment" substitute " lower-paid employment as a minister of religion ".

(4) In section 122 (interpretation of Parts 1 to 6), in subsection (1)—

(a) omit the entry relating to "excluded employment", and

(b) at the appropriate place insert—

""lower-paid employment as a minister of religion" has the meaning given by section 290D of ITEPA 2003;".

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24 (1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992 is amended as follows.

(2) In section 10 (Class 1A contributions: benefits in kind etc), in subsection (1)(b)(ii), for "an excluded employment" substitute " lower-paid employment as a minister of religion ".

(3) In section 10ZB (non-cash vouchers provided by third parties), in subsection (2)—

(a) in paragraph (a), for "an excluded employment for the purposes of the benefits code" substitute " lower-paid employment as a minister of religion ", and

(b) in paragraph (b) and in the words following that paragraph, for "an excluded employment" substitute " lower-paid employment as a minister of religion ".

(4) In section 121 (interpretation of Parts 1 to 6), in subsection (1)—

(a) omit the entry relating to "excluded employment", and

(b) at the appropriate place insert—

> ""lower-paid employment as a minister of religion" has the meaning given by section 290D of ITEPA 2003;".

25 (1) Section 173 of FA 2004 (provision of benefits by registered pension scheme) is amended as follows.

(2) In subsection (2), for "an excluded employment" substitute " lower-paid employment as a minister of religion ".

(3) In subsection (3)—

(a) in the opening words, for "an excluded employment" substitute " an employment which is lower-paid employment as a minister of religion ", and

(b) in paragraph (a), for "an excluded employment" substitute " lower-paid employment as a minister of religion ".

(4) In subsection (6), for "an excluded employment" substitute " lower-paid employment as a minister of religion ".

(5) In subsection (7), for "an excluded employment" substitute " an employment which is lower-paid employment as a minister of religion ".

(6) In subsection (10), for the definition of "excluded employment" substitute—

> ""lower-paid employment as a minister of religion" has the meaning given by section 290D of that Act,".

26 In CTA 2010, in section 1065 (exception for benefits treated as employment income etc), in the first column of the table, for the words from "in section 216" to "lower-paid employment)" substitute " in section 290C of that Act (provisions of benefits code not applicable to lower-paid ministers of religion) ".

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SCHEDULE 2

Section 32

RESTRICTIONS APPLYING TO CERTAIN DEDUCTIONS MADE BY BANKING COMPANIES

PART 1

MAIN PROVISIONS

1 In CTA 2010, after Part 7 insert—

"PART 7A

BANKING COMPANIES

CHAPTER 1

INTRODUCTION

Overview of Part

269A(1) This Part contains provision about banking companies.

(2) Chapter 2 defines "banking company" and contains other definitions applying for the purposes of this Part.

(3) Chapter 3 contains provision restricting the amount of certain deductions which a banking company may make in calculating its taxable total profits for an accounting period.

CHAPTER 2

KEY DEFINITIONS

"Banking company"

Meaning of "banking company"

269B(1) In this Part "banking company", in relation to an accounting period, means—

(a) a company which meets conditions A to E,

(b) a company which—

(i) meets conditions A and B, and

(ii) is a member of a partnership which meets conditions C to E, or

(c) a building society.

In subsections (4) to (6) "the relevant entity" means the company or the partnership (as the case may be).

(2) Condition A is that at any time during the accounting period the company—

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(a) is a UK resident company, or

(b) is a company which carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom.

(3) Condition B is that the company is not an excluded entity at any time during the accounting period (see section 269BA).

(4) Condition C is that, at any time during the accounting period, the relevant entity is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act).

(5) Condition D is that, at any time during the accounting period—

(a) the relevant entity's activities include the relevant regulated activity described in the provision mentioned in section 269BB(a),

(b) the relevant entity is both an IFPRU 730k firm and a full scope IFPRU investment firm, whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in section 269BB(b) to (f), or

(c) the relevant entity is both a BIPRU 730k firm and a full scope BIPRU investment firm, whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in section 269BB(b) to (f).

(6) Condition E is that the relevant entity carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of trade.

(7) See also section 269BC (which contains definitions of terms used in this section).

Excluded entities

269BA(1) For the purposes of section 269B "excluded entity" means any of the following entities—

(a) an insurance company or an insurance special purpose vehicle;

(b) an entity which is a member of a group and does not carry on any relevant regulated activities otherwise than on behalf of an insurance company or insurance special purpose vehicle which is a member of the group;

(c) an entity which does not carry on any relevant regulated activities otherwise than as the manager of a pension scheme;

(d) an investment trust;

(e) an entity which does not carry on any relevant regulated activities other than asset management activities;

(f) an exempt IFPRU commodities firm or exempt BIPRU commodities firm;

(g) an entity which does not carry on any relevant regulated activities otherwise than for the purpose of trading in commodities or commodity derivatives;

(h) an entity which does not carry on any relevant regulated activities otherwise than for the purpose of dealing in contracts for differences—

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(i) as principal with persons all or all but an insignificant proportion of whom are retail clients, or

(ii) with another person to enable the entity or other person to deal in contracts for differences as principal with persons all or all but an insignificant proportion of whom are retail clients;

(i) a society incorporated under the Friendly Societies Act 1992;

(j) a society registered as a credit union under the Co-operative and Community Benefit Societies Act 2014 or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12));

(k) a building society.

(2) For the meaning of "relevant regulated activity", see section 269BB.

See also section 269BC (which contains definitions of other terms used in this section).

Relevant regulated activities

269BB In this Part "relevant regulated activity" means an activity which is a regulated activity for the purposes of FISMA 2000 by virtue of any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)—

(a) article 5 (accepting deposits);

(b) article 14 (dealing in investments as principal);

(c) article 21 (dealing in investments as agent);

(d) article 25 (arranging deals in investments);

(e) article 40 (safeguarding and administering investments);

(f) article 61 (entering into regulated mortgage contracts).

Banking companies: supplementary definitions

269BC (1) This section contains definitions of terms used in sections 269B to 269BB (and this section).

(2) "Asset management activities" means activities which consist (or, if they were carried on in the United Kingdom, would consist) of any or all of the following—

(a) acting as the operator of a collective investment scheme (within the meaning of Part 17 of FISMA 2000: see sections 235 and 237 of that Act),

(b) acting as a discretionary investment manager for clients none of which is a linked entity (see subsection (3)), and

(c) acting as an authorised corporate director.

(3) In subsection (2)(b) "linked entity", in relation to an entity ("E"), means—

(a) a member of the same group as E,

(b) a company in which a company which is a member of the same group as E has a major interest (within the meaning of Part 5 of CTA 2009: see section 473 of that Act), or

(c) a partnership the members of which include an entity—

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(i) which is a member of the same group as E, and

(ii) whose share of the profits or losses of a trade carried on by the partnership for an accounting period of the partnership any part of which falls within the relevant accounting period is at least a 40% share (see Part 17 of CTA 2009 for provisions about shares of partnership profits and losses).

"The relevant accounting period" means the accounting period referred to in section 269B(3).

(4) "Building society" has the same meaning as in the Building Societies Act 1986.

(5) "Insurance company" and "insurance special purpose vehicle" have the meanings given by sections 65 and 139 of FA 2012 respectively.

(6) "Partnership" includes—

(a) a limited liability partnership, and

(b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,

and "member", in relation to a partnership, is to be read accordingly.

(7) The terms in subsection (8)—

(a) in relation to a PRA-authorised person, have the meaning given by the PRA Handbook;

(b) in relation to any other authorised person, have the meaning given by the FCA Handbook.

(8) The terms referred to in subsection (7) are—

"authorised corporate director";
"BIPRU 730k firm";
"contracts for differences";
"discretionary investment manager";
"exempt BIPRU commodities firm";
"exempt IFPRU commodities firm";
"full scope BIPRU investment firm";
"full scope IFPRU investment firm";
"IFPRU 730k firm";
"pension scheme";
"principal";
"retail client".

(9) A company or partnership which would be a BIPRU 730k firm and a full scope BIPRU investment firm by virtue of activities carried on in the United Kingdom but for the fact that its registered office (or, if it does not have a registered office, its head office) is not in the United Kingdom is to be treated as being one for the purposes of section 269B.

(10) A company or partnership which would be an IFPRU 730k firm and a full scope IFPRU investment firm by virtue of activities carried on in the United Kingdom but for the fact that its registered office (or, if it does not have a

registered office, its head office) is not in the United Kingdom is to be treated as being one for the purposes of section 269B.

(11) In subsection (7)—

"authorised person" and "PRA-authorised person" have the same meaning as in FISMA 2000;

"the FCA Handbook" means the Handbook made by the Financial Conduct Authority under FISMA 2000 (as that Handbook has effect from time to time);

"the PRA Handbook" means the Handbook made by the Prudential Regulation Authority under FISMA 2000 (as that Handbook has effect from time to time).

"Group"

Meaning of "group"

269BD (1) In this Part "group" means a group for the purposes of—

(a) those provisions of international accounting standards relating to the preparation of consolidated financial statements (whether or not the company that is the parent within the meaning of those provisions ("the parent company") prepares financial statements under those standards), or

(b) in a case where subsection (2) applies, those provisions of US GAAP which relate to the preparation of consolidated financial statements.

(2) This subsection applies if—

(a) as at the end of a period of account of the parent company—

(i) the parent company is resident in a territory outside the United Kingdom,

(ii) generally accepted accounting practice for companies resident in that territory is or includes US GAAP, and

(iii) the parent company is a parent for the purposes of those provisions of US GAAP which relate to the preparation of consolidated financial statements (as well as being a parent for the purposes of the provisions mentioned in subsection (1)(a)), and

(b) the parent company prepares consolidated financial statements for the period of account under US GAAP.

(3) Accordingly, for the purposes of this Part a company is a member of a group if—

(a) it is the parent company in relation to the group, or

(b) it is a member of the group for the purposes of the provisions mentioned in subsection (1)(a) or (b) (as the case may be).

(4) In this section "US GAAP" means United States Generally Accepted Accounting Principles.

(5) Section 1127(1) and (3) (meaning of "generally accepted accounting practice") do not apply for the purposes of this section.

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Power to make consequential changes

Power to make consequential changes

269BE(1) The Treasury may by regulations make such amendments of this Part as they consider appropriate in consequence of—

(a) any change made to, or replacement of, the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (or any replacement);

(b) any change made to, or replacement of, the FCA Handbook or the PRA Handbook (or any replacement);

(c) any change in international accounting standards or US GAAP;

(d) any regulatory requirement, or change to any regulatory requirement, imposed by EU legislation, or by or under any Act (whenever adopted, enacted or made).

(2) In this section—

"the FCA Handbook" and "the PRA Handbook" have the meaning given by section 269BC(11);

"US GAAP" has the meaning given by section 269BD(4).

CHAPTER 3

RESTRICTIONS ON OBTAINING CERTAIN DEDUCTIONS

Introduction

Overview of Chapter

269C(1) This Chapter contains provision restricting the amount of certain deductions which a banking company may make in calculating its taxable total profits for an accounting period.

(2) Sections 269CA to 269CD contain the restrictions.

(3) Sections 269CE to 269CH contain exceptions to the restrictions.

(4) Section 269CK contains anti-avoidance provision.

(5) Sections 269CL to 269CN contain supplementary provision and definitions.

(6) For the meaning of "banking company", see section 269B.

Restrictions on obtaining certain deductions

Restriction on deductions for trading losses

269CA(1) This section has effect for determining the taxable total profits of a banking company for an accounting period.

(2) Any deduction made by the company for the accounting period in respect of a pre-2015 carried-forward trading loss may not exceed 50% of the company's relevant trading profits for the accounting period.

Section 269CD contains provision for calculating a company's relevant trading profits for an accounting period (see step 5 in subsection (1) of that section).

(3) But subsection (2) does not apply where the amount given by step 1 in section 269CD(1) is not greater than nil.

(4) In this Chapter "pre-2015 carried-forward trading loss", in relation to a company and an accounting period ("the current accounting period"), means a loss which—

(a) was made in a trade of the company in an accounting period ending before 1 April 2015, and

(b) is carried forward to the current accounting period under section 45 (carry forward of trade loss against subsequent trade profits).

(5) See also sections 269CE to 269CH (losses to which restrictions do not apply).

Restriction on deductions for non-trading deficits from loan relationships

269CB(1) This section has effect for determining the taxable total profits of a banking company for an accounting period.

(2) Any deduction made by the company for the accounting period in respect of a pre-2015 carried-forward non-trading deficit may not exceed 50% of the company's relevant non-trading profits for the accounting period.

Section 269CD contains provision for calculating a company's relevant non-trading profits for an accounting period (see step 6 in subsection (1) of that section).

(3) But subsection (2) does not apply where the amount given by step 1 in section 269CD(1) is not greater than nil.

(4) In this Chapter "pre-2015 carried-forward non-trading deficit", in relation to a company and an accounting period ("the current accounting period"), means a non-trading deficit—

(a) which the company had from its loan relationships under section 301(6) of CTA 2009 for an accounting period ending before 1 April 2015, and

(b) which is carried forward under section 457 of that Act (carry forward of deficits to accounting periods after deficit period) to be set off against non-trading profits of the current accounting period.

(5) In subsection (4) "non-trading profits" has the same meaning as in section 457 of CTA 2009.

(6) See also sections 269CE to 269CH (losses to which restrictions do not apply).

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Restriction on deductions for management expenses etc

269CC(1) This section has effect for determining the taxable total profits of a banking company for an accounting period.

(2) Any deduction made by the company for the accounting period in respect of pre-2015 carried-forward management expenses may not exceed the relevant maximum (see subsection (7)).

(3) But subsection (2) does not apply where the amount given by step 1 in section 269CD(1) is not greater than nil.

(4) In this Chapter "pre-2015 carried-forward management expenses", in relation to a company and an accounting period ("the current accounting period"), means amounts falling within subsection (5) or (6).

See also sections 269CE to 269CH (losses to which restrictions do not apply).

(5) The amounts within this subsection are amounts—

(a) which fall within subsection (2) of section 1223 of CTA 2009 (carrying forward expenses of management and other amounts),

(b) which—

(i) for the purposes of Chapter 2 of Part 16 of CTA 2009 are referable to an accounting period ending before 1 April 2015, or

(ii) in the case of qualifying charitable donations, were made in such an accounting period, and

(c) which are treated by section 1223(3) of CTA 2009 as expenses of management deductible for the current accounting period.

(6) The amounts within this subsection are amounts of loss which—

(a) were made in an accounting period ending before 1 April 2015, and

(b) are treated by section 63(3) (carrying forward certain losses made by company with investment business which ceases to carry on UK property business) as expenses of management deductible for the current accounting period for the purposes of Chapter 2 of Part 16 of CTA 2009.

(7) The relevant maximum is determined as follows—

Step 1 Calculate 50% of the company's relevant profits for the accounting period. Section 269CD contains provision for calculating a company's relevant profits for an accounting period.

Step 2 Calculate the sum of any deductions made by the company for the accounting period which are—

(a) deductions in respect of a pre-2015 carried-forward trading loss, or

(b) deductions in respect of a pre-2015 carried-forward non-trading deficit.

Step 3 The relevant maximum is the difference between the amount given by step 1 and the amount given by step 2. If the amount given

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by step 1 does not exceed the amount given by step 2, the relevant maximum is nil.

Relevant profits

269CD(1) To determine a company's relevant profits for an accounting period—

Step 1 Calculate the company's total profits for the accounting period, ignoring any pre-2015 carried-forward trading losses or pre-2015 carried-forward non-trading deficits. (If the amount given by this step is not greater than nil, no further steps are to be taken: see sections 269CA(3), 269CB(3) and 269CC(3).)

Step 2 Divide the amount given by step 1 into profits that are profits of a trade of the company (the company's "trade profits") and profits that are not profits of a trade of the company (the company's "non-trading profits").

Step 3 Calculate the proportion ("the trading proportion") of the amount given by step 1 that consists of the company's trade profits and the proportion ("the non-trading proportion") of that amount that consists of its non-trading profits.

Step 4 Calculate the sum of any amounts which can be relieved against the company's total profits for the accounting period (as calculated in accordance with step 1), ignoring the amount of any excluded deductions for the accounting period (see subsection (2)).

Step 5 Deduct the trading proportion of the amount given by step 4 from the company's trade profits for the accounting period. The amount given by this step is the company's relevant trading profits for the accounting period. If the amount given by this step is not greater than nil, the company's relevant trading profits for the accounting period are nil.

Step 6 Deduct the non-trading proportion of the amount given by step 4 from the company's non-trading profits for the accounting period. The amount given by this step is the company's relevant non-trading profits for the accounting period. If the amount given by this step is not greater than nil, the company's relevant non-trading profits for the accounting period are nil.

Step 7 The company's relevant profits for the accounting period are the sum of its relevant trading profits for the accounting period and its relevant non-trading profits for the accounting period.

(2) The following are "excluded deductions" in relation to an accounting period ("the current accounting period")—

(a) a deduction made in respect of pre-2015 carried-forward management expenses;

(b) a deduction for relief under section 37 (relief for trade losses against total profits) in relation to a loss made in an accounting period after the current accounting period;

(c) a deduction for relief under section 260(3) of CAA 2001 (special leasing of plant or machinery: carry-back of excess allowances) in relation to capital allowances for an accounting period after the current accounting period;

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(d) a deduction for relief under section 459 of CTA 2009 (non-trading deficits from loan relationships) in relation to a deficit for a deficit period after the current accounting period.

Losses to which restrictions do not apply

Losses arising before company began banking activity

269CE(1) In this section "the first banking accounting period", in relation to a company, means the accounting period in which the company first begins to carry on a relevant regulated activity.

(2) References in this Chapter to a pre-2015 carried-forward trading loss do not include a loss which was made in a trade of a company in an accounting period ending before the first banking accounting period.

(3) References in this Chapter to a pre-2015 carried-forward non-trading deficit do not include a non-trading deficit which a company had from its loan relationships under section 301(6) of CTA 2009 for an accounting period ending before the first banking accounting period.

(4) References in this Chapter to pre-2015 carried-forward management expenses, in relation to a company, do not include—

(a) any amounts falling within section 269CC(5) which—

(i) for the purposes of Chapter 2 of Part 16 of CTA 2009 are referable to an accounting period ending before the first banking accounting period, or

(ii) in the case of qualifying charitable donations, were made in an accounting period ending before the first banking accounting period, or

(b) any amounts of loss falling within section 269CC(6) which were made in an accounting period ending before the first banking accounting period.

(5) Section 269CL contains provision for determining when a company first begins to carry on a relevant regulated activity.

Losses arising in company's start-up period

269CF(1) References in this Chapter to a pre-2015 carried-forward trading loss do not include a loss which was made in a trade of a company in an accounting period ending in the company's start-up period.

(2) References in this Chapter to a pre-2015 carried-forward non-trading deficit do not include a non-trading deficit which a company had from its loan relationships under section 301(6) of CTA 2009 for an accounting period ending in the company's start-up period.

(3) References in this Chapter to pre-2015 carried-forward management expenses, in relation to a company, do not include—

(a) any amounts falling within section 269CC(5) which—

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(i) for the purposes of Chapter 2 of Part 16 of CTA 2009 are referable to an accounting period ending in the company's start-up period, or

(ii) in the case of qualifying charitable donations, were made in such an accounting period, or

(b) any amounts of loss falling within section 269CC(6) which were made in an accounting period ending in the company's start-up period.

(4) For the purposes of this Chapter any amounts which, by virtue of subsections (1) to (3), are not relevant carried-forward losses of a company are to be regarded as having been taken into account in determining the taxable total profits of the company for accounting periods ending before 1 April 2015 before any amounts which are relevant carried-forward losses of the company.

(5) Subsection (6) applies where a company has an accounting period ("the straddling period") beginning before, and ending after, the last day of its start-up period.

(6) For the purposes of this section—

(a) so much of the straddling period as falls within the start-up period, and so much of the straddling period as falls outside the start-up period, are treated as separate accounting periods, and

(b) any relevant carried-forward losses of the company for the straddling period are apportioned to the two separate accounting periods—

(i) in accordance with section 1172 (time basis), or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(7) In subsection (6)(b) the reference to any relevant carried-forward losses of the company "for" the straddling period is a reference to—

(a) any pre-2015 carried-forward trading loss which was made in a trade of the company in the straddling period,

(b) any pre-2015 carried-forward non-trading deficit which the company had from its loan relationships for the straddling period, and

(c) any pre-2015 carried-forward management expenses which are referable to, or were made in, the straddling period (as the case may be).

(8) For provision about determining a company's start-up period, see section 269CG.

The "start-up period"

269CG(1) In this Chapter the "start-up period", in relation to a company ("company C"), means the period of 5 years beginning with the day on which company C first begins to carry on a relevant regulated activity ("the start-up day").

This is subject to the following provisions of this section.

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(2) If on the start-up day—

(a) company C is a member of a group,

(b) there are one or more other members of the group that have carried on a relevant regulated activity while a member of the group, and

(c) none of those members first began to carry on such an activity more than 5 years before the start-up day,

company C's start-up period is the period beginning with the start-up day and ending with the relevant group period.

(3) The "relevant group period", in relation to a group, means the period of 5 years beginning with the earliest day on which any member of the group first began to carry on a relevant regulated activity.

(4) If on the start-up day—

(a) company C is a member of a group,

(b) there are one or more other members of the group that have carried on a relevant regulated activity while a member of the group, and

(c) any of those members first began to carry on such an activity more than 5 years before the start-up day,

company C does not have a start-up period.

(5) This subsection applies if—

(a) on a day falling within company C's start-up period ("the relevant day"), company C becomes a member of a group,

(b) one or more of the members of the group which on the relevant day carry on a relevant regulated activity first began to do so before the beginning of company C's start-up period, and

(c) the relevant regulated activities carried on by company C do not form a significant proportion of the relevant regulated activities carried on immediately after the relevant day by the members of the group as a whole.

(6) Where subsection (5) applies, company C's start-up period—

(a) in the case where any of the members of the group first began to carry on a relevant regulated activity more than 5 years before the relevant day, ends immediately before the relevant day;

(b) in any other case, ends with the relevant group period.

(7) This subsection applies if—

(a) on a day falling within company C's start-up period ("the relevant day"), another company that carries on a relevant regulated activity ("the new member") becomes a member of a group of which company C is a member,

(b) the new member first began to carry on a relevant regulated activity before the beginning of company C's start-up period, and

(c) the relevant regulated activities carried on by the new member form a significant proportion of the relevant regulated activities carried on immediately after the relevant day by the members of the group as a whole.

(8) Where subsection (7) applies, company C's start-up period—

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(a) in the case where the new member first began to carry on a relevant regulated activity more than 5 years before the relevant day, ends immediately before the relevant day;

(b) in any other case, ends with the relevant group period.

(9) Any reference in this section to being, or becoming, a member of a group includes a reference to being, or becoming, a member of a partnership; and references to the "relevant group period" are to be read accordingly.

(10) Section 269CL contains provision for determining when a company first begins to carry on a relevant regulated activity.

Losses covered by carried-forward loss allowance

269CH (1) This section applies to a banking company if—

(a) it is a building society, or

(b) an amount of carried-forward loss allowance is allocated to the company by a building society in accordance with section 269CI or 269CJ.

(2) If a banking company to which this section applies has an amount of carried-forward loss allowance (see subsection (5)), the company may designate as unrestricted losses any losses which, in relation to any accounting period, would (in the absence of this section) be relevant carried-forward losses.

(3) A loss designated under this section as an unrestricted loss is to be treated for the purposes of this Chapter as if it were not a relevant carried-forward loss.

(4) The amount of losses which a company may designate at any time must not exceed the amount of carried-forward loss allowance which the company has at that time.

(5) The amount of carried-forward loss allowance which a company has at any time is the difference between the company's maximum available carried-forward loss allowance and the total amount of losses designated by the company under this section before that time.

(6) The "maximum available carried-forward loss allowance" is—

(a) in the case of a building society which has not made an allocation under section 269CI, £25,000,000;

(b) in the case of a building society which has made an allocation under section 269CI, the amount given by—

$$(A - B) + C$$

where—

A is £25,000,000,

B is the sum of—

(a) any amounts which it has allocated to another company under section 269CI, and

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(b) any amounts allocated to another company under section 269CJ which immediately before the allocation were amounts of carried-forward loss allowance which the building society had, and

C is the sum of any amounts allocated to the building society under section 269CJ;

(c) in the case of any other company, the total amount of carried-forward loss allowance allocated to the company under section 269CI or 269CJ.

(7) References in this Chapter to an amount of carried-forward loss allowance allocated to a company are references to an amount allocated to the company under section 269CI or 269CJ.

(8) For the meaning of "relevant carried-forward loss", see section 269CN.

(9) For information about the procedure for making a designation under this section, see Schedule 18 to FA 1998, in particular Part 9E of that Schedule.

Allocation of carried-forward loss allowance within a group

269CI (1) This section applies where a building society—

(a) is a member of a group, and

(b) has an amount of carried-forward loss allowance (see section 269CH(5)).

(2) The building society may allocate some or all of that amount of carried-forward loss allowance to any other member of the group which is a banking company.

(3) Where a building society makes an allocation under subsection (2), it must give HMRC a statement (a "statement of allocation") which specifies—

(a) the amount of carried-forward loss allowance which the building society had immediately before it made the allocation,

(b) the companies ("the relevant companies") to which an amount of carried-forward loss allowance has been allocated,

(c) the amount of carried-forward loss allowance allocated to each of the relevant companies, and

(d) the total amount of carried-forward loss allowance allocated by the building society.

(4) The statement of allocation must be given to HMRC on or before—

(a) the first day after the allocation on which the building society, or any of the relevant companies, delivers a company tax return which includes a designation made under section 269CH, or

(b) if earlier, the first day after the allocation on which a company tax return of the building society, or any of the relevant companies, is amended so as to include such a designation.

This is subject to subsection (5).

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(5) An officer of Revenue and Customs may provide that the statement of allocation may be given to HMRC on or before a later day specified by the officer.

(6) An allocation made under subsection (2) is not effective unless the requirements of this section have been complied with.

(7) A statement of allocation that has been given to HMRC under this section may not be amended or withdrawn.

This is subject to section 269CJ.

Re-allocation of carried-forward loss allowance

269CJ(1) This section applies where—

(a) a building society is a member of a group,

(b) the building society has given HMRC a statement of allocation in accordance with section 269CI,

(c) the building society, or any other member of the group that is a banking company, (the "designating company") would, if it had an amount (or an additional amount) of carried-forward loss allowance, be able to designate an amount of losses under section 269CH equal to that amount, and

(d) that amount is greater than the amount of carried-forward loss allowance which the building society could allocate under section 269CI.

(2) In this section the "available carried-forward loss allowance" means the total of any amounts of carried-forward loss allowance which any member of the group, other than the designating company, has (see section 269CH(5)).

(3) The building society may—

(a) allocate some or all of the available carried-forward loss allowance to the designating company, and

(b) provide that, to the extent that any of the amount allocated to the designating company under this subsection is an amount of carried-forward loss allowance which, immediately before the allocation, was an amount allocated to another company, that amount is no longer allocated to that other company.

(4) Where a building society makes an allocation under subsection (3), it must give HMRC a statement (a "revised statement of allocation") which specifies—

(a) the amount of the available carried-forward loss allowance immediately before the allocation,

(b) the companies which had an amount of carried-forward loss allowance immediately before the allocation, and the amount of carried-forward loss allowance which each of those companies had at that time, and

(c) the companies which have an amount of carried-forward loss allowance immediately after the allocation ("the relevant companies"), and the amount of carried-forward loss allowance which each of those companies has.

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(5) The revised statement of allocation must be given to HMRC on or before—
  (a) the first day after the allocation on which any of the relevant companies delivers a company tax return which includes a designation made under section 269CH, or
  (b) if earlier, the first day after the allocation on which a company tax return of any of the relevant companies is amended so as to include such a designation.

This is subject to subsection (6).

(6) An officer of Revenue and Customs may provide that the revised statement of allocation may be given to HMRC on or before a later day specified by the officer.

(7) An allocation made under subsection (3) is not effective unless the requirements of this section have been complied with.

(8) Except as provided for by this section, a revised statement of allocation that has been given to HMRC under this section may not be amended or withdrawn.

Anti-avoidance

Profits arising from tax arrangements to be disregarded

269CK (1) This section applies if conditions A to C are met.

(2) Condition A is that—
  (a) the amount given by step 1 in section 269CD(1) as the total profits of a banking company for an accounting period includes profits which arise to the banking company as a result of any arrangements ("the tax arrangements"), and
  (b) in the absence of those profits ("the additional profits") any deduction which the banking company would be entitled to make for the accounting period in respect of any relevant carried-forward losses would be reduced.

(3) Condition B is that the main purpose, or one of the main purposes, of the tax arrangements is to secure a relevant corporation tax advantage—
  (a) for the banking company, or
  (b) if there are any companies connected with that company, for the banking company and those connected companies (taken together).

(4) In this section "relevant corporation tax advantage" means a corporation tax advantage involving—
  (a) the additional profits, and
  (b) the deduction of any relevant carried-forward losses from those profits.

(5) Condition C is that, at the time when the tax arrangements were entered into, it would have been reasonable to assume that the tax value of the tax arrangements would be greater than the non-tax value of the tax arrangements.

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(6) The "tax value" of the tax arrangements is the total value of—

(a) the relevant corporation tax advantage, and

(b) any other economic benefits derived by—

(i) the banking company, or

(ii) if there are any companies connected with that company, the banking company and those connected companies (taken together),

as a result of securing the relevant corporation tax advantage.

(7) The "non-tax value" of the tax arrangements is the total value of any economic benefits, other than those falling within subsection (6)(a) or (b), derived by—

(a) the banking company, or

(b) if there are any companies connected with that company, the banking company and those connected companies (taken together),

as a result of the tax arrangements.

(8) If this section applies, the additional profits are not to be taken into account in calculating the banking company's relevant profits for the accounting period (see section 269CD).

(9) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"corporation tax advantage" means—

(a) a relief from corporation tax or increased relief from corporation tax,

(b) a repayment of corporation tax or increased repayment of corporation tax,

(c) the avoidance or reduction of a charge to corporation tax or an assessment to corporation tax,

(d) the avoidance of a possible assessment to corporation tax, or

(e) the deferral of a payment of corporation tax or advancement of a repayment of corporation tax.

Supplementary

When a company first begins to carry on relevant regulated activities

269C(1) For the purposes of this Chapter, a company first begins to carry on a relevant regulated activity on a particular day if the company—

(a) begins to carry on a relevant regulated activity on that day, and

(b) has not carried on any relevant regulated activity before that day.

This is subject to subsection (2).

(2) Where—

(a) there is a transfer of a trade, and

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(b) immediately before the transfer the predecessor carried on a relevant regulated activity,

the successor is to be treated as having first begun to carry on a relevant regulated activity on the day on which the predecessor first began to carry on such an activity.

(3) Section 940B (meaning of "transfer of a trade" etc) applies for the purposes of this section as it applies for the purposes of Chapter 1 of Part 22.

Joint venture companies

269CM(1) Where a company ("the joint venturer"), together with one or more other persons, jointly controls another company that is a joint venture ("the joint venture company"), the joint venture company is to be treated for the purposes of this Chapter as a member of any group of which the joint venturer is a member.

(2) References in subsection (1) to a joint venture and to jointly controlling a company that is a joint venture are to be read in accordance with those provisions of international accounting standards which relate to joint ventures.

Other definitions

269CN In this Chapter—

"banking company" has the meaning given by section 269B;

"building society" has the same meaning as in the Building Societies Act 1986;

"company tax return" has the same meaning as in Schedule 18 to FA 1998;

"group" has the meaning given by section 269BD;

"HMRC" means Her Majesty's Revenue and Customs;

"partnership" includes—

(a) a limited liability partnership, and

(b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,

and "member", in relation to a partnership, is to be read accordingly;

"pre-2015 carried-forward management expenses" has the meaning given by section 269CC(4);

"pre-2015 carried-forward non-trading deficit" has the meaning given by section 269CB(4);

"pre-2015 carried-forward trading loss" has the meaning given by section 269CA(4);

"relevant carried-forward loss" means—

(a) a pre-2015 carried-forward trading loss,

(b) a pre-2015 carried-forward non-trading deficit, or

(c) any pre-2015 carried-forward management expenses;

"relevant non-trading profits", in relation to a company, means the amount given by step 6 in section 269CD(1);

"relevant profits", in relation to a company, means the amount given by step 7 in section 269CD(1);

"relevant regulated activity" has the meaning given by section 269BB;

"relevant trading profits", in relation to a company, means the amount given by step 5 in section 269CD(1);

"start-up period", in relation to a company, has the meaning given by section 269CG."

PART 2

CONSEQUENTIAL AMENDMENTS

FA 1998

2 In Schedule 18 to FA 1998 (company tax returns, assessments and related matters), after Part 9D insert—

"PART 9E

DESIGNATION OF LOSSES AS UNRESTRICTED LOSSES FOR THE PURPOSES OF CHAPTER 3 OF PART 7A OF THE CORPORATION TAX ACT 2010

Introduction

83Y (1) This Part of this Schedule applies to the designation of losses within sub-paragraph (2) as unrestricted losses by a banking company under section 269CH of the Corporation Tax Act 2010 (losses covered by carried-forward loss allowance).

(2) The losses mentioned in sub-paragraph (1) are losses which, in relation to any accounting period, would (in the absence of that section) be relevant carried-forward losses.

(3) Expressions used in this Part of this Schedule and in Chapter 3 of Part 7A of the Corporation Tax Act 2010 have the same meaning in this Part of this Schedule as they have in that Chapter.

Designation to be made in company tax return

83YA (1) A designation to which this Part of this Schedule applies must be made by being included in the company's tax return for the accounting period for which the company makes a deduction in respect of the losses.

(2) It may be included in the return originally made or by amendment.

Identification of losses

83YB Where a company designates any relevant carried-forward loss in a company tax return, the return must specify—

(a) the amount of the loss, and

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(b) whether the loss is—

(i) a pre-2015 carried-forward trading loss,

(ii) a pre-2015 carried-forward non-trading deficit, or

(iii) pre-2015 carried-forward management expenses.

Amendment or withdrawal of designation

83YC A designation to which this Part of this Schedule applies may be amended or withdrawn by the company only by amending its company tax return."

CTA 2009

3 In section 1223 of CTA 2009 (carrying forward expenses of management and other amounts), in subsection (1)—

(a) the words after "because" become paragraph (a), and

(b) after that paragraph insert ", or

(b) in the case of amounts falling within subsection (2)(c), section 269CC of CTA 2010 (restriction on deductions for management expenses) has effect for the accounting period."

CTA 2010

4 In section 1 of CTA 2010 (overview of Act), in subsection (3)—

(a) for "Parts 8" substitute " Parts 7A ", and

(b) before paragraph (a) insert—

"(za) banking companies (see Part 7A),".

5 In Schedule 4 to CTA 2010 (index of defined expressions), at the appropriate place insert—

"banking company (in Part 7A)	section 269B";
"building society (in Chapter 3 of Part 7A)	section 269CN";
"company tax return (in Chapter 3 of Part 7A)	section 269CN";
"group (in Part 7A)	section 269BD";
"HMRC (in Chapter 3 of Part 7A)	section 269CN";
"partnership (in Chapter 3 of Part 7A)	section 269CN";
"pre-2015 carried-forward management expenses (in Chapter 3 of Part 7A)	section 269CC(4)";

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"pre-2015 carried-forward non-trading deficit (in Chapter 3 of Part 7A)	section 269CB(4)";
"pre-2015 carried-forward trading loss (in Chapter 3 of Part 7A)	section 269CA(4)";
"relevant carried-forward loss (in Chapter 3 of Part 7A)	section 269CN";
"relevant non-trading profits (in Chapter 3 of Part 7A)	section 269CN";
"relevant profits (in Chapter 3 of Part 7A)	section 269CN";
"relevant regulated activity (in Part 7A)	section 269BB";
"relevant trading profits (in Chapter 3 of Part 7A)	section 269CN";
"start-up period (in Chapter 3 of Part 7A)	section 269CG".

TIOPA 2010

F12 6 . . . . . .

Textual Amendments

F12 Sch. 2 para. 6 omitted (with effect in accordance with s. 36(3)-(5) of the commencing Act) by virtue of Finance (No. 2) Act 2015 (c. 33), **s. 36(2)(c)**

PART 3

COMMENCEMENT AND ANTI-FORESTALLING PROVISION

Commencement

7 (1) The amendments made by paragraphs 1 to 5 of this Schedule have effect for the purposes of calculating the taxable total profits of companies for accounting periods beginning on or after 1 April 2015.

(2) But section 269CK of CTA 2010 (inserted by this Schedule) does not have effect in relation to any arrangements made before 3 December 2014.

(3) Sub-paragraph (4) applies where a company has an accounting period beginning before 1 April 2015 and ending on or after that date ("the straddling period").

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(4) For the purposes of Chapter 3 of Part 7A of CTA 2010—

(a) so much of the straddling period as falls before 1 April 2015, and so much of that period as falls on or after that date, are treated as separate accounting periods, and

(b) the profits or losses of the company for the straddling period are apportioned to the two separate accounting periods—

(i) in accordance with section 1172 of CTA 2010 (time basis), or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

F13 8 . . . . . .

Textual Amendments

F13 Sch. 2 para. 8 omitted (with effect in accordance with s. 36(3)-(5) of the commencing Act) by virtue of Finance (No. 2) Act 2015 (c. 33), **s. 36(2)(c)**

Anti-forestalling provision

9 (1) This sub-paragraph applies if—

(a) for the purposes of corporation tax a banking company has profits ("pre-commencement profits") for an accounting period ending before 1 April 2015,

(b) in the absence of this paragraph the banking company would, for corporation tax purposes, be entitled to deduct from the pre-commencement profits for the accounting period an amount in respect of any relevant carried-forward losses,

(c) the pre-commencement profits arise as a result of any arrangements entered into on or after 3 December 2014, and

(d) the main purpose, or one of the main purposes, of the arrangements is to secure a corporation tax advantage as a result of the fact that Chapter 3 of Part 7A of CTA 2010 (inserted by this Schedule) is not to have effect for the accounting period for which the deduction would be made.

(2) If sub-paragraph (1) applies, the banking company is not entitled to deduct from the pre-commencement profits any amount in respect of the relevant carried-forward losses.

(3) Sub-paragraph (1) does not apply in relation to a banking company which falls within section 269B(5)(b) of CTA 2010 (inserted by this Schedule).

(4) In this paragraph—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"corporation tax advantage" means—

(a) a relief from corporation tax or increased relief from corporation tax,

(b) a repayment of corporation tax or increased repayment of corporation tax,

(c) the avoidance or reduction of a charge to corporation tax or an assessment to corporation tax,

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(d) the avoidance of a possible assessment to corporation tax, or

(e) the deferral of a payment of corporation tax or advancement of a repayment of corporation tax.

(5) Terms used in this paragraph and in Chapter 3 of Part 7A of CTA 2010 have the same meaning in this paragraph as in that Chapter; and, so far as necessary for the purposes of this sub-paragraph, that Part is to be treated as having come into force on the same day as this paragraph.

(6) This paragraph is treated as having come into force on 3 December 2014.

(7) Sub-paragraph (8) applies where a company has an accounting period beginning before 1 April 2015 and ending on or after that date ("the straddling period").

(8) For the purposes of this paragraph—

(a) so much of the straddling period as falls before 1 April 2015, and so much of that period as falls on or after that date, are treated as separate accounting periods, and

(b) the profits or losses of the company for the straddling period are apportioned to the two separate accounting periods—

(i) in accordance with section 1172 of CTA 2010 (time basis), or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

SCHEDULE 3

Section 33

TAX AVOIDANCE INVOLVING CARRIED-FORWARD LOSSES

PART 1

AMENDMENTS OF CTA 2010

1 In CTA 2010, after Part 14A insert—

"PART 14B

TAX AVOIDANCE INVOLVING CARRIED-FORWARD LOSSES

Overview

730E(1) This Part makes provision restricting the circumstances in which a company may make a deduction in respect of a relevant carried-forward loss.

(2) For the meaning of "relevant carried-forward loss", see section 730F.

Meaning of "relevant carried-forward loss"

730F(1) In this Part "relevant carried-forward loss" means any of the following—

(a) a carried-forward trading loss (see subsection (2)),

(b) a carried-forward non-trading deficit (see subsection (3)),

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(c) any carried-forward management expenses (see subsection (4)).

(2) "Carried-forward trading loss", in relation to a company and an accounting period, means a loss in a trade of the company which is carried forward from a previous accounting period under section 45 (carry forward of trade loss against subsequent trade profits).

(3) "Carried-forward non-trading deficit", in relation to a company and an accounting period, means a non-trading deficit which the company has from its loan relationships under section 301(6) of CTA 2009 and which is carried forward from a previous accounting period under section 457 of that Act (carry forward of deficits to accounting periods after deficit period).

(4) "Carried-forward management expenses", in relation to a company and an accounting period, means—

(a) any amounts which—

(i) fall within subsection (2) of section 1223 of CTA 2009 (carrying forward expenses of management and other amounts), and

(ii) are treated by subsection (3) of that section as expenses of management deductible for the period, and

(b) any amounts which are treated by section 63(3) (carrying forward certain losses made by company with investment business which ceases to carry on UK property business) as expenses of management deductible for the period for the purposes of Chapter 2 of Part 16 of CTA 2009.

Disallowance of deductions for relevant carried-forward losses

730G (1) This section applies if conditions A to E are met.

(2) Condition A is that—

(a) for the purposes of corporation tax a company has profits ("relevant profits") for an accounting period,

(b) the relevant profits arise to the company as a result of any arrangements ("the tax arrangements"), and

(c) in the absence of this section the company ("the relevant company") would, for corporation tax purposes, be entitled to deduct from the relevant profits for the period an amount in respect of any relevant carried-forward losses.

(3) Condition B is that—

(a) the relevant company, or a company connected with that company, brings a deductible amount into account as a deduction for an accounting period, and

(b) it is reasonable to assume that neither the company, nor any company connected with it, would have brought that amount into account as a deduction for that period but for the tax arrangements.

(4) Condition C is that the main purpose, or one of the main purposes, of the tax arrangements is to secure a relevant corporation tax advantage—

(a) for the relevant company, or

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(b) if there are any companies connected with that company, for the relevant company and those connected companies (taken together).

(5) In this section "relevant corporation tax advantage" means a corporation tax advantage involving—
(a) the deductible amount mentioned in subsection (3), and
(b) the deduction of any relevant carried-forward losses from the relevant profits.

(6) Condition D is that, at the time when the tax arrangements were entered into, it would have been reasonable to assume that the tax value of the tax arrangements would be greater than the non-tax value of the tax arrangements.

(7) The "tax value" of the tax arrangements is the total value of—
(a) the relevant corporation tax advantage, and
(b) any other economic benefits derived by—
(i) the relevant company, or
(ii) if there are any companies connected with that company, the relevant company and those connected companies (taken together),
as a result of securing the relevant corporation tax advantage.

(8) The "non-tax value" of the tax arrangements is the total value of any economic benefits, other than those falling within subsection (7)(a) or (b), derived by—
(a) the relevant company, or
(b) if there are any companies connected with that company, the relevant company and those connected companies (taken together),
as a result of the tax arrangements.

(9) Condition E is that the tax arrangements are not arrangements in relation to which section 269CK (banking companies: profits arising from tax arrangements to be disregarded) applies.

(10) If this section applies, the relevant company is not entitled to deduct from the relevant profits any amount in respect of the relevant carried-forward losses.

Interpretation of section 730G

730H (1) In section 730G—
"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
"corporation tax advantage" means—
(a) a relief from corporation tax or increased relief from corporation tax,
(b) a repayment of corporation tax or increased repayment of corporation tax,
(c) the avoidance or reduction of a charge to corporation tax or an assessment to corporation tax,
(d) the avoidance of a possible assessment to corporation tax, or

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(e) the deferral of a payment of corporation tax or advancement of a repayment of corporation tax;

"deductible amount" means—

(a) an expense of a trade, other than an amount treated as such an expense by section 450(a) of CAA 2001 (research and development allowances treated as expenses in calculating profits of a trade),

(b) an expense of a UK property business or an overseas property business,

(c) an expense of management of a company's investment business within the meaning of section 1219 of CTA 2009,

(d) a non-trading debit within the meaning of Parts 5 and 6 of CTA 2009 (loan relationships and derivative contracts) (see section 301(2) of that Act), or

(e) a non-trading debit within the meaning of Part 8 of CTA 2009 (intangible fixed assets) (see section 746 of that Act),

but does not include any amount that has been taken into account in determining RTWDV within the meaning of Chapter 16A of Part 2 of CAA 2001 (restrictions on allowance buying) (see section 212K of that Act);

"relevant carried-forward loss" has the meaning given by section 730F.

(2) References in section 730G to bringing an amount into account "as a deduction" in any period are to bringing it into account as a deduction in that period—

(a) in calculating profits, losses or other amounts for corporation tax purposes, or

(b) from profits or other amounts chargeable to corporation tax."

2 In section 1 of CTA 2010 (overview of Act), in subsection (4), after paragraph (aa) insert—

"(ab) carried-forward losses (see Part 14B),".

3 In Schedule 4 to CTA 2010 (index of defined expressions), at the appropriate place insert—

"relevant carried-forward loss (in Part 14B)	section 730F".

PART 2

COMMENCEMENT

4 (1) The amendments made by this Schedule have effect for the purposes of calculating the taxable total profits of companies for accounting periods beginning on or after 18 March 2015.

(2) Sub-paragraph (3) applies where a company has an accounting period beginning before 18 March 2015 and ending on or after that date ("the straddling period").

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(3) For the purposes of Part 14B of CTA 2010—

(a) so much of the straddling period as falls before 18 March 2015, and so much of that period as falls on or after that date, are treated as separate accounting periods, and

(b) any amounts brought into account for the purposes of calculating the taxable total profits of the company for the straddling period are apportioned to the two separate accounting periods—

(i) in accordance with section 1172 of CTA 2010 (time basis), or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

SCHEDULE 4

Section 34

PENSION FLEXIBILITY: ANNUITIES ETC

PART 1

DEATH BENEFITS FOR NOMINEES, SUCCESSORS AND DEPENDANTS

Introductory

1 Part 4 of FA 2004 is amended as follows.

Nominees' annuities and successors' annuities to be authorised payments

2 (1) Section 167(1) (the pension death benefit rules) is amended as follows.

(2) In pension death benefit rule 3A (payments that may, by way of exception, be made to a nominee) after “other than” insert “a nominees' annuity in respect of a money purchase arrangement or”.

(3) In pension death benefit rule 3B (payments that may, by way of exception, be made to a successor) after “other than” insert “a successors' annuity in respect of a money purchase arrangement or”.

Nominees' annuities and successors' annuities: definitions

3 (1) Part 2 of Schedule 28 (interpretation of the pension death benefit rules) is amended as follows.

(2) After paragraph 27A insert—

“Nominees' annuity

27AA(1) For the purposes of this Part an annuity payable to a nominee is a nominees' annuity if—

(a) either—

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(i) it is purchased together with a lifetime annuity payable to the member and the member becomes entitled to that lifetime annuity on or after 6 April 2015, or

(ii) it is purchased after the member's death, the member dies on or after 3 December 2014 and the nominee becomes entitled to the annuity on or after 6 April 2015,

(b) it is payable by an insurance company, and

(c) it is payable until the nominee's death or until the earliest of the nominee's marrying, entering into a civil partnership or dying.

(2) For the purposes of sub-paragraph (1)(a) a nominees' annuity is purchased together with a lifetime annuity if the nominees' annuity is related to the lifetime annuity.

(3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision in relation to cases in which a nominees' annuity payable to a person ("the original nominees' annuity") ceases to be payable and in consequence of that—

(a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied—

(i) towards the provision of another nominees' annuity (a "new nominees' annuity") by the other insurance company, or

(ii) otherwise, or

(b) sums or assets are transferred to the relevant registered pension scheme.

(4) The regulations may provide that—

(a) in a case where a new nominees' annuity becomes payable, the new nominees' annuity is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original nominees' annuity, and

(b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the sums, and the market value of the assets, transferred.

(5) For the purposes of sub-paragraphs (3) and (4) a registered pension scheme is the relevant registered pension scheme if the original nominees' annuity was acquired using sums or assets held for the purposes of the pension scheme."

(3) After paragraph 27F insert—

"Successors' annuity

27FA(1) For the purposes of this Part an annuity payable to a successor is a successors' annuity if—

(a) the successor becomes entitled to it on or after 6 April 2015,

(b) it is payable by an insurance company,

(c) it is payable until the successor's death or until the earliest of the successor's marrying, entering into a civil partnership or dying,

(d) it is purchased after the death of a dependant, nominee or successor of the member ("the beneficiary"),

(e) it is purchased using undrawn funds, and

(f) the beneficiary dies on or after 3 December 2014.

(2) For the purposes of sub-paragraph (1)(e), sums or assets held for the purposes of an arrangement after the beneficiary's death are undrawn funds if—

(a) immediately before the beneficiary's death, they were held for the purposes of the arrangement and, as the case may be, represented (alone or with other sums or assets) the beneficiary's—

(i) dependant's flexi-access drawdown fund,

(ii) dependant's drawdown pension fund,

(iii) nominee's flexi-access drawdown fund, or

(iv) successor's flexi-access drawdown fund,

in respect of the arrangement, or

(b) they arise, or (directly or indirectly) derive, from undrawn funds under paragraph (a) or from sums or assets which so arise or derive.

(3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision in relation to cases in which a successors' annuity payable to a person ("the original successors' annuity") ceases to be payable and in consequence of that—

(a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied—

(i) towards the provision of another successors' annuity (a "new successors' annuity") by the other insurance company, or

(ii) otherwise, or

(b) sums or assets are transferred to the relevant registered pension scheme.

(4) The regulations may provide that—

(a) in a case where a new successors' annuity becomes payable, the new successors' annuity is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original successors' annuity, and

(b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the sums, and the market value of the assets, transferred.

(5) For the purposes of sub-paragraphs (3) and (4) a registered pension scheme is the relevant registered pension scheme if the original successors' annuity was acquired using sums or assets held for the purposes of the pension scheme."

(4) Regulations made before 25 December 2015 under the paragraph 27AA or 27FA inserted by this paragraph may, for cases where the transfer concerned takes place on or after 6 April 2015, include provision having effect in relation to times before the regulations are made.

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Dependants' and nominees' annuities: testing against deceased member's lifetime allowance

4 (1) In section 216(1) (benefit crystallisation events and amounts crystallised) the table is amended as follows.

(2) In the second column of the entry relating to benefit crystallisation event 4, after "any related dependants' annuity" insert "and any related nominees' annuity".

(3) After the entry relating to benefit crystallisation event 5C insert—

"5D. A person becoming entitled, on or after 6 April 2015 but before the end of the relevant two-year period, to a dependants' annuity or nominees' annuity in respect of the individual if— (a) the annuity is purchased using (whether or not exclusively) relevant unused uncrystallised funds, and (b) the individual died on or after 3 December 2014	The aggregate of— (a) the amount of such of the sums, and (b) the market value of such of the assets, applied to purchase the annuity as are relevant unused uncrystallised funds"

5 (1) Section 217 (persons liable to lifetime allowance charge) is amended as follows.

(2) In subsection (2A) (cases where dependant or nominee liable) after "event 5C," insert " or by reason of a person becoming entitled to an annuity as mentioned in the description of benefit crystallisation event 5D, ".

(3) In subsection (4A) (events 5C and 7 are "relevant post-death" events) after "benefit crystallisation event 5C" insert " , 5D ".

6 In section 219(7A) (events 5C and 7 are "relevant post-death" events) after "benefit crystallisation event 5C" insert " , 5D ".

7 In Schedule 32 (supplementary provisions about benefit crystallisation events)—

(a) in paragraph 1 (meaning of "the relevant pension schemes": in certain cases means schemes of which the individual was a member immediately before death) after "5C" insert " or 5D ",

(b) in paragraph 4(1) (further provision about benefit crystallisation event 4) for the words from "if" to "purchased" substitute "if—

(a) the lifetime annuity or a related dependants' annuity or a related nominees' annuity is, or

(b) the lifetime annuity and a related dependants' annuity are, or

(c) the lifetime annuity and a related nominees' annuity are, or

(d) a related dependants' annuity and a related nominees' annuity are, or

(e) the lifetime annuity and a related dependants' annuity and a related nominees' annuity are,

purchased ",

(c) in paragraph 14B (event 5C: meaning of "relevant two-year period"), and in the italic heading before that paragraph, for "event 5C" substitute " events 5C and 5D ", and

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(d) in paragraph 14C(1) (event 5C: meaning of "relevant unused uncrystallised funds"), and in the italic heading before paragraph 14C, for "event 5C" substitute " events 5C and 5D ".

Minor and consequential amendments

8 In section 172(6A)(b) ("benefit" in section 172 includes rights to payments under certain annuities) after "lifetime annuity or dependants' annuity" insert ", or nominees' annuity or successors' annuity,".

9 (1) Section 172A (surrenders of benefits and rights) is amended as follows.

(2) In subsection (1)(aa) (surrender of rights to payments under certain annuities triggers operation of subsection (2)) after "lifetime annuity or dependants' annuity" insert ", or nominees' annuity or successors' annuity,".

(3) In subsection (9A)(b) (references to benefits include references to rights to payments under certain annuities) after "lifetime annuity or dependants' annuity" insert ", or nominees' annuity or successors' annuity,".

10 (1) Section 172B (increase of rights of connected person on death) is amended as follows.

(2) In subsection (2)(aa) (relevant member includes person who has rights to payments under certain annuities) after "lifetime annuity or dependants' annuity" insert ", or nominees' annuity or successors' annuity,".

(3) In subsection (7A) (section does not apply to certain increases in rights) after "dependants' annuity", in both places, insert ", nominees' annuity, successors' annuity".

(4) In subsection (7B)(b) ("benefit" in section 172B includes rights to payments under certain annuities) after "lifetime annuity or dependants' annuity" insert ", or nominees' annuity or successors' annuity,".

11 In section 273B(1) (power of trustees or managers to make certain payments) after paragraph (f) insert—

"(fa) paid to purchase a nominees' annuity,

(fb) paid to purchase a successors' annuity,".

12 In section 280(2) (index of defined expressions) at the appropriate places insert—

"nominees' annuity	paragraph 27AA of Schedule 28""
"related nominees' annuity	paragraph 3(4B) of Schedule 29"
"successors' annuity	paragraph 27FA of Schedule 28"

13 (1) Schedule 28 (interpretation of the pension rules and the pension death benefit rules) is amended as follows.

(2) In paragraph 3(2B)(a) (power to make regulations about cases where lifetime annuity ceases to be payable by insurance company) after "dependants' annuity" insert ", nominees' annuity".

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(3) In paragraph 6(1B)(a) (power to make regulations about cases where short-term annuity ceases to be payable by insurance company) after "dependants' annuity" insert ", nominees' annuity".

(4) In paragraph 27E(3) (meaning of "unused drawdown funds")—
  (a) in paragraph (b), for "derive." substitute " derive, ", and
  (b) after paragraph (b) (but not as part of it) insert—

"and since the member's death they have not been designated as available for the payment of dependants' drawdown pension, not been designated as available for the payment of nominees' drawdown pension, not been applied towards the provision of a dependants' annuity, not been applied towards the provision of a nominees' annuity and not been applied towards the provision of a dependants' scheme pension."

(5) In paragraph 27E(4)(b) and (5) (meaning of "unused uncrystallised funds") after "not been applied towards the provision of a dependants' annuity" insert ", not been applied towards the provision of a nominees' annuity".

(6) In paragraph 27K(3) (meaning of "unused drawdown funds of the beneficiary's")—
  (a) in paragraph (b) for "derive." substitute " derive, ", and
  (b) after paragraph (b) (but not as part of it) insert—

"and since the beneficiary's death they have not been designated as available for the payment of successors' drawdown pension and not been applied towards the provision of a successors' annuity."

14 (1) Paragraph 3 of Schedule 29 (interpretation of the lump sum rule: meaning of "the applicable amount") is amended as follows.

(2) In sub-paragraph (4) (amount applied to purchase certain annuities) after "any related dependants' annuity" insert "and any related nominees' annuity".

(3) After sub-paragraph (4A) (when a dependants' annuity is related to a lifetime annuity) insert—

"(4B) For the purposes of this Part a nominees' annuity is related to a lifetime annuity payable to a member of a registered pension scheme—
  (a) if they are purchased either in the form of a joint life annuity or separately in circumstances in which the day on which the one is purchased is no earlier than seven days before, and no later than seven days after, the day on which the other is purchased, and
  (b) the nominees' annuity will be payable to a nominee of the member."

(4) In sub-paragraph (5) (deductions in calculating applicable amount) after "any related dependants' annuity", in both places, insert "or any related nominees' annuity".

15 In paragraph 15(2)(a) of Schedule 29 (uncrystallised funds lump sum death benefit is sum paid in respect of funds not spent on certain annuities and other pensions) after "lifetime annuity," insert "a nominees' annuity,".

Consequential repeal

16 In consequence of paragraph 7(b) of this Schedule, omit paragraph 32 of Schedule 10 to FA 2005.

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PART 2

INCOME TAX ON BENEFICIARIES' ANNUITIES ETC

Exemption in certain cases for annuities for dependants, nominees and successors

17 (1) In Chapter 17 of Part 9 of ITEPA 2003 (tax on pension income: exemptions) after section 646A insert—

"**646B Registered schemes: beneficiaries' annuities from unused funds**

(1) The charge to tax under this Part does not apply to a dependants' annuity, or nominees' annuity, payable to a person if—

(a) it is paid in respect of a deceased member of a registered pension scheme who had not reached the age of 75 at the date of the member's death,

(b) the member died on or after 3 December 2014,

(c) either—

(i) the annuity was purchased using unused drawdown funds or unused uncrystallised funds, or

(ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity that was payable to the person by that other company, and was a dependants' annuity or nominees' annuity (as the case may be) purchased as mentioned in sub-paragraph (i) or this sub-paragraph, ceasing to be payable,

(d) in a case where the annuity is purchased as mentioned in paragraph (c)(i) and using (whether or not exclusively) unused uncrystallised funds, the person became entitled to it before the end of the period of two years beginning with the earlier of—

(i) the day on which the scheme administrator first knew of the member's death, and

(ii) the day on which the scheme administrator could first reasonably have been expected to know of the death,

(e) in a case where the annuity is purchased as mentioned in paragraph (c)(ii) and the prior annuity purchased as mentioned in paragraph (c)(i) was purchased using (whether or not exclusively) unused uncrystallised funds, the person became entitled to that prior annuity before the end of the period of two years specified in paragraph (d),

(f) no payment of the annuity is made before 6 April 2015, and

(g) in a case where the annuity is purchased as mentioned in paragraph (c)(ii), no payment is made before 6 April 2015 of—

(i) the prior annuity purchased as mentioned in paragraph (c)(i), and

(ii) any other annuity purchased as mentioned in paragraph (c)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.

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(2) The charge to tax under this Part does not apply to a successor's annuity payable to a person if—

(a) it is paid in respect of a deceased member of a registered pension scheme,

(b) it is paid on the subsequent death of a dependant, nominee or successor of the member ("the beneficiary"),

(c) the beneficiary had not reached the age of 75 at the date of the beneficiary's death,

(d) the beneficiary died on or after 3 December 2014,

(e) either—

(i) the annuity was purchased using undrawn funds, or

(ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity that was payable to the person by that other company, and was a successors' annuity purchased as mentioned in sub-paragraph (i) or this sub-paragraph, ceasing to be payable,

(f) no payment of the annuity is made before 6 April 2015, and

(g) in a case where the annuity is purchased as mentioned in paragraph (e)(ii), no payment is made before 6 April 2015 of—

(i) the prior annuity purchased as mentioned in paragraph (e)(i), and

(ii) any other annuity purchased as mentioned in paragraph (e)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.

(3) The charge to tax under this Part does not apply to a dependants' annuity or nominees' annuity payable to a person if—

(a) it is paid in respect of a deceased member of a registered pension scheme who had not reached the age of 75 at the date of the member's death,

(b) the member died on or after 3 December 2014,

(c) the annuity—

(i) was purchased together with a lifetime annuity payable to the member, or

(ii) was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity that was payable to the person by that other company, and was a dependants' annuity or nominees' annuity (as the case may be) purchased as mentioned in sub-paragraph (i) or this sub-paragraph, ceasing to be payable,

(d) no payment of the annuity is made before 6 April 2015, and

(e) in a case where the annuity is purchased as mentioned in paragraph (c)(ii), no payment is made before 6 April 2015 of—

(i) the prior annuity purchased as mentioned in paragraph (c)(i), and

(ii) any other annuity purchased as mentioned in paragraph (c)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.

(4) The charge to tax under this Part does not apply to payments to a person of a lifetime annuity if—

(a) the payments are payable to the person under pension rule 2 (see section 165 of FA 2004),

(b) either—

(i) a member of a registered pension scheme was entitled to be paid the annuity immediately before the member's death, or

(ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity to which there was entitlement as mentioned in sub-paragraph (i), or which was purchased as mentioned in this sub-paragraph, ceasing to be payable,

(c) the member had not reached the age of 75 at the date of the member's death,

(d) the member died on or after 3 December 2014,

(e) any payment of the annuity made before 6 April 2015 is made to the member, and

(f) in a case where the annuity is one purchased as mentioned in paragraph (b)(ii), any payment made before 6 April 2015—

(i) of the prior annuity to which there is entitlement as mentioned in paragraph (b)(i), or

(ii) of any other annuity purchased as mentioned in paragraph (b)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity,

is made to the member.

(5) Paragraph 27E(3) to (5) of Schedule 28 to FA 2004 (meaning of "unused drawdown funds" and "unused uncrystallised funds") apply for the purposes of subsection (1).

(6) Paragraph 27FA(2) of Schedule 28 to FA 2004 (meaning of "undrawn funds") applies for the purposes of subsection (2)(e).

(7) For the purposes of subsection (3)(c), a dependants' annuity or nominees' annuity is purchased together with a lifetime annuity if the dependants' annuity or nominees' annuity (as the case may be) is related to the lifetime annuity, and paragraph 3(4A) and (4B) of Schedule 29 to FA 2004 (meaning of "related") apply for the purposes of this subsection.

(8) For the purposes of this section, a person becomes entitled to an annuity when the person first acquires an actual (rather than a prospective right) to receive the annuity.

646C Registered schemes: beneficiaries' annuities from drawdown funds

(1) The charge to tax under this Part does not apply to a dependants' short-term annuity, nominees' short-term annuity, dependants' annuity or nominees' annuity paid to a person if—

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(a) it is paid in respect of a deceased member of a registered pension scheme who had not reached the age of 75 at the date of the member's death,

(b) the member died on or after 3 December 2014, and

(c) the annuity was purchased using sums or assets out of the person's—

(i) dependant's drawdown pension fund,

(ii) dependant's flexi-access drawdown fund, or

(iii) nominee's flexi-access drawdown fund,

in respect of a money purchase arrangement under a registered pension scheme.

(2) The charge to tax under this Part does not apply to a successors' short-term annuity, or successors' annuity, paid to a person if—

(a) it is paid in respect of a deceased beneficiary of a deceased member of a registered pension scheme where the beneficiary had not reached the age of 75 at the date of the beneficiary's death,

(b) the beneficiary died on or after 3 December 2014, and

(c) the annuity was purchased using sums or assets out of the person's successor's flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme,

and here "beneficiary" means dependant, nominee or successor.

(3) Subsection (1) is subject to subsections (4) to (6).

(4) Subsection (1) does not exempt payments on or after 6 April 2015 to a person of a dependants' short-term annuity, or dependants' annuity, payable in respect of a deceased member of a registered pension scheme and purchased using sums or assets out of the person's dependant's drawdown pension fund in respect of a money purchase arrangement under a registered pension scheme ("the drawdown fund") if before 6 April 2015—

(a) any payment of the annuity was made,

(b) any payment was made of any other dependants' short-term annuity, or dependants' annuity, purchased using sums or assets out of—

(i) the drawdown fund, or

(ii) any fund represented (to any extent) by the drawdown fund, or

(c) any payment of dependants' income withdrawal was made from—

(i) the drawdown fund, or

(ii) any fund represented (to any extent) by the drawdown fund.

(5) Subsection (1) does not exempt payments to a person of a dependants' short-term annuity, or dependants' annuity, payable in respect of a deceased member of a registered pension scheme and purchased using sums or assets out of the person's dependant's flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme ("the new fund") if—

(a) any of the sums or assets that make up the new fund—

(i) became newly-designated dependant funds under paragraph 22A(2)(b) of Schedule 28 to FA 2004 or as a result of the operation of any of paragraphs 22B to 22D of that Schedule, or

(ii) arise, or (directly or indirectly) derive, from any such newly-designated funds or from sums or assets that to any extent so arise or derive,

(b) before 6 April 2015—

(i) any payment of dependants' income withdrawal in respect of the deceased member was made to the person from, or

(ii) any payment in respect of the deceased member was made to the person of a dependants' short-term annuity, or dependants' annuity, purchased using sums or assets out of,

the person's dependant's drawdown pension fund in respect of a money purchase arrangement under a registered pension scheme, and

(c) any of the sums or assets that made up that fund at the time of the payment make up, or are represented by sums or assets that to any extent make up, the new fund.

(6) Where relevant unused uncrystallised funds—

(a) are designated on or after 6 April 2015 as available for the payment of dependants' drawdown pension or nominees' drawdown pension, and

(b) as a result of the designation make up (to any extent) a person's dependant's flexi-access drawdown fund or nominee's flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme, but

(c) are not so designated before the end of the relevant two-year period,

subsection (1) does not exempt payments to the person of a dependants' short-term annuity, nominees' short-term annuity, dependants' annuity or nominees' annuity if any of the sums or assets used to purchase the annuity represent, at the time of the purchase, the whole or any part of those relevant unused uncrystallised funds.

(7) In this section "the relevant two-year period", in relation to relevant unused uncrystallised funds held for the purposes of a money purchase arrangement relating to a deceased individual under a registered pension scheme, means the period of two years beginning with the earlier of—

(a) the day on which the scheme administrator first knew of the individual's death, and

(b) the day on which the scheme administrator could first reasonably have been expected to know of it.

(8) For the purposes of this section, sums or assets held after the death of a member of a registered pension scheme for the purposes of a money purchase arrangement relating to the member under the scheme are "relevant unused uncrystallised funds" if—

(a) they are unused uncrystallised funds, and

(b) the member had not reached the age of 75 at the date of the member's death.

(9) Paragraph 27E(4) and (5) of Schedule 28 to FA 2004 (meaning of "unused uncrystallised funds") apply for the purposes of subsection (8)(a).

Status: *Point in time view as at 30/11/2015. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

646D Non-registered schemes: beneficiaries' annuities from unused funds

(1) The charge to tax under this Part does not apply to an annuity payable to a person if—

(a) it is paid in respect of a deceased member of an overseas pension scheme, or relevant non-UK scheme, who had not reached the age of 75 at the date of the member's death,

(b) it would, if the scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by subsection (8), be a dependants' annuity or nominees' annuity,

(c) the member died on or after 3 December 2014,

(d) either—

(i) the annuity was purchased using sums or assets that would, if the scheme were a registered pension scheme, be unused drawdown funds or unused uncrystallised funds, or

(ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity—

(a) that was payable to the person by that other insurance company,

(b) that was purchased as mentioned in sub-paragraph (i) or this sub-paragraph, and

(c) that would have been a dependants' annuity or nominees' annuity (as the case may be) if the scheme had been a registered pension scheme,

ceasing to be payable,

(e) no payment of the annuity is made before 6 April 2015, and

(f) in a case where the annuity is purchased as mentioned in paragraph (d)(ii), no payment is made before 6 April 2015 of—

(i) the prior annuity purchased as mentioned in paragraph (d)(i), and

(ii) any other annuity purchased as mentioned in paragraph (d)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.

(2) The charge to tax under this Part does not apply to an annuity payable to a person if—

(a) it is paid in respect of a deceased member of an overseas pension scheme or relevant non-UK scheme,

(b) it is paid on the subsequent death of an individual who would, if the scheme were a registered pension scheme, be a dependant, nominee or successor of the member ("the beneficiary"),

(c) it would, if the scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by subsection (8), be a successors' annuity,

(d) the beneficiary had not reached the age of 75 at the date of the beneficiary's death,

(e) the beneficiary died on or after 3 December 2014,

(f) either—

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

(i) the annuity was purchased using sums or assets that would, if the scheme were a registered pension scheme, be undrawn funds, or

(ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity—

(a) that was payable to the person by that other insurance company,

(b) that was purchased as mentioned in sub-paragraph (i) or this sub-paragraph, and

(c) that would have been a successors' annuity if the scheme had been a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by subsection (8),

ceasing to be payable,

(g) no payment of the annuity is made before 6 April 2015, and

(h) in a case where the annuity is purchased as mentioned in paragraph (f)(ii), no payment is made before 6 April 2015 of—

(i) the prior annuity purchased as mentioned in paragraph (f)(i), and

(ii) any other annuity purchased as mentioned in paragraph (f)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.

(3) The charge to tax under this Part does not apply to an annuity payable to a person if—

(a) it is paid in respect of a deceased member of an overseas pension scheme, or relevant non-UK scheme, who had not reached the age of 75 at the date of the member's death,

(b) it would, if the scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by subsection (8), be a dependants' annuity payable to a dependant of the member or a nominees' annuity payable to a nominee of the member,

(c) the member died on or after 3 December 2014,

(d) the annuity—

(i) was purchased together with an annuity payable to the member that would, if the scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by subsection (8), have been a lifetime annuity, or

(ii) was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity—

(a) that was payable to the person by that other insurance company, and

(b) that would, if the scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by subsection (8), have been a dependants' annuity or nominees' annuity (as

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the case may be) purchased as mentioned in sub-paragraph (i) or this sub-paragraph,

ceasing to be payable,

(e) no payment of the annuity is made before 6 April 2015, and

(f) in a case where the annuity is purchased as mentioned in paragraph (d)(ii), no payment is made before 6 April 2015 of—

(i) the prior annuity purchased as mentioned in paragraph (d)(i), and

(ii) any other annuity purchased as mentioned in paragraph (d)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.

(4) The charge to tax under this Part does not apply to payments to a person of an annuity if—

(a) either—

(i) a member of an overseas pension scheme, or relevant non-UK scheme, was entitled to be paid the annuity immediately before the member's death, or

(ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity to which there was entitlement as mentioned in sub-paragraph (i), or which was purchased as mentioned in this sub-paragraph, ceasing to be payable,

(b) the payments would, if the scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by subsection (8), be—

(i) payments of a lifetime annuity, and

(ii) payable to the person under pension rule 2 (see section 165 of FA 2004),

(c) the member had not reached the age of 75 at the date of the member's death,

(d) the member died on or after 3 December 2014,

(e) any payment of the annuity made before 6 April 2015 is made to the member, and

(f) in a case where the annuity is one purchased as mentioned in paragraph (a)(ii), any payment made before 6 April 2015—

(i) of the prior annuity to which there is entitlement as mentioned in paragraph (a)(i), or

(ii) of any other annuity purchased as mentioned in paragraph (a)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity,

is made to the member.

(5) Paragraph 27E(3) to (5) of Schedule 28 to FA 2004 (meaning of "unused drawdown funds" and "unused uncrystallised funds") apply for the purposes of subsection (1).

(6) Paragraph 27FA(2) of Schedule 28 to FA 2004 (meaning of "undrawn funds") applies for the purposes of subsection (2)(f).

(7) For the purposes of subsection (3)(d), an annuity is purchased together with another if they are purchased—

(a) in the form of a joint life annuity, or

(b) separately in circumstances in which the day on which the one is purchased is no earlier than seven days before, and no later than seven days after, the day on which the other is purchased.

(8) In this section "insurance company" means—

(a) an insurance company as defined by section 275 of FA 2004, or

(b) a person—

(i) whose normal business includes the activity of providing annuities,

(ii) who carries on that activity in a country or territory outside the United Kingdom, and

(iii) whose carrying on of that activity in any particular country or territory outside the United Kingdom—

(a) is regulated in that country or territory, or

(b) is lawful under the law of that country or territory because it is regulated in another country or territory,

and for this purpose an activity is regulated in a country or territory if it is regulated by the government of that country or territory or by a body established under the law of that country or territory for the purpose of regulating the carrying-on of the activity.

646E Non-registered schemes: beneficiaries' annuities from drawdown funds

(1) The charge to tax under this Part does not apply to an annuity paid to a person if—

(a) it is paid in respect of a deceased member of an overseas pension scheme, or a relevant non-UK scheme, who had not reached the age of 75 at the date of the member's death,

(b) the person would, if that scheme were a registered pension scheme, be a dependant or nominee of the member,

(c) the annuity was purchased using sums or assets held for the purposes of a money purchase arrangement under an overseas pension scheme or relevant non-UK scheme, and those sums or assets would if that scheme were a registered pension scheme form the whole or part of the person's—

(i) dependant's drawdown pension fund,

(ii) dependant's flexi-access drawdown fund, or

(iii) nominee's flexi-access drawdown fund,

in respect of the arrangement,

(d) the annuity would, if the scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by section 646D(8), be a dependants' short-term annuity or dependants' annuity or (as the case may be) a nominees' short-term annuity or nominees' annuity, and

(e) the member died on or after 3 December 2014.

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

(2) The charge to tax under this Part does not apply to an annuity payable to a person if—

(a) it is paid in respect of a deceased individual ("the beneficiary") who had not reached the age of 75 at the date of the beneficiary's death,

(b) the beneficiary would have been a dependant, nominee or successor of a deceased member of an overseas pension scheme, or relevant non-UK scheme, if that scheme had been a registered pension scheme,

(c) the person would, if that scheme were a registered pension scheme, be a successor of the member,

(d) the annuity was purchased using sums or assets out of a fund held for the purposes of a money purchase arrangement under an overseas pension scheme or relevant non-UK scheme and would, if that scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by section 646D(8), be a successors' short-term annuity, or successors' annuity, purchased using sums or assets out of the person's successor's flexi-access drawdown fund in respect of the arrangement, and

(e) the beneficiary died on or after 3 December 2014.

(3) Subsection (1) is subject to subsections (4) and (5).

(4) Subsection (1) does not exempt payments on or after 6 April 2015 to a person of an annuity payable in respect of a deceased member of an overseas pension scheme, or relevant non-UK scheme, if—

(a) the annuity is purchased using sums or assets held for the purposes of a money purchase arrangement under an overseas pension scheme or relevant non-UK scheme,

(b) the annuity would, if that scheme were a registered pension scheme and if "insurance company" in Part 4 of FA 2004 had the meaning given by section 646D(8), be a dependants' short-term annuity or dependants' annuity,

(c) the annuity was purchased using sums or assets out of a fund that would, if that scheme were a registered pension scheme, be the person's dependant's drawdown pension fund in respect of the arrangement ("the drawdown fund"), and

(d) before 6 April 2015—

(i) any payment of the annuity was made,

(ii) any payment was made to the person of any other annuity purchased using sums or assets out of the drawdown fund or out of any fund represented (to any extent) by the drawdown fund, or

(iii) any payment was made to the person out of the drawdown fund, or out of any fund represented (to any extent) by the drawdown fund, of any pension that would be dependants' income withdrawal if the fund concerned were held for the purposes of a registered pension scheme.

(5) Subsection (1) does not exempt payments to a person of an annuity payable in respect of a deceased member of an overseas pension scheme, or relevant non-UK scheme, if—

(a) the annuity was purchased using sums or assets held for the purposes of a money purchase arrangement under an overseas pension scheme or relevant non-UK scheme and would, if that scheme were a registered pension scheme and "insurance company" in Part 4 of FA 2004 had the meaning given by section 646D(8), be a dependants' short-term annuity or dependants' annuity,

(b) the annuity was purchased using sums or assets out of a fund ("the new fund") that would, if that scheme were a registered pension scheme, be the person's dependant's flexi-access drawdown fund in respect of the arrangement,

(c) before 6 April 2015—

(i) any payment of pension in respect of the deceased member was made to the person from a fund held for the purposes of a money purchase arrangement under an overseas pension scheme, or relevant non-UK scheme, that would be a payment of dependants' income withdrawal from the person's dependant's drawdown pension fund in respect of the arrangement if the scheme were a registered pension scheme, or

(ii) any payment in respect of the deceased member was made to the person of an annuity purchased using sums or assets out of a fund held for the purposes of a money purchase arrangement under an overseas pension scheme, or relevant non-UK scheme, that would be a payment of a dependants' short-term annuity, or dependants' annuity, purchased using sums or assets out of the person's dependant's drawdown pension fund in respect of the arrangement if the scheme were a registered pension scheme, and

(d) any of the sums or assets that made up the fund mentioned in paragraph (c)(i) or (ii) make up, or are represented by sums or assets that to any extent make up, the new fund.

646F Interpretation of sections 646B to 646E

In sections 646B to 646E, an expression listed in the first column of the table has the meaning given by the provision of FA 2004 listed against that expression in the second column of the table.

(2) The amendment made by this paragraph has effect in relation to pension paid on or after 6 April 2015.

Exemption from tax under Part 9 of ITEPA 2003 not to give rise to tax under other provisions

18 In section 393B(2)(a) of ITEPA 2003 (tax on benefits under employer-financed retirement benefit schemes: "relevant benefits" do not include benefits charged to tax under Part 9) after "charged to tax under Part 9 (pension income)" insert " , or that would be charged to tax under that Part but for section 573(2A) or (2B), 646D or 646E ".

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

Annuity for dependant purchased before 6 April 2006 jointly with annuity for member

19 In Schedule 36 to FA 2004 (transitional provision etc in relation to pre-6 April 2006 pensions) after paragraph 45 insert—

"Taxation of certain annuities for dependants purchased pre-commencement

45A (1) The charge to tax under Part 9 of ITEPA 2003 (taxation of pension income) does not apply to an annuity payable to a person ("the dependant") if—

(a) the annuity is payable on the death of a member of a pension scheme,

(b) the annuity is paid in respect of the deceased member,

(c) the member had not reached the age of 75 at the date of the member's death,

(d) the member died on or after 3 December 2014,

(e) no payment of the annuity is made before 6 April 2015,

(f) the annuity has fulfilled the transitional conditions at all times on or after 6 April 2006,

(g) the annuity was purchased together with an annuity payable to the member, and

(h) that annuity payable to the member fulfilled the transitional conditions at all times in the period beginning with 6 April 2006 and ending with the member's death.

(2) For the purposes of sub-paragraph (1)(g), an annuity is purchased together with another if they are purchased—

(a) in the form of a joint life annuity, or

(b) separately in circumstances in which the day on which the one is purchased is no earlier than seven days before, and no later than seven days after, the day on which the other is purchased.

(3) In sub-paragraph (1) "the transitional conditions" means the conditions specified in the subsection (3A) set out in article 2(3) of the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572)."

Minor and consequential amendments

20 In section 573 of ITEPA 2003 (foreign pensions to which other provisions of Part 9 of ITEPA 2003 do not apply) after subsection (2D) insert—

"(2E) Chapter 17 of this Part provides exemptions for certain annuities (see sections 646D and 646E: certain beneficiaries' annuities purchased out of unused or drawdown funds).

(2F) See also paragraph 45A of Schedule 36 to FA 2004 (exemption in certain cases for payments on or after 6 April 2015 to beneficiaries under joint-life or similar annuities purchased before 6 April 2006)."

21 In Chapter 10 of Part 9 of ITEPA 2003 (other employment-related annuities) after section 611 insert—

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

"**611A Exemptions from sections 609 to 611**

(1) Chapter 17 of this Part provides exemptions for certain annuities (see sections 646B to 646E: certain beneficiaries' annuities purchased out of unused or drawdown funds).

(2) See also paragraph 45A of Schedule 36 to FA 2004 (exemption in certain cases for payments on or after 6 April 2015 to beneficiaries under joint-life or similar annuities purchased before 6 April 2006)."

22 In section 579A of ITEPA 2003 (section applies to pensions under registered pension schemes, with exceptions) after subsection (2) insert—

"(3) Chapter 17 of this Part provides exemptions for certain annuities (see sections 646B and 646C: certain beneficiaries' annuities purchased out of unused or drawdown funds)."

23 (1) For section 579CZA(5)(b) of ITEPA 2003 (tax exemption for dependants' income withdrawal overridden where any paid before 6 April 2015) substitute—

"(b) before 6 April 2015—

(i) any payment of dependants' income withdrawal in respect of the deceased member was made to the person from, or

(ii) any payment in respect of the deceased member was made to the person of a dependants' short-term annuity purchased using sums or assets out of,

the person's dependant's drawdown pension fund in respect of a money purchase arrangement under a registered pension scheme, and".

(2) The amendment made by this paragraph has effect in relation to pension paid on or after 6 April 2015.

SCHEDULE 5

Section 35

RELIEF FOR CONTRIBUTIONS TO FLOOD AND COASTAL EROSION RISK MANAGEMENT PROJECTS

Income tax: trade profits

1 In Chapter 5 of Part 2 of ITTOIA 2005 (trade profits: rules allowing deductions), after section 86 insert—

"Contributions to flood and coastal erosion risk management projects

86A Contributions to flood and coastal erosion risk management projects

(1) This section applies if—

(a) a person carrying on a trade ("the contributor") incurs expenses in making a qualifying contribution to a qualifying flood or coastal erosion risk management project, and

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(b) a deduction would not otherwise be allowable for the expenses in calculating the profits of the trade.

(2) In determining whether the condition in subsection (1)(b) is satisfied, a deduction giving effect to a capital allowance is to be disregarded.

(3) In calculating the profits of the trade, a deduction is allowed under this section for the expenses.

(4) But if, in connection with the making of the contribution, the contributor or a connected person—

(a) receives a disqualifying benefit, or

(b) is entitled to receive such a benefit,

no deduction is allowed.

(5) For the purposes of subsection (4) it does not matter whether a person receives, or is entitled to receive, the benefit—

(a) from the carrying out of the project, or

(b) from any person.

(6) Subsection (7) applies if—

(a) a deduction has been made under this section in relation to the contribution, and

(b) the contributor or a connected person receives—

(i) a refund of any part of the contribution, if the contribution is a sum of money, or

(ii) compensation for any part of the contribution, if the contribution is the provision of services,

in money or money's worth.

(7) The amount of, or an amount equal to the value of, the refund or compensation (so far as not otherwise brought into account in calculating the profits of the trade or treated as a post-cessation receipt)—

(a) is brought into account in calculating the profits of the trade, as a receipt arising on the date on which the refund or compensation is received, or

(b) if the contributor has permanently ceased to carry on the trade before that date, is treated as a post-cessation receipt (see Chapter 18).

(8) In this section "disqualifying benefit" means a benefit consisting of money or other property, but it does not include—

(a) a refund of the contribution, if the contribution is a sum of money;

(b) compensation for the contribution, if the contribution is the provision of services;

(c) a structure that—

(i) is or is to be used for the purposes of flood or coastal erosion risk management, and

(ii) is put in place in carrying out the project;

(d) an addition to a structure where—

(i) the structure is or is to be used for the purposes of flood or coastal erosion risk management, and

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(ii) the addition is made in carrying out the project;

(e) land, plant or machinery that is or is to be used, in the realization of the project, for the purposes of flood or coastal erosion risk management;

(f) a right over land that is or is to be used, in the realization of the project, for the purposes of flood or coastal erosion risk management.

(9) In subsection (8) "structure" includes road, path, pipe, earthwork, plant and machinery.

86B Interpretation of section 86A

(1) This section applies for the purposes of section 86A.

(2) A flood or coastal erosion risk management project is a qualifying project if—

(a) an English risk management authority has applied to the Environment Agency for a grant under section 16 of the Flood and Water Management Act 2010 in order to fund the project, or

(b) the Environment Agency has determined that it will carry out the project,

and the Environment Agency has allocated funding by way of grant-in-aid to the project.

(3) A contribution to a flood or coastal erosion risk management project is a qualifying contribution if the contribution is made—

(a) for the purposes of the project, and

(b) under an agreement between—

(i) the person making the contribution, and

(ii) the applicant authority or (as the case may be) the Environment Agency,

or between those two persons and other persons.

(4) References to a flood risk management project or a coastal erosion risk management project are to be interpreted in accordance with sections 1 to 3 of the Flood and Water Management Act 2010.

(5) In section 86A and this section—

"contribution", in relation to a period of account, means—

(a) a sum of money paid in that period of account, or

(b) any services provided in that period of account;

"English risk management authority" has the meaning given by section 6(14) of the Flood and Water Management Act 2010."

Income tax: profits of a property business

2 In section 272 of ITTOIA 2005 (application of trading income rules), in the table in subsection (2), after the entry for sections 82 to 86 insert—

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"sections 86A and 86B	contributions to flood and coastal erosion risk management projects"

Corporation tax: trading income and trade profits

3 In Chapter 5 of Part 3 of CTA 2009 (trading income and trade profits: rules allowing deductions), after section 86 insert—

"Contributions to flood and coastal erosion risk management projects

86A Contributions to flood and coastal erosion risk management projects

(1) This section applies if—
  (a) a company carrying on a trade ("the contributor") incurs expenses in making a qualifying contribution to a qualifying flood or coastal erosion risk management project, and
  (b) a deduction would not otherwise be allowable for the expenses in calculating the profits of the trade.

(2) In determining whether the condition in subsection (1)(b) is satisfied, a deduction giving effect to a capital allowance is to be disregarded.

(3) In calculating the profits of the trade, a deduction is allowed under this section for the expenses.

(4) But if, in connection with the making of the contribution, the contributor or a connected person—
  (a) receives a disqualifying benefit, or
  (b) is entitled to receive such a benefit,

  no deduction is allowed.

(5) For the purposes of subsection (4) it does not matter whether a person receives, or is entitled to receive, the benefit—
  (a) from the carrying out of the project, or
  (b) from any person.

(6) Subsection (7) applies if—
  (a) a deduction has been made under this section in relation to the contribution, and
  (b) the contributor or a connected person receives—
    (i) a refund of any part of the contribution, if the contribution is a sum of money, or
    (ii) compensation for any part of the contribution, if the contribution is the provision of services,

    in money or money's worth.

(7) The amount of, or an amount equal to the value of, the refund or compensation (so far as not otherwise brought into account in calculating the profits of the trade or treated as a post-cessation receipt)—

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(a) is brought into account in calculating the profits of the trade, as a receipt arising in the accounting period in which the refund or compensation is received, or

(b) if the contributor has permanently ceased to carry on the trade before the refund or compensation is received, is treated as a post-cessation receipt (see Chapter 15).

(8) In this section "disqualifying benefit" means a benefit consisting of money or other property, but it does not include—

(a) a refund of the contribution, if the contribution is a sum of money;

(b) compensation for the contribution, if the contribution is the provision of services;

(c) a structure that—

(i) is or is to be used for the purposes of flood or coastal erosion risk management, and

(ii) is put in place in carrying out the project;

(d) an addition to a structure where—

(i) the structure is or is to be used for the purposes of flood or coastal erosion risk management, and

(ii) the addition is made in carrying out the project;

(e) land, plant or machinery that is or is to be used, in the realization of the project, for the purposes of flood or coastal erosion risk management;

(f) a right over land that is or is to be used, in the realization of the project, for the purposes of flood or coastal erosion risk management.

(9) In subsection (8) "structure" includes road, path, pipe, earthwork, plant and machinery.

86B Interpretation of section 86A

(1) This section applies for the purposes of section 86A.

(2) A flood or coastal erosion risk management project is a qualifying project if—

(a) an English risk management authority has applied to the Environment Agency for a grant under section 16 of the Flood and Water Management Act 2010 in order to fund the project, or

(b) the Environment Agency has determined that it will carry out the project,

and the Environment Agency has allocated funding by way of grant-in-aid to the project.

(3) A contribution to a flood or coastal erosion risk management project is a qualifying contribution if the contribution is made—

(a) for the purposes of the project, and

(b) under an agreement between—

(i) the company making the contribution, and

(ii) the applicant authority or (as the case may be) the Environment Agency,

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or between those two bodies and other persons.

(4) References to a flood risk management project or a coastal erosion risk management project are to be interpreted in accordance with sections 1 to 3 of the Flood and Water Management Act 2010.

(5) In section 86A and this section—

"contribution", in relation to an accounting period, means—

(a) a sum of money paid in that accounting period, or

(b) any services provided in that accounting period;

"English risk management authority" has the meaning given by section 6(14) of the Flood and Water Management Act 2010."

Corporation tax: profits of a property business

4 In section 210 of CTA 2009 (application of trading income rules), in the table in subsection (2), after the entry for sections 82 to 86 insert—

"sections 86A and 86B	contributions to flood and coastal erosion risk management projects"

Corporation tax: investment business

5 In Chapter 2 of Part 16 of CTA 2009 (investment business: management expenses), in section 1221 (amounts treated as expenses of management), in subsection (3), after paragraph (i) insert—

"(ia) section 1244A (contributions to flood and coastal erosion risk management projects),".

6 In Chapter 3 of Part 16 of CTA 2009 (investment business: amounts treated as expenses of management), after section 1244 insert—

"Contributions to flood and coastal erosion risk management projects

1244A Contributions to flood and coastal erosion risk management projects

(1) This section applies if a company with investment business ("the contributor") incurs expenses in making a qualifying contribution to a qualifying flood or coastal erosion risk management project.

(2) The expenses are treated for the purposes of Chapter 2 as expenses of management.

(3) But if, in connection with the making of the contribution, the contributor or a connected person—

(a) receives a disqualifying benefit, or

(b) is entitled to receive such a benefit,

no deduction is allowed under section 1219.

(4) For the purposes of subsection (3) it does not matter whether a person receives, or is entitled to receive, the benefit—

(a) from the carrying out of the project, or

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(b) from any person.

(5) In this section "disqualifying benefit" means a benefit consisting of money or other property, but it does not include—

(a) a refund of the contribution, if the contribution is a sum of money;

(b) compensation for the contribution, if the contribution is the provision of services;

(c) a structure that—

(i) is or is to be used for the purposes of flood or coastal erosion risk management, and

(ii) is put in place in carrying out the project;

(d) an addition to a structure where—

(i) the structure is or is to be used for the purposes of flood or coastal erosion risk management, and

(ii) the addition is made in carrying out the project;

(e) land, plant or machinery that is or is to be used, in the realization of the project, for the purposes of flood or coastal erosion risk management;

(f) a right over land that is or is to be used, in the realization of the project, for the purposes of flood or coastal erosion risk management.

(6) In subsection (5) "structure" includes road, path, pipe, earthwork, plant and machinery.

(7) Section 86B applies for the purposes of this section as it applies for the purposes of section 86A."

7 In Chapter 5 of Part 16 of CTA 2009 (investment business: receipts), after section 1253 insert—

"**1253A Contributions to flood and coastal erosion risk management projects: refunds etc**

(1) This section applies if—

(a) a deduction has been made under section 1219 by virtue of section 1244A (contributions to flood and coastal erosion risk management projects: expenses of management), and

(b) the contributor or a connected person receives—

(i) a refund of any part of the contribution, if the contribution is a sum of money, or

(ii) compensation for any part of the contribution, if the contribution is the provision of services,

in money or money's worth.

(2) The contributor is to be treated as receiving, when the refund or compensation is received, an amount—

(a) which is equal to so much of the refund or compensation, or so much of the value of the refund or compensation, as is not otherwise taken into account for corporation tax purposes, and

(b) to which the charge to corporation tax on income applies."

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8 In section 253 of CAA 2001 (companies with investment business), in subsection (6), after "1233" insert " or 1244A ".

Commencement

9 The amendments made by this Schedule have effect in relation to contributions paid or provided on or after 1 January 2015.

SCHEDULE 6

Section 36

INVESTMENT RELIEFS: EXCLUDED ACTIVITIES

PART 1

PART 5B OF ITA 2007: AMENDMENT COMING INTO FORCE ON PASSING OF ACT

Tax relief for social investments: power to amend excluded activities

1 In Part 5B of ITA 2007 (tax relief for social investments), after section 257MV insert—

"**257MW Excluded activities: power to amend**

(1) The Treasury may by regulations add to, repeal or otherwise amend any provision of sections 257MQ to 257MT (excluded activities).

(2) Regulations under this section may—

(a) make different provision for different cases or purposes;

(b) contain incidental, supplemental, consequential and transitional provision and savings.

(3) So far as they cause an activity to cease to be an excluded activity, amendments made by regulations under this section may have effect in relation to times before they come into force, but not times before 6 April 2015.

(4) This section is without prejudice to any other power to amend any provision of this Part."

PART 2

PART 5 OF ITA 2007: EXCLUDED ACTIVITIES FROM 6 APRIL 2015

Introductory

2 The following provisions of Part 5 of ITA 2007 (enterprise investment scheme) are amended as set out in paragraphs 3 and 4—

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(a) section 198A (excluded activities for purposes of Part 5 (and, by virtue of section 257DA(9), Part 5A): subsidised generation or export of electricity), and

(b) section 198B (excluded activities for those purposes: subsidised generation of heat and subsidised production of gas or fuel).

Generation of electricity involving contracts for difference

3 In section 198A—

(a) in subsection (3), omit "or" at the end of paragraph (b) and for paragraph (c) substitute—

"(ba) a contract for difference has been entered into in connection with the generation of the electricity, or

(c) a scheme established in a territory outside the United Kingdom that—

(i) corresponds to one set out in a renewables obligation order under section 32 of the Electricity Act 1989, or

(ii) is similar to one established by virtue of regulations under Chapter 2 of Part 2 of the Energy Act 2013 (contracts for difference),

operates to incentivise the generation of the electricity.", and

(b) in subsection (9), at the appropriate place insert—

""contract for difference" means a contract for difference within the meaning of Chapter 2 of Part 2 of the Energy Act 2013 (see section 6(2) of that Act);".

Subsidised energy-related activities: anaerobic digestion and hydroelectric power

4 (1) In section 198A—

(a) in subsection (5), omit ", B or C" (exceptions for generation involving anaerobic digestion and hydroelectric power),

(b) omit subsections (7) and (8), and

(c) in subsection (9), omit the definition of "anaerobic digestion".

(2) In section 198B—

(a) in subsection (3), omit "or B" (exception for generation or production involving anaerobic digestion), and

(b) omit subsection (5).

Application

5 The amendments made by this Part of this Schedule have effect in relation to shares issued on or after 6 April 2015.

Status: *Point in time view as at 30/11/2015. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

PART 3

PART 6 OF ITA 2007: EXCLUDED ACTIVITIES FROM 6 APRIL 2015

Introductory

6 The following provisions of Part 6 of ITA 2007 (venture capital trusts) are amended as set out in paragraphs 7 and 8—

(a) section 309A (excluded activities for purposes of Part 6: subsidised generation or export of electricity), and

(b) section 309B (excluded activities for those purposes: subsidised generation of heat and subsidised production of gas or fuel).

Generation of electricity involving contracts for difference

7 In section 309A—

(a) in subsection (3), omit "or" at the end of paragraph (b) and for paragraph (c) substitute—

"(ba) a contract for difference has been entered into in connection with the generation of the electricity, or

(c) a scheme established in a territory outside the United Kingdom that—

(i) corresponds to one set out in a renewables obligation order under section 32 of the Electricity Act 1989, or

(ii) is similar to one established by virtue of regulations under Chapter 2 of Part 2 of the Energy Act 2013 (contracts for difference),

operates to incentivise the generation of the electricity.", and

(b) in subsection (9), at the appropriate place insert—

""contract for difference" means a contract for difference within the meaning of Chapter 2 of Part 2 of the Energy Act 2013 (see section 6(2) of that Act);".

Subsidised energy-related activities: anaerobic digestion and hydroelectric power

8 (1) In section 309A—

(a) in subsection (5), omit ", B or C" (exceptions for generation involving anaerobic digestion and hydroelectric power),

(b) omit subsections (7) and (8), and

(c) in subsection (9), omit the definition of "anaerobic digestion".

(2) In section 309B—

(a) in subsection (3), omit "or B" (exception for generation or production involving anaerobic digestion), and

(b) omit subsection (5).

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

Application

9 The amendments made by this Part of this Schedule have effect in relation to relevant holdings issued on or after 6 April 2015.

PART 4

FURTHER AMENDMENTS OF PARTS 5 TO 6 OF ITA 2007

Parts 5 and 6: certain community-based activities to be excluded activities

10 (1) Part 5 of ITA 2007 is further amended as follows.

(2) In section 198A—

(a) omit subsections (5) and (6) (exception for community-based generation), and

(b) in subsection (9), omit the definitions of "community benefit society", "co-operative society" and "NI industrial and provident society".

(3) In section 198B—

(a) omit subsections (3) and (4) (exception for community-based generation or production), and

(b) omit subsection (6) (interpretation of section).

Modifications etc. (not altering text)

C3 Sch. 6 para. 10 modified (30.11.2015) by The Finance Act 2015 (Paragraphs 10 to 12 of Schedule 6) Regulations 2015 (S.I. 2015/1836), regs. 1, **2(a)**

11 (1) Part 6 of ITA 2007 is further amended as follows.

(2) In section 309A—

(a) omit subsections (5) and (6) (exception for community-based generation), and

(b) in subsection (9), omit the definitions of "community benefit society", "co-operative society" and "NI industrial and provident society".

(3) In section 309B—

(a) omit subsections (3) and (4) (exception for community-based generation or production), and

(b) omit subsection (6) (interpretation of section).

Modifications etc. (not altering text)

C4 Sch. 6 para. 11 modified (30.11.2015) by The Finance Act 2015 (Paragraphs 10 to 12 of Schedule 6) Regulations 2015 (S.I. 2015/1836), regs. 1, **2(b)**

12 In consequence of paragraphs 10 and 11—

(a) in FA 2014, omit section 56(3)(b) and (6)(b), and

(b) in the Co-operative and Community Benefit Societies Act 2014, omit paragraphs 106 and 107 of Schedule 4.

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Modifications etc. (not altering text)

C5 Sch. 6 para. 12 modified (30.11.2015) by The Finance Act 2015 (Paragraphs 10 to 12 of Schedule 6) Regulations 2015 (S.I. 2015/1836), regs. 1, **2(c)**

Part 5B: subsidised generation or export of electricity to cease to be excluded activity

13 (1) Part 5B of ITA 2007 is further amended as follows.

(2) In section 257MQ(1) (list of excluded activities) omit paragraph (f) (subsidised generation or export of electricity).

(3) Omit section 257MS (subsidised generation or export of electricity).

Application of Part

14 (1) The amendments made by this Part of this Schedule have effect in accordance with regulations made by the Treasury.

(2) Regulations under this paragraph may make different provision for different purposes.

(3) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply in relation to regulations under this paragraph.

(4) Regulations under this paragraph may not provide for amendments of ITA 2007 to have effect—

(a) in the case of amendments of Part 5 of that Act, in relation to shares issued before 6 April 2015;

(b) in the case of amendments of Part 6 of that Act, in relation to relevant holdings issued before 6 April 2015.

SCHEDULE 7

Section 37

DISPOSALS OF UK RESIDENTIAL PROPERTY INTERESTS BY NON-RESIDENTS ETC

PART 1

AMENDMENTS OF TCGA 1992

1 TCGA 1992 is amended in accordance with paragraphs 2 to 40.

2 In section 1 (the charge to tax), in subsection (2A), for the words from "gains are" to the end substitute "gains are—

(a) ATED-related gains in respect of which the companies are chargeable to capital gains tax under section 2B, or

(b) NRCGT gains in respect of which the companies are chargeable to capital gains tax under section 14D or 188D."

3 (1) Section 2 (persons and gains chargeable to capital gains tax, and allowable losses) is amended as follows.

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(2) After subsection (2) insert—

"(2A) Where subsection (1B) applies, the amounts that may be deducted under subsection (2)(a) include any allowable NRCGT losses accruing to the person in the overseas part of the tax year concerned (see section 14B(4)).

(2B) The amounts that may be deducted under subsection (2)(b) include any allowable NRCGT losses (other than group losses, as defined in section 188E(4)) accruing to the person in a tax year ("year P") previous to the year mentioned in subsection (2)(a) (so far as those losses have not been allowed as a deduction from chargeable gains accruing in year P or any previous year)."

(3) After subsection (7A) insert—

"(7B) Except where otherwise specified (see subsections (2A) and (2B)), nothing in this section applies in relation to an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D."

4 In section 2B (persons chargeable to capital gains tax on ATED-related gains), in subsection (10), in paragraph (b) of the definition of "ring-fenced ATED-related allowable losses", for "from ATED-related chargeable gains accruing in any previous tax year on relevant high value disposals," substitute " from chargeable gains accruing in any previous tax year, ".

5 (1) Section 3 (annual exempt amount) is amended as follows.

(2) In subsection (5), for the words from "is the amount" to the end substitute "is (what would apart from this section be) the total of the amounts for that year on which that individual is chargeable to capital gains tax in accordance with either (or both) of—

(a) section 2 (gains, other than ATED-related gains and NRCGT gains, chargeable to capital gains tax), and

(b) section 14D (NRCGT gains chargeable to capital gains tax)."

(3) After subsection (5B) insert—

"(5BA) In this section, "adjusted net gains", in relation to a tax year and an individual, means—

(a) if the residence condition is met (see section 2(1A)) and the year is not a split year as respects the individual, the section 2 adjusted net gains;

(b) if the residence condition is not met, the section 14D adjusted net gains;

(c) if the residence condition is met and the year is a split year as respects the individual, the total of the section 2 adjusted net gains (if any) and the section 14D adjusted net gains (if any)."

(4) In subsection (5C), for the words from "In subsections" to "in his case by—" substitute " In subsection (5BA) "section 2 adjusted net gains", in relation to an individual and a tax year, means the amount given in the individual's case by— ".

(5) After subsection (5C) insert—

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"(5D) In subsection (5BA) "section 14D adjusted net gains", in relation to an individual and a tax year, means the amount given in the individual's case by—

(a) taking the amount from which the deductions provided for by paragraphs (a) and (b) of subsection (2) of section 14D are to be made, and

(b) deducting only the amounts falling to be deducted in accordance with paragraph (a) of that subsection."

(6) In subsection (7), for "(5C)" substitute " (5D) ".

6 In section 4 (rates of capital gains tax), after subsection (3A) insert—

"(3B) The rate of capital gains tax is 20% in respect of—

(a) gains chargeable under section 14D accruing to a company in a tax year, and

(b) gains chargeable under section 188D accruing in a tax year to the relevant body of an NRCGT group (as defined in that section)."

7 For section 4B (deduction of losses etc in most beneficial way) substitute—

"**4B Deduction of losses etc in most beneficial way**

(1) Where it is necessary to determine—

(a) from which chargeable gains an allowable loss accruing to a person is to be deducted, or

(b) which allowable losses are to be deducted from any chargeable gains accruing to a person,

(including in a case falling within subsection (2)), the losses concerned may be used in whichever way is most beneficial to that person.

(2) Where the gains accruing to a person in a tax year are (apart from this section) chargeable to capital gains tax at different rates, the exempt amount under section 3 may be used in respect of those gains in whichever way is most beneficial to that person.

(3) This section is subject to any enactment which contains a limitation on the gains from which allowable losses may be deducted."

8 (1) Section 8 (company's profits for corporation tax purposes to include chargeable gains) is amended as follows.

(2) In subsection (1), in paragraph (b), omit the words from "period" to the end and insert "period—

(i) any allowable losses previously accruing to the company while it has been within the charge to corporation tax, and

(ii) any allowable NRCGT losses previously accruing to the company."

(3) After subsection (4A) insert—

"(4B) Subject to subsection (1)(b)(ii), nothing in this section applies in relation to an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D."

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9 In section 10A (temporary non-residents), as that section has effect where the year of departure (as defined in Part 4 of Schedule 45 to FA 2013) is the tax year 2012-13 or an earlier tax year, in subsection (5) after "section 10" insert " , 14D ".

10 In section 13 (attribution of gains to members of non-resident companies), in subsection (1A), for the words from "an ATED-related gain" to the end substitute—

"(a) an ATED-related gain chargeable to capital gains tax by virtue of section 2B (capital gains tax on ATED-related gains), or

(b) an NRCGT gain chargeable to capital gains tax by virtue of section 14D or 188D (capital gains tax on NRCGT gains)."

11 After section 14A insert—

"UK residential property: non-resident CGT

14B Meaning of "non-resident CGT disposal"

(1) For the purposes of this Act a disposal made by a person is a "non-resident CGT disposal" if—

(a) it is a disposal of a UK residential property interest, and

(b) condition A or B is met.

But see also subsection (5).

(2) Condition A is—

(a) in the case of an individual, that the individual is not resident in the United Kingdom for the tax year in question (see subsection (3)),

(b) in the case of personal representatives of a deceased person, that the single and continuing body mentioned in section 62(3) is not resident in the United Kingdom,

(c) in the case of the trustees of a settlement, that the single person mentioned in section 69(1) is not resident in the United Kingdom during any part of the tax year in question, and

(d) in any other case, that the person is not resident in the United Kingdom at the relevant time.

(3) In subsection (2)—

(a) "the tax year in question" means the tax year in which any gain on the disposal accrues (or would accrue were there to be such a gain);

(b) "the relevant time" means the time at which any gain on the disposal accrues (or would accrue were there to be such a gain).

(4) Condition B is that—

(a) the person is an individual, and

(b) any gain accruing to the individual on the disposal would accrue in the overseas part of a tax year which is a split year as respects the individual.

(5) A disposal by a person of a UK residential property interest is not a non-resident CGT disposal so far as any chargeable gains accruing to the person on the disposal—

(a) would be gains in respect of which the person would be chargeable to capital gains tax—

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(i) under section 10(1) (non-resident with UK branch or agency), or

(ii) under section 2 as a result of subsection (1C) of that section (corresponding provision relating to the overseas part of a split year), or

(b) would be gains forming part of the person's chargeable profits for corporation tax purposes by virtue of section 10B (non-resident company with UK permanent establishment).

14C Meaning of "disposal of a UK residential property interest"

Schedule B1 gives the meaning in this Act of "disposal of a UK residential property interest".

14D Persons chargeable to capital gains tax on NRCGT gains

(1) A person is chargeable to capital gains tax in respect of any chargeable NRCGT gain accruing to the person in the tax year on a non-resident CGT disposal.

See also section 188D(1).

(2) Capital gains tax is charged on the total amount of chargeable NRCGT gains accruing to the person in the tax year, after deducting—

(a) any allowable losses accruing to the person in the tax year on disposals of UK residential property interests, and

(b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous tax year, any allowable losses accruing to the person in any previous tax year (not earlier than the tax year 1965-66) on disposals of UK residential property interests.

(3) In subsection (2), the reference to chargeable NRCGT gains does not include any such gains which accrue to a member of an NRCGT group.

(4) The only deductions that can be made from chargeable NRCGT gains to which subsection (2) applies are those permitted by this section.

This is subject to section 62(2AA) (carry-back of losses accruing in year of death).

(5) See section 57B and Schedule 4ZZB for how to determine—

(a) whether an NRCGT gain (or loss) accrues on a non-resident CGT disposal, and

(b) the amount of any NRCGT gain (or loss) so accruing.

14E Further provision about use of NRCGT losses

(1) Subsections (2) to (4) apply in relation to an allowable NRCGT loss accruing to a person in a tax year on a non-resident CGT disposal.

(2) The loss is not allowable as a deduction from chargeable gains accruing in any earlier tax year.

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This is subject to section 62(2) and (2AA) (carry-back of losses accruing in year of death).

(3) Relief is not to be given under this Act more than once in respect of the loss or any part of the loss.

(4) Relief is not to be given under this Act in respect of the loss if, and so far as, relief has been or may be given in respect of it under the Tax Acts.

14F Persons not chargeable under section 14D if a claim is made

(1) A person is not chargeable to capital gains tax under section 14D in respect of a chargeable NRCGT gain accruing to the person on a non-resident CGT disposal if the person—
  (a) is an eligible person in relation to the disposal, and
  (b) makes a claim under this section with respect to the disposal.

(2) A diversely-held company which makes a non-resident CGT disposal is an eligible person in relation to the disposal.

(3) A scheme (see subsection (7)) which makes a non-resident CGT disposal is an eligible person in relation to the disposal if condition A or B is met.

(4) Condition A is that the scheme is a widely-marketed scheme throughout the relevant ownership period.

(5) Condition B is that—
  (a) an investor in the scheme is an offshore fund, an open-ended investment company or an authorised unit trust ("the feeder fund"),
  (b) the scheme is a widely-marketed scheme throughout the alternative period, after taking into account—
    (i) the scheme documents relating to the feeder fund, and
    (ii) the intended investors in the feeder fund, and
  (c) the scheme and the feeder fund have the same manager.

(6) A company carrying on life assurance business (as defined in section 56 of the Finance Act 2012) which makes a non-resident CGT disposal is an eligible person if immediately before the time of the disposal the interest in UK land which is the subject of that disposal is held for the purpose of providing benefits to policyholders in the course of that business.

(7) In this section "scheme" means any of the following—
  (a) a unit trust scheme;
  (b) a company which is an open-ended investment company incorporated by virtue of regulations under section 262 of the Financial Services and Markets Act 2000;
  (c) a company incorporated under the law of a territory outside the United Kingdom which is, under that law, the equivalent of an open-ended investment company.

(8) In this section "the relevant ownership period", in relation to a scheme, means—

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(a) the period beginning with the day on which the scheme acquired the interest in UK land which (or part of which) is the subject of the non-resident CGT disposal and ending with the day on which that disposal occurs, or

(b) if shorter, the period of 5 years ending with the day on which that disposal occurs.

(9) For the purposes of subsection (5), the "alternative period", in relation to a scheme, is the shorter of—

(a) the relevant ownership period, and

(b) the period beginning when the feeder fund first became an investor in the scheme and ending with the date of the disposal.

(10) In this section—

"diversely-held company" means a company which is not a closely-held company;

"interest in UK land" has the same meaning as in Schedule B1;

"open-ended investment company" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236 of that Act).

(11) In Schedule C1—

(a) Part 1 sets out the rules for determining whether or not a company is a closely-held company;

(b) Part 2 sets out how to determine whether or not a scheme is a widely-marketed scheme at any time.

14G Section 14F: divided companies

(1) This section applies where a company which makes a non-resident CGT disposal—

(a) is a divided company, and

(b) would, without this section, be an eligible person for the purposes of section 14F in relation to the disposal.

(2) In determining for the purposes of section 14F whether or not the company is an eligible company in relation to the disposal, the company is to be treated as if it were a closely-held company if the conditions in subsection (3) are met.

(3) The conditions are that—

(a) the gain or loss accruing on the disposal is primarily or wholly attributable to a particular division of the company, and

(b) if that division were a separate company, that separate company would be a closely-held company.

(4) For the purposes of this section a company is a "divided company" if, under the law under which the company is formed, under the company's articles of association or other document regulating the company or under arrangements entered into by or in relation to the company—

(a) some or all of the assets of the company are available primarily, or only, to meet particular liabilities of the company, and

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(b) some or all of the members of the company, and some or all of its creditors, have rights primarily, or only, in relation to particular assets of the company.

(5) References in this section to a "division" of a divided company are to an identifiable part of the company that carries on distinct business activities and to which particular assets and liabilities of the company are primarily or wholly attributable.

14H Section 14F: arrangements for avoiding tax

(1) Subsection (2) applies where—

(a) arrangements are entered into, and

(b) the main purpose, or one of the main purposes, of any party entering into them (or any part of them) is to avoid capital gains tax being charged under section 14D as a result of a person not being an eligible person in relation to the disposal by virtue of subsection (2) (diversely-held companies) or, as the case may be, subsection (3) (widely-marketed schemes) of section 14F (persons not chargeable under section 14D if a claim is made).

(2) The arrangements (or that part of the arrangements) are to be disregarded in determining whether or not the company is an eligible person by virtue of that subsection.

(3) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable)."

12 In section 16 (computation of losses), in subsection (3), for "or 10B," substitute " , 10B, 14D or 188D ".

13 After section 25 insert—

"**25ZA Deemed disposal of UK residential property interest under section 25(3)**

(1) This section applies if, ignoring subsections (3) and (4)—

(a) a gain or loss would accrue to a person on a disposal of a UK residential property interest deemed to have been made by virtue of section 25(3), and

(b) on the assumptions in subsection (2), that gain or loss would be an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D (see section 57B and Schedule 4ZZB).

(2) The assumptions are—

(a) the disposal is a non-resident CGT disposal, and

(b) if the person is a company, any claim which the company could make under section 14F is made.

(3) No gain or loss accrues to the person on that disposal.

(4) But, on a subsequent disposal of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1)(a), the whole

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or a corresponding part of the gain or loss which would have accrued to the person were it not for subsection (3)—

(a) is deemed to accrue to the person (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D accruing on a non-resident CGT disposal.

(5) A person may make an election for subsections (3) and (4) not to apply in relation to the disposal mentioned in subsection (1)(a).

(6) If the person is a company, such an election must be made within 2 years after the day on which the company ceases to carry on a trade in the United Kingdom through a branch or agency.

(7) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

14 After section 48 insert—

"**48A Unascertainable consideration**

(1) This section applies where—

(a) a person ("P") has made a non-resident CGT disposal in relation to which there accrued to P an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D ("the original disposal"),

(b) P acquired a right as the whole or part of the consideration for that disposal,

(c) on P's acquisition of the right, there was no corresponding disposal of it, and

(d) the right is a right to unascertainable consideration (see subsections (4) to (6)).

(2) If P subsequently receives consideration ("the ascertained consideration") representing the whole or part of the consideration referred to in subsection (1)(d) and condition A in section 14B would have been met in relation to the original disposal had a gain on that disposal accrued at the time of the receipt of the ascertained consideration—

(a) the ascertained consideration is treated as not accruing on the disposal of the right,

(b) the costs of P's acquisition of the right (or, in the case of a part disposal of the right, those costs so far as referable to the part disposed of) are taken to be nil, and

(c) the following steps are taken.

Step 1 Any amount by which the ascertained consideration exceeds the relevant original consideration is treated as consideration (or further consideration) accruing on the original disposal. If the relevant original consideration exceeds the ascertained consideration, the consideration accruing on the original disposal is treated as reduced by the amount of the excess.

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Step 2 Compute the difference that the adjustment under step 1 makes to what (if any) NRCGT gain or loss, ATED-related gain or loss or other gain or loss accrues on the original disposal (computing this separately for each type of gain or loss). The difference is "positive" if a loss is decreased (to nil or otherwise) or a gain created or increased. The difference is "negative" if a gain is reduced (to nil or otherwise) or a loss created or increased.

Step 3 Any positive amount computed under step 2 is treated for the purposes of this Act and the Management Act as a gain (of the type appropriate to the computation) accruing to P at the time of the receipt of the ascertained consideration. Any negative amount computed under step 2 is treated for the purposes of this Act and the Management Act as a loss (of the type appropriate to the computation) accruing to P at the time of the receipt of the ascertained consideration.

(3) In step 1 in subsection (2), "the relevant original consideration" means the consideration accruing on the original disposal, so far as referable to the right mentioned in subsection (1)(b) (or, in the case of a part disposal of the right, referable to the part disposed of).

(4) A right is a right to unascertainable consideration if, and only if—

(a) it is a right to consideration the amount or value of which is unascertainable at the time when the right is conferred, and

(b) that amount or value is unascertainable at that time on account of its being referable, in whole or in part, to matters which are uncertain at that time because they have not yet occurred.

This subsection is subject to subsections (5) and (6).

(5) The amount or value of any consideration is not to be regarded as being unascertainable by reason only—

(a) that the right to receive the whole or any part of the consideration is postponed or contingent, if the consideration or, as the case may be, that part of it is, in accordance with section 48, brought into account in the computation of the gain accruing to a person on the disposal of an asset, or

(b) in a case where the right to receive the whole or any part of the consideration is postponed and is to be, or may be, to any extent satisfied by the receipt of property of one description or property of some other description, that some person has a right to select the property, or the description of property, that is to be received.

(6) A right is not to be taken to be a right to unascertainable consideration by reason only that either the amount or the value of the consideration has not been fixed, if—

(a) the amount will be fixed by reference to the value, and the value is ascertainable, or

(b) the value will be fixed by reference to the amount, and the amount is ascertainable."

15 In section 57A (gains and losses on relevant high value disposals), after subsection (2) insert—

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"(3) Subsection (2) does not apply where Part 4 of Schedule 4ZZB applies (non-resident CGT disposals which are or involve relevant high value disposals)."

16 In Part 2, after Chapter 5 insert—

"CHAPTER 6

COMPUTATION OF GAINS AND LOSSES: NON-RESIDENT CGT DISPOSALS

Gains and losses on non-resident CGT disposals

57B (1) Schedule 4ZZB makes provision about the computation of—

(a) NRCGT gains or losses, and

(b) other gains or losses,

on non-resident CGT disposals.

(2) For further provision about non-resident CGT disposals and NRCGT gains and losses see sections 14B to 14H and 188D and 188E."

17 (1) Section 62 (death: general provisions) is amended as follows.

(2) In subsection (2A), for the words from "are gains" to the end substitute "are—

(a) gains that are treated as accruing by virtue of section 87 or 89(2) (read, where appropriate, with section 10A), or

(b) NRCGT gains (see section 57B and Schedule 4ZZB)."

(3) After subsection (2A) insert—

"(2AA) Where allowable NRCGT losses (see section 57B and Schedule 4ZZB) are sustained by an individual in the year of assessment in which the individual dies, the losses may, so far as they cannot be deducted from chargeable gains accruing to the individual in that year, be deducted from any gains such as are mentioned in subsection (2A)(b) that accrued to the deceased in the 3 years of assessment preceding the year of assessment in which the death occurs, taking chargeable gains accruing in a later year before those accruing in an earlier year."

18 After section 80 insert—

"80A Deemed disposal of UK residential property interest under section 80

(1) Subsection (2) applies if, ignoring subsections (2) to (4)—

(a) a gain or loss would accrue to the trustees of a settlement on a disposal of a UK residential property interest deemed to have been made by virtue of section 80(2), and

(b) on the assumption that the disposal is a non-resident CGT disposal, that gain or loss would be a chargeable NRCGT gain or an allowable NRCGT loss (see section 57B and Schedule 4ZZB).

(2) The trustees may elect for subsections (3) and (4) to have effect.

(3) No gain or loss accrues to the trustees on that disposal.

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(4) But, on a subsequent disposal of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1)(a), the whole or a corresponding part of the gain or loss which would have accrued to the trustees were it not for subsection (3)—

(a) is deemed to accrue to the trustees (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as a chargeable NRCGT gain or an allowable NRCGT loss accruing on a non-resident CGT disposal.

(5) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

19 In section 86 (attribution of gains to settlors with interest in non-resident or dual-resident settlements), after subsection (4) insert—

"(4ZA) Where a disposal of any settled property (which would apart from this subsection meet the condition in subsection (1)(e) with respect to the tax year) is a non-resident CGT disposal—

(a) any chargeable gain or allowable loss accruing on the disposal, other than an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D, is to be treated as if it were a chargeable gain or (as the case requires) allowable loss falling to be taken into account in calculating the amount mentioned in subsection (1)(e) for the tax year, and

(b) the disposal is otherwise to be disregarded for the purposes of subsection (1)(e)."

20 In section 87 (non-UK resident settlements: attribution of gains to beneficiaries), after subsection (5) insert—

"(5A) For the purpose of determining the section 2(2) amount for a settlement for a tax year—

(a) any chargeable gain or allowable loss accruing in that tax year on a non-resident CGT disposal made (or treated as made) by the trustees, other than an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D, is to be treated as if it were a chargeable gain or (as the case requires) allowable loss falling to be taken into account in calculating the amount mentioned in subsection (4)(a), and

(b) such a disposal is otherwise to be disregarded."

21 (1) Section 139 (reconstruction involving transfer of business) is amended as follows.

(2) In subsection (1A)—

(a) in paragraph (a), after "chargeable assets" insert " or NRCGT assets ";

(b) in paragraph (b), after "chargeable assets" insert " or NRCGT assets ".

(3) After subsection (1A) insert—

"(1AA) For the purposes of subsection (1A), an asset is an "NRCGT asset" in relation to a company at any time if—

(a) the disposal of the asset by the company at that time would be a non-resident CGT disposal, and

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(b) the company would not be, in relation to that disposal, an eligible person (as defined in section 14F)."

22 After section 159 insert—

"**159A Non-resident CGT disposals: roll-over relief**

(1) Section 152 does not apply in relation to a person who would (apart from that section) be chargeable to capital gains tax under section 14D or 188D in respect of NRCGT gains accruing on the disposal of the old assets, unless the new assets are qualifying residential property interests immediately after the time they are acquired.

(2) For the purposes of this section an asset is a "qualifying residential property interest" at any time if it—

(a) is an interest in UK land, and

(b) consists of or includes a dwelling.

(3) In this section—

(a) "dwelling" has the meaning given by paragraph 4 of Schedule B1;

(b) "interest in UK land" has the meaning given by paragraph 2 of Schedule B1;

(c) "the old assets" and "the new assets" have the same meaning as in section 152;

(d) the reference to disposal of the old assets includes a reference to disposal of an interest in them;

(e) the reference to acquisition of the new assets includes a reference to acquisition of an interest in them or entering into an unconditional contract for the acquisition of them."

23 (1) Section 165 (relief for gifts of business assets) is amended as follows.

(2) In subsection (1), after "167," insert " 167A, ".

(3) After subsection (7) insert—

"(7A) Subsections (7B) and (7C) apply in any case where—

(a) the disposal is a non-resident CGT disposal, and

(b) the transferee is resident in the United Kingdom.

(7B) Subsections (4) and (6) have effect in relation to the disposal as if the references to "chargeable gain" were references to "chargeable NRCGT gain".

(7C) Subsection (7) has effect in relation to the disposal as if the reference to "the excess referred to in paragraph (b) above" were a reference to "the chargeable NRCGT gain which, ignoring this section and section 17(1), would accrue to the transferor on the disposal"."

24 In section 166 (gifts to non-residents), in subsection (1), for "Section 165(4)" substitute " Subject to section 167A, section 165(4) ".

25 In section 167 (gifts to foreign-controlled companies), in subsection (1), for "Section 165(4)" substitute " Subject to section 167A, section 165(4) ".

26 After section 167 insert—

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"**167A Gifts of UK residential property interests to non-residents**

(1) This section applies where the disposal in relation to which a claim could be made under section 165 is a disposal of a UK residential property interest to a transferee who is not resident in the United Kingdom and, ignoring section 165—

(a) a gain would accrue to the transferor on the disposal, and

(b) on the assumption that the disposal is a non-resident CGT disposal (whether or not that is the case), that gain would be a chargeable NRCGT gain (see section 57B and Schedule 4ZZB).

(2) Section 165(4) has effect in relation to the disposal as if it read—

"(4) Where a claim for relief is made under this section in respect of the disposal, the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, shall be reduced by an amount equal to the held-over gain on the disposal."

(3) Where the disposal is a non-resident CGT disposal—

(a) section 165(4), as modified by subsection (2) of this section, has effect in relation to the disposal as if the reference to "chargeable gain" were a reference to "chargeable NRCGT gain",

(b) section 165(6) has effect in relation to the disposal as if the references to "chargeable gain" were references to "chargeable NRCGT gain", and

(c) section 165(7) has effect in relation to the disposal as if the reference to "the excess referred to in paragraph (b) above" were a reference to "the chargeable NRCGT gain which, ignoring this section and section 17(1), would accrue to the transferor on the disposal".

(4) Where a claim for relief is made under section 165 in relation to the disposal mentioned in subsection (1), on a subsequent disposal by the transferee of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1), the whole or a corresponding part of the held-over gain (see section 165(6))—

(a) is deemed to accrue to the transferee (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an NRCGT gain chargeable to capital gains tax by virtue of section 14D accruing on a non-resident CGT disposal.

(5) Where the subsequent disposal mentioned in subsection (4) is (or proves to be) a chargeable transfer for inheritance tax purposes, section 165(10) has effect in relation to the disposal as if—

(a) the reference to "the chargeable gain accruing to the transferee on the disposal of the asset" were a reference to the chargeable gain accruing on the disposal as computed apart from subsection (4), and

(b) the reference in section 165(10)(b) to "the chargeable gain" were a reference to—

(i) the chargeable gain chargeable to capital gains tax by virtue of any provision of this Act accruing on the disposal, and

(ii) the held-over gain deemed to accrue under subsection (4).

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(6) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

27 In section 168 (emigration of donee), in subsection (1), after paragraph (a) insert—

"(aa) the transferee is resident in the United Kingdom at the time of that disposal; and".

28 After section 168 insert—

"**168A Deemed disposal of UK residential property interest under section 168**

(1) Subsection (2) applies if, ignoring subsections (2) to (4)—

(a) a gain would accrue to a transferee on a disposal of a UK residential property interest deemed to have been made by virtue of section 168(1), and

(b) on the assumption that the disposal is a non-resident CGT disposal, that gain would be an NRCGT gain chargeable to capital gains tax by virtue of section 14D (see section 57B and Schedule 4ZZB).

(2) The transferee may elect for subsections (3) and (4) to have effect.

(3) The held-over gain (within the meaning of section 165 or 260) does not accrue to the transferee on that disposal.

(4) But, on a subsequent disposal of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1)(a), the whole or a corresponding part of the held-over gain which would have accrued to the transferee were it not for subsection (3)—

(a) is deemed to accrue to the transferee (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an NRCGT gain chargeable to capital gains tax by virtue of section 14D accruing on a non-resident CGT disposal.

(5) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

29 After section 187A insert—

"**187B Deemed disposal of UK residential property interest under section 185**

(1) This section applies if, ignoring subsections (3) and (4)—

(a) a gain or loss would accrue to a company on a disposal of a UK residential property interest deemed to have been made by virtue of section 185(2), and

(b) on the assumptions in subsection (2), that gain or loss would be an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D (see section 57B and Schedule 4ZZB).

(2) The assumptions are that—

(a) the disposal is a non-resident CGT disposal, and

(b) any claim which the company could make under section 14F is made.

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(3) No gain or loss accrues to the company on that disposal.

(4) But, on a subsequent disposal of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1)(a), the whole or a corresponding part of the gain or loss which would have accrued to the company were it not for subsection (3)—

(a) is deemed to accrue to the company (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D accruing on a non-resident CGT disposal.

(5) A company may make an election for subsections (3) and (4) not to apply in relation to the disposal mentioned in subsection (1)(a).

(6) Such an election must be made within 2 years after the day on which the company ceases to be resident in the United Kingdom.

(7) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

30 Before section 189 (and the italic heading before it), insert—

"Pooling of NRCGT gains and losses

Election for pooling

188A(1) A "pooling election" is an election which—

(a) specifies the date from which the election is to have effect (the "effective date" of the election), and

(b) is made by all those members of a group (the "potential pooling group") which are qualifying members.

(2) For this purpose the "qualifying members" of a group are all the companies which are members of that group and meet the qualifying conditions on the effective date of the election.

(3) The "qualifying conditions" are met by a company at any time when it—

(a) is not resident in the United Kingdom,

(b) is a closely-held company,

(c) is not a company carrying on life assurance business (as defined in section 56 of the Finance Act 2012),

(d) does not hold any chargeable residential assets, and

(e) holds an asset the disposal of which would be a disposal of a UK residential property interest.

(4) For the purposes of subsection (3), an asset is a "chargeable residential asset" at any time if a disposal of the asset at that time would be a non-resident CGT disposal but for section 14B(5) (gains forming part of chargeable profits for corporation tax purposes by virtue of section 10B etc).

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(5) The day on which a pooling election is made must not be later than the 30th day after the day specified as its effective date.

(6) A pooling election is irrevocable.

(7) In this section—

"closely-held company" is to be interpreted in accordance with Part 1 of Schedule C1;

"group" is to be interpreted in accordance with section 170.

Meaning of "NRCGT group"

188B(1) The companies which make a pooling election form an NRCGT group.

(2) An NRCGT group continues to exist as long as at least one member of the NRCGT group continues to be a member of the potential pooling group and to meet the conditions in paragraphs (a) to (d) of section 188A(3).

(3) See also section 188F (companies becoming eligible to join NRCGT group) and section 188G (company ceasing to be a member of an NRCGT group).

Transfers within an NRCGT group

188C(1) This section applies where a company ("company A") makes a non-resident CGT disposal to another company ("company B") at a time when both companies are members of the same NRCGT group.

(2) In subsections (3) to (5) "the asset" means the asset which is the subject of that disposal.

(3) For the relevant purposes (see subsection (4))—

(a) company A's acquisition of the asset is treated as company B's acquisition of the asset,

(b) everything done by company A in relation to the asset in the period of company A's ownership of the asset is accordingly treated as done by company B, and

(c) the disposal mentioned in subsection (1) is accordingly disregarded.

(4) The "relevant purposes" means the purposes of—

(a) the determination of whether or not an NRCGT gain or loss accrues on the disposal mentioned in subsection (1) or any subsequent disposal of the asset;

(b) the determination of the amount of any such gain or loss;

(c) the treatment for capital gains tax purposes of any such gain or loss.

(5) Accordingly, references in subsection (3) to an acquisition made by, or anything else done by, company A include anything that company A is treated as having done as a result of the application of this section in relation to an earlier disposal of the asset.

(6) Nothing in this section affects the treatment of the disposal in question for any other purposes (including the computation of any gains or losses, other than NRCGT gains or losses, that may accrue on the disposal).

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Person chargeable to capital gains tax on NRCGT gains accruing to members of an NRCGT group

188D(1) The relevant body for a tax year ("year Y") of an NRCGT group (see subsection (4)) is chargeable to capital gains tax in respect of chargeable NRCGT gains accruing to members of the group in the tax year on non-resident CGT disposals (and section 14D(1) does not apply to such gains).

(2) Capital gains tax is charged on the total amount of chargeable NRCGT gains accruing in year Y to members of the NRCGT group, after deducting—

(a) any allowable NRCGT losses accruing in year Y to any member of the NRCGT group,

(b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous tax year, any allowable NRCGT losses which in any previous tax year (not earlier than the tax year 2015-16) accrued to any member of the NRCGT group, and

(c) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous tax year, any allowable losses (not falling within paragraph (b)) on disposals of UK residential property interests which in any previous tax year (not earlier than the tax year 1965-66) accrued to any company which is, at any time in year Y, a member of the NRCGT group.

(3) The only deductions that can be made in calculating the total amount of chargeable NRCGT gains accruing as mentioned in subsection (2) are those permitted by this section.

(4) The "relevant body" of an NRCGT group for a tax year is the body constituted by all the companies which are members of that NRCGT group at any time in that tax year.

(5) This Act and the Management Act have effect with any modifications that may be necessary in relation to cases where the relevant body of an NRCGT group is chargeable to capital gains tax in accordance with this section.

Further provision about group losses

188E(1) Relief is not to be given under this Act more than once in respect of a group loss or any part of a group loss.

(2) Relief is not to be given under this Act in respect of a group loss if, and so far as, relief has been or may be given in respect of it under the Tax Acts.

(3) No relief is to be given otherwise than in accordance with this section for group losses.

(4) In this section "group loss" means an NRCGT loss accruing to a member of an NRCGT group.

Companies becoming eligible to join an NRCGT group

188F(1) A company which is not a member of an NRCGT group and is eligible to become a member of that group may elect to do so.

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(2) A company is eligible to become a member of an NRCGT group at any time when it—
  (a) is a member of the potential pooling group, and
  (b) meets the qualifying conditions.

But see subsections (3) and (4).

(3) Subsection (4) applies if, throughout a period of 12 months, a company—
  (a) holds a UK residential asset, and
  (b) is eligible to become a member of an NRCGT group.

(4) If the company has not elected to become a member of the NRCGT group by the end of that period of 12 months, the company is not eligible to become a member of the NRCGT group at any time after the end of that period of 12 months.

(5) The effect of subsection (4) in relation to a company expires if at any time the company—
  (a) no longer holds the whole or part of any UK residential asset that was held by the company at any time in the 12 month period referred to in subsection (3), but
  (b) holds another UK residential asset.

(6) For the purposes of this section a person holds a "UK residential asset" at any time when the person holds an interest in UK land the disposal of which would be a disposal of a UK residential property interest.

Company ceasing to be a member of an NRCGT group

188G (1) A company ceases to be a member of an NRCGT group if it ceases—
  (a) to be a member of the potential pooling group, or
  (b) to meet the any of the conditions in paragraphs (a) to (d) of section 188A(3).

(2) Where a company ceases to be a member of an NRCGT group, the company is treated for the purposes of this Act and the Management Act as having—
  (a) disposed of the relevant assets immediately before the company ceased to be a member of the NRCGT group, and
  (b) immediately re-acquired them,

at their market value at that time.

(3) References in subsection (2) to a company ceasing to be a member of an NRCGT group do not apply to cases where a company ceases to be a member of the potential pooling group in consequence of another member of that group ceasing to exist.

(4) Subsection (2) does not apply in a case where all the companies which are members of an NRCGT group cease to be members of that NRCGT group by reason only of an event which causes—
  (a) the principal company of the potential pooling group to cease to be a closely-held company, or

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(b) the head of a sub-group of which they are members, to cease to be a closely-held company or to become a member of another group (as defined in section 170).

(5) Subsection (2) does not apply where a company which is a member of an NRCGT group ceases to be a member of the potential pooling group by reason only of the fact that the principal company of the potential pooling group becomes a member of another group (as defined in section 170).

(6) In subsection (2) "the relevant assets" means any assets the company holds immediately before it ceases to be a member of the NRCGT group the disposal of which would be a disposal of a UK residential property interest (see Schedule B1).

(7) For the purposes of this section—

"sub-group" means anything that would be a group (as defined in section 170) in the absence of subsections (4) and (6) of section 170;

the "head" of a sub-group is the company which is not a 75% subsidiary of any other member of the sub-group;

references to the "principal company" of the potential pooling group are to be interpreted in accordance with section 170.

The responsible members of an NRCGT group

188H (1) Anything required or authorised to be done under this Act or the Management Act by or in relation to the relevant body of an NRCGT group is required or authorised to be done by or in relation to all the responsible members of that NRCGT group for that tax year.

(2) The "responsible members" of an NRCGT group for a tax year are—

(a) all the companies which are members of the NRCGT group at any time in that tax year, and

(b) any companies which have subsequently become members of the NRCGT group.

(3) This section is subject to section 188J (representative company).

Joint and several liability of responsible members

188I Where the responsible members of an NRCGT group are liable, in connection with their responsibility under section 188H to make a payment of tax or interest on unpaid tax, or pay any other amount, that liability is a joint and several liability of those responsible members.

The representative company of an NRCGT group

188J (1) Anything required or authorised to be done under this Act or the Management Act by or in relation to the relevant body of an NRCGT group may instead be done by or in relation to the company which is for the time being the representative company of the group.

(2) This includes the making of the declaration required by section 9(2) or 12ZB(4)(b) of the Management Act (declaration that return is correct and complete).

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(3) The "representative company" means a member of the NRCGT group nominated by all the members of that group for the purposes of this section.

(4) A nomination under subsection (3), or the revocation of such a nomination, has effect only after written notice of the nomination or revocation has been given to an officer of Revenue and Customs.

Interpretation of sections 188A to 188J

188K (1) In sections 188A to 188J—

(a) references to the "relevant body" of an NRCGT group are to be interpreted in accordance with section 188D(4);

(b) references to an NRCGT gain or loss accruing to a member of an NRCGT group are to such a gain or loss accruing to a company at a time when the company is a member of the NRCGT group.

(2) In sections 188A to 188J and this section—

"company" is to be interpreted in accordance with section 170(9);

"interest in UK land" has the same meaning as in Schedule B1;

"pooling election" has the meaning given by section 188A(1);

"potential pooling group", in relation to an NRCGT group, is to be interpreted in accordance with section 188A(1)(b);

"qualifying conditions" has the meaning given by section 188A(3)."

31 (1) Section 260 (gifts on which inheritance tax is chargeable etc) is amended as follows.

(2) In subsection (1), for "and 261" substitute " , 261 and 261ZA ".

(3) After subsection (6) insert—

"(6ZA) Subsections (6ZB) and (6ZC) apply in any case where—

(a) the disposal is a non-resident CGT disposal, and

(b) the transferee is resident in the United Kingdom.

(6ZB) Subsections (3) and (4) have effect in relation to the disposal as if the reference to "chargeable gain" were a reference to "chargeable NRCGT gain".

(6ZC) Subsection (5) has effect in relation to the disposal as if the reference to "the excess referred to in paragraph (b) above" were a reference to "the chargeable NRCGT gain which, ignoring this section and section 17(1), would accrue to the transferor on the disposal"."

32 In section 261 (section 260 relief: gifts to non-residents), in subsection (1), for "Section 260(3)" substitute " Subject to section 261ZA, section 260(3) ".

33 After section 261 insert—

"**261ZA Gifts of UK residential property interests to non-residents**

(1) This section applies where the disposal in relation to which a claim could be made under section 260 is a disposal of a UK residential property interest to a transferee who is not resident in the United Kingdom and, ignoring section 260—

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(a) a gain would accrue to the transferor on the disposal, and

(b) on the assumption that the disposal is a non-resident CGT disposal (whether or not that is the case), that gain would be a chargeable NRCGT gain (see section 57B and Schedule 4ZZB).

(2) Section 260(3) has effect in relation to the disposal as if it read—

"(3) Where this subsection applies in relation to a disposal, the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, shall be reduced by an amount equal to the held-over gain on the disposal."

(3) Where the disposal is a non-resident CGT disposal—

(a) section 260(3), as modified by subsection (2) of this section, and section 260(4) have effect in relation to the disposal as if the references to "chargeable gain" were references to "chargeable NRCGT gain", and

(b) section 260(5) has effect in relation to the disposal as if the reference to "the excess referred to in paragraph (b) above" were a reference to "the chargeable NRCGT gain which, ignoring this section and section 17(1), would accrue to the transferor on the disposal".

(4) Where a claim for relief is made under section 260 in relation to the disposal mentioned in subsection (1), on a subsequent disposal by the transferee of the whole or part of the interest in UK land which is the subject of the disposal mentioned in subsection (1), the whole or a corresponding part of the held-over gain (see section 260(4))—

(a) is deemed to accrue to the transferee (in addition to any gain or loss that actually accrues on that subsequent disposal), and

(b) (if that would not otherwise be the case) is to be treated as a chargeable NRCGT gain accruing on a non-resident CGT disposal.

(5) Where the subsequent disposal mentioned in subsection (4) is a disposal within section 260(2)(a), subsection (7) of that section has effect in relation to the disposal as if—

(a) the reference to "the chargeable gain accruing to the transferee on the disposal of the asset" were a reference to the chargeable gain accruing on the disposal as computed apart from subsection (4), and

(b) the reference in section 260(7)(b) to "the chargeable gain" were a reference to—

(i) the chargeable gain (or, where the disposal is a non-resident CGT disposal, the chargeable NRCGT gain) accruing on the disposal, and

(ii) the held-over gain deemed to accrue under subsection (4).

(6) In this section, "interest in UK land" has the meaning given by paragraph 2 of Schedule B1."

34 In section 288 (interpretation), in subsection (1), at the appropriate places insert—

""disposal of a UK residential property interest" has the meaning given by Schedule B1;""

""non-resident CGT disposal" has the meaning given by section 14B;"

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""NRCGT gain" is to be interpreted in accordance with section 57B and Schedule 4ZZB;"

""NRCGT group" is to be interpreted in accordance with section 188B (read with sections 188F and 188G);"

""NRCGT loss" is to be interpreted in accordance with section 57B and Schedule 4ZZB;"

""NRCGT return" has the meaning given by section 12ZB(2) of the Management Act;".

35 (1) Schedule 1 (application of exempt amount etc in cases involving settled property) is amended as follows.

(2) In paragraph 1(1), for "(5C)" substitute " (5D) ".

(3) In paragraph 2(1), for "(5C)" substitute " (5D) ".

36 After Schedule A1, insert—

"SCHEDULE
B1

DISPOSALS OF UK RESIDENTIAL PROPERTY INTERESTS

Meaning of "disposal of a UK residential property interest"

1 (1) For the purposes of this Act, the disposal by a person ("P") of an interest in UK land (whether made before or after this Schedule comes into force) is a "disposal of a UK residential property interest" if the first or second condition is met.

(2) The first condition is that—

(a) the land has at any time in the relevant ownership period consisted of or included a dwelling, or

(b) the interest in UK land subsists for the benefit of land that has at any time in the relevant ownership period consisted of or included a dwelling.

(3) The second condition is that the interest in UK land subsists under a contract for an off-plan purchase.

(4) In sub-paragraph (2) "relevant ownership period" means the period—

(a) beginning with the day on which P acquired the interest in UK land or 6 April 2015 (whichever is later), and

(b) ending with the day before the day on which the disposal occurs.

(5) If the interest in UK land disposed of by P as mentioned in sub-paragraph (1) results from interests in UK land which P has acquired at different times ("the acquired interests"), P is regarded for the purposes of sub-paragraph (4)(a) as having acquired the interest when P first acquired any of the acquired interests.

(6) In this paragraph—

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"contract for an off-plan purchase" means a contract for the acquisition of land consisting of, or including, a building or part of a building that is to be constructed or adapted for use as a dwelling;

"dwelling" has the meaning given by paragraph 4.

(7) Paragraphs 10 and 21 of Schedule 4ZZB contain further provision about interests under contracts for off-plan purchases.

"Interest in UK land"

2 (1) In this Schedule, "interest in UK land" means—

(a) an estate, interest, right or power in or over land in the United Kingdom, or

(b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power,

other than an excluded interest.

(2) The following are excluded interests—

(a) any security interest;

(b) a licence to use or occupy land;

(c) in England and Wales or Northern Ireland—

(i) a tenancy at will;

(ii) a manor.

(3) In sub-paragraph (2) "security interest" means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any other obligation.

(4) In relation to land in Scotland the reference in sub-paragraph (3) to a rentcharge is to be read as a reference to a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000 (asp 5).

(5) The Treasury may by regulations provide that any other description of interest or right in relation to land in the United Kingdom is an excluded interest.

(6) Regulations under sub-paragraph (5) may make incidental, consequential, supplementary or transitional provision or savings.

Grants of options

3 (1) Sub-paragraph (2) applies where—

(a) a person ("P") grants at any time an option binding P to sell an interest in UK land, and

(b) a disposal by P of that interest in UK land at that time would be a disposal of a UK residential property interest by virtue of paragraph 1.

(2) The grant of the option is regarded for the purposes of this Schedule as the disposal of an interest in the land in question (if it would not be so regarded apart from this paragraph).

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(3) Nothing in this paragraph affects the operation of section 144 in relation to the grant of the option (or otherwise).

(4) Subsection (6) of section 144 (interpretation of references to "sale" etc) applies for the purposes of this paragraph as it applies for the purposes of that section.

Meaning of "dwelling"

4 (1) For the purposes of this Schedule, a building counts as a dwelling at any time when—

(a) it is used or suitable for use as a dwelling, or

(b) it is in the process of being constructed or adapted for such use.

(2) Land that at any time is, or is intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling at that time.

(3) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it is used as—

(a) residential accommodation for school pupils;

(b) residential accommodation for members of the armed forces;

(c) a home or other institution providing residential accommodation for children;

(d) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder;

(e) a hospital or hospice;

(f) a prison or similar establishment;

(g) a hotel or inn or similar establishment.

(4) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it is used, or suitable for use, as an institution (not falling within any of paragraphs (c) to (f) of sub-paragraph (3)) that is the sole or main residence of its residents.

(5) For the purposes of sub-paragraph (1) a building is not used (or suitable for use) as a dwelling if it falls within—

(a) paragraph 4 of Schedule 14 to the Housing Act 2004 (certain buildings occupied by students and managed or controlled by their educational establishment etc),

(b) any corresponding provision having effect in Scotland, or

(c) any corresponding provision having effect in Northern Ireland.

(6) In sub-paragraph (5) "corresponding provision" means provision designated by regulations made by the Treasury as corresponding to the provision mentioned in sub-paragraph (5)(a).

(7) If the accommodation provided by a building meets the conditions in sub-paragraph (8) in a tax year, the building is not to be regarded for the purposes

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of sub-paragraph (1) as used or suitable for use as a dwelling at any time in that tax year.

(8) The conditions are that the accommodation—
  (a) includes at least 15 bedrooms,
  (b) is purpose-built for occupation by students, and
  (c) is occupied by students on at least 165 days in the tax year.

In the expression "purpose-built" the reference to building includes conversion.

(9) For the purposes of sub-paragraph (8), accommodation is occupied by students if it is occupied exclusively or mainly by persons who occupy it for the purpose of undertaking a course of education (otherwise than as school pupils).

(10) A building which (for any reason) becomes temporarily unsuitable for use as a dwelling is treated for the purposes of sub-paragraph (1) as continuing to be suitable for use as a dwelling; but see also the special rules in—
  (a) paragraph 6 (damage to a dwelling), and
  (b) paragraph 8(7) (periods before or during certain works).

(11) In this paragraph "building" includes a part of a building.

Power to modify meaning of "use as a dwelling"

5 (1) The Treasury may by regulations amend paragraph 4 for the purpose of clarifying or changing the cases where a building is or is not to be regarded as being used as a dwelling (or suitable for use as a dwelling).

(2) The provision that may be made under sub-paragraph (1) includes, in particular, provision omitting or adding cases where a building is or is not to be regarded as being used (or as suitable for use) as a dwelling.

(3) Regulations under this paragraph may make incidental, consequential, supplementary or transitional provision or savings.

(4) In this paragraph "building" includes a part of a building.

Damage to a dwelling

6 (1) Sub-paragraph (2) applies where a person disposes of an interest in UK land and a building that forms, or has formed, part of the land has at any time in the relevant ownership period been temporarily unsuitable for use as a dwelling.

(2) Paragraph 4(10) (disregard of temporary unsuitability) does not apply in relation to the building's temporary unsuitability for use as a dwelling if—
  (a) the temporary unsuitability resulted from damage to the building, and
  (b) the first and second conditions are met.

(3) The first condition is that the damage was—
  (a) accidental, or

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(b) otherwise caused by events beyond the control of the person disposing of the interest in UK land.

(4) The second condition is that, as a result of the damage, the building was unsuitable for use as a dwelling for a period of at least 90 consecutive days.

(5) Where the first and second conditions are met, work done in the 90-day period to restore the building to suitability for use as a dwelling does not count, for the purposes of paragraph 4(1), as construction or adaptation of the building for use as a dwelling.

(6) The first condition is regarded as not being met if the damage occurred in the course of work that—

(a) was being done for the purpose of altering the building, and

(b) itself involved, or could be expected to involve, making the building unsuitable for use as a dwelling for 30 days or more.

(7) The 90-day period mentioned in sub-paragraph (4) must end at or before the end of the relevant ownership period but may begin at any time (whether or not within the ownership period).

(8) In this paragraph—

(a) references to alteration include partial demolition;

(b) "building" includes a part of a building;

(c) "relevant ownership period" has the meaning given by paragraph 1(4).

Demolition of a building

7 A building is regarded as ceasing to exist from the time when it has either—

(a) been demolished completely to ground level, or

(b) been demolished to ground level except for a single facade (or, in the case of a building on a corner site, a double facade) the retention of which is a condition or requirement of planning permission or development consent.

Disposal of a building that has undergone works

8 (1) This paragraph applies where a person disposes of an interest in UK land, and a building which is (or was formerly) on the land and has at any time in the relevant ownership period been suitable for use as a dwelling—

(a) has undergone complete or partial demolition or any other works during the relevant ownership period, and

(b) as a result of the works, has, at or at any time before the completion of the disposal, either ceased to exist or become unsuitable for use as a dwelling.

(2) If the conditions in sub-paragraph (4) are met at, or at any time before, the completion of the disposal, the building is taken to have been unsuitable for use as a dwelling throughout the part of the relevant ownership period when the works were in progress.

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(3) If the conditions in sub-paragraph (4) are met at, or at any time before, the completion of the disposal, the building is also taken to have been unsuitable for use as a dwelling throughout any period which—

(a) ends immediately before the commencement of the works, and

(b) is a period throughout which the building was, for reasons connected with the works, not used as a dwelling.

(4) The conditions are that—

(a) as a result of the works the building has (at any time before the completion of the disposal) either ceased to exist or become suitable for use otherwise than as a dwelling,

(b) any planning permission or development consent required for the works, or for any change of use with which they are associated, has been granted, and

(c) the works have been carried out in accordance with any such permission or consent.

(5) If at the completion of the disposal the conditions in sub-paragraph (4) have not been met, the works are taken not to have affected the building's suitability for use as a dwelling (at any time before the disposal).

(6) Sub-paragraph (2) does not apply in relation to any time when—

(a) the building was undergoing any work, or put to a use, in relation to which planning permission or development consent was required but had not been granted, or

(b) anything was being done in contravention of a condition or requirement attached to a planning permission or development consent relating to the building.

(7) Where a building is treated under sub-paragraph (2) or (3) as unsuitable for use as a dwelling, the unsuitability is not regarded as temporary for the purposes of paragraph 4(10).

(8) In this paragraph—

"building" includes a part of a building;

"relevant ownership period" has the meaning given by paragraph 1(4).

Retrospective planning permission or development consent

9 (1) The condition in paragraph 8(4)(b) is taken to have been met at the time of the completion of the disposal if the required planning permission or development consent is given subsequently.

(2) For the purposes of paragraph 8(6)(a), the fact that planning permission or development consent had not been given at any time in relation to any work or use of a building is ignored if the required planning permission or development consent is given subsequently.

Interpretation

10 (1) For the purposes of this Schedule, the "completion" of the disposal of an interest in UK land is taken to occur—

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(a) at the time of the disposal, or

(b) if the disposal is under a contract which is completed by a conveyance, at the time when the interest is conveyed.

(2) In this Schedule—

"conveyance" includes any instrument (and "conveyed" is to be construed accordingly);

"development consent" means development consent under the Planning Act 2008;

"interest in UK land" has the meaning given by paragraph 2;

"land" includes a building;

"planning permission" has the meaning given by the relevant planning enactment.

(3) In sub-paragraph (2) "the relevant planning enactment" means—

(a) in relation to land in England and Wales, section 336(1) of the Town and Country Planning Act 1990;

(b) in relation to land in Scotland, section 227(1) of the Town and Country Planning (Scotland) Act 1997;

(c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1991 (S.I. 1991/1220 (N.I. 11))."

37 After Schedule B1 (as inserted by paragraph 36), insert—

"SCHEDULE
C1

SECTION 14F: MEANING OF "CLOSELY-HELD COMPANY" AND "WIDELY-MARKETED SCHEME"

PART 1

MEANING OF "CLOSELY-HELD COMPANY"

Introduction

1 This Part of this Schedule sets out the rules for determining, for the purposes of sections 14F and 14G, whether or not a company is a closely-held company.

Main definition

2 (1) "Closely-held company" means a company in relation to which condition A or B is met.

(2) Condition A is that the company is under the control of 5 or fewer participators.

(3) Condition B is that 5 or fewer participators together possess or are entitled to acquire—

(a) such rights as would, in the event of the winding up of the company ("the relevant company") on the basis set out in paragraph 3,

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entitle them to receive the greater part of the assets of the relevant company which would then be available for distribution among the participators, or

(b) such rights as would, in that event, so entitle them if there were disregarded any rights which any of them or any other person has as a loan creditor (in relation to the relevant company or any other company).

3 (1) This paragraph applies for the purposes of paragraph 2(3).

(2) In the notional winding up of the relevant company, the part of the assets available for distribution among the participators which any person is entitled to receive is the aggregate of—

(a) any part of those assets which the person would be entitled to receive in the event of the winding up of the relevant company, and

(b) any part of those assets which the person would be entitled to receive if—

(i) any other company which is a participator in the relevant company and is entitled to receive any assets in the notional winding up were also wound up on the basis set out in this paragraph, and

(ii) the part of the assets of the relevant company to which the other company is entitled were distributed among the participators in the other company in proportion to their respective entitlement to the assets of the other company available for distribution among the participators.

(3) In the application of sub-paragraph (2)—

(a) to the notional winding up of the other company mentioned in paragraph (b) of that sub-paragraph, and

(b) to any further notional winding up required by that paragraph (or by any further application of that paragraph),

references to "the relevant company" are to be read as references to the company concerned.

4 (1) This paragraph applies for the purpose of determining whether, under sub-paragraph (3) of paragraph 2, 5 or fewer participators together possess or are entitled to acquire rights such as are mentioned in paragraph (a) or (b) of that sub-paragraph.

(2) A person is to be treated as a participator in the relevant company if the person is a participator in any other company which would be entitled to receive assets in the notional winding up of the relevant company on the basis set out in paragraph 3.

(3) No account is to be taken of a participator which is a company unless the company possesses or is entitled to acquire the rights in a fiduciary or representative capacity.

(4) But sub-paragraph (3) does not apply for the purposes of paragraph 3.

5 (1) A company is not to be treated as a closely-held company if condition A or B is met.

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(2) Condition A is that the company cannot be treated as a closely-held company except by taking, as one of the 5 or fewer participators requisite for its being so treated, a person which is a diversely-held company.

(3) Condition B is that the company—

(a) would not be a closely-held company were it not for paragraph (a) of paragraph 2(3) or paragraph (d) of paragraph 7(2), and

(b) would not be a closely-held company if the references in paragraphs 2(3)(a) and 7(2)(d) to participators did not include loan creditors which are diversely-held companies or qualifying institutional investors.

(4) In this paragraph "qualifying institutional investor" means any of the following persons—

(a) a scheme (as defined in section 14F(7)) which is a widely-marketed scheme;

(b) the trustee or manager of a qualifying pension scheme;

(c) a company carrying on life assurance business (as defined in section 56 of the Finance Act 2012);

(d) a person who cannot be liable for corporation tax or income tax (as relevant) on the ground of sovereign immunity.

(5) In sub-paragraph (4)(b) "qualifying pension scheme" means a pension scheme (as defined in section 150(1) of the Finance Act 2004) other than—

(a) an investment-regulated pension scheme within the meaning of Part 1 of Schedule 29A to that Act, or

(b) a pension scheme that would be an investment-regulated pension scheme if it were a registered pension scheme.

(6) The Treasury may by regulations amend sub-paragraphs (4) and (5).

(7) Regulations under sub-paragraph (6) may make incidental, consequential, supplementary or transitional provision or savings.

6 (1) Sub-paragraph (2) applies where a participator in a company is a qualifying institutional investor.

(2) For the purpose of determining whether or not the company is a closely-held company, any share or interest which the qualifying institutional investor has as a participator in the company (in any of the ways set out in section 454(2) of CTA 2010 or otherwise) is treated as a share or interest held by more than 5 participators.

(3) Sub-paragraph (4) applies where a participator in a company is a general partner of a limited partnership which is a collective investment scheme (as defined in section 235 of the Financial Services and Markets Act 2000).

(4) For the purpose of determining whether or not the company is a closely-held company, any share or interest which the general partner has as a participator in the company (in any of the ways set out in section 454(2) of CTA 2010 or otherwise) is treated as a share or interest held by more than 5 participators.

(5) Sub-paragraph (4) does not apply to—

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(a) any rights which would, in the event of the winding up of the company ("the relevant company") on the basis set out in paragraph 3, or in any other circumstances, entitle the general partner (or a participator in the general partner) to receive assets of the company which would then be available for distribution among the participators, or

(b) any rights which would, in that event, so entitle the general partner (or a participator in the general partner) if there were disregarded any rights which a person has as a loan creditor (in relation to the relevant company or another company).

(6) In this paragraph "limited partnership" means—

(a) a limited partnership registered under the Limited Partnerships Act 1907, or

(b) a firm or entity of a similar character formed under the law of a territory outside the United Kingdom.

(7) In this paragraph, "general partner", in relation to a limited partnership, means a partner other than a limited partner.

(8) In this paragraph, "limited partner" means a person carrying on business as a partner in a limited partnership who—

(a) is not entitled to take part in the management of that business, and

(b) is entitled to have any liabilities of that business (or those beyond a certain limit) for debts or obligations incurred for the purposes of that business met or reimbursed by some other person.

(9) In this paragraph "qualifying institutional investor" has the same meaning as in paragraph 5.

Meaning of "control"

7 (1) For the purposes of this Schedule, a person ("P") is treated as having control of a company ("C") if P—

(a) exercises,

(b) is able to exercise, or

(c) is entitled to acquire,

direct or indirect control over C's affairs.

(2) In particular, P is treated as having control of C if P possesses or is entitled to acquire—

(a) the greater part of the share capital or issued share capital of C,

(b) the greater part of the voting power in C,

(c) so much of the issued share capital of C as would, on the assumption that the whole of the income of C were distributed among the participators, entitle P to receive the greater part of the amount so distributed, or

(d) such rights as would entitle P, in the event of the winding up of C or in any other circumstances, to receive the greater part of the assets of C which would then be available for distribution among the participators.

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(3) Any rights that P or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in sub-paragraph (2)(c).

(4) If two or more persons together satisfy any of the conditions in sub-paragraphs (1) and (2), they are treated as having control of C.

8 (1) This paragraph applies for the purposes of paragraph 7.

(2) If a person—

(a) possesses any rights or powers on behalf of another person ("A"), or

(b) may be required to exercise any rights or powers on A's direction or on A's behalf,

those rights or powers are to be attributed to A.

(3) There are also to be attributed to P all the rights and powers of any associate of P (including rights and powers exercisable jointly by any two or more associates of P).

(4) In this paragraph "associate", in relation to P, means—

(a) any relative of P,

(b) the trustees of any settlement in relation to which P is a settlor, and

(c) the trustees of any settlement in relation to which any relative of P (living or dead) is or was a settlor.

(5) In this paragraph "relative" means—

(a) a spouse or civil partner,

(b) a parent or remoter forebear,

(c) a child or remoter issue, or

(d) a brother or sister.

Interpretation

9 In this Part of this Schedule—

"diversely-held company" means a company which is not a closely-held company;

"loan creditor" has the meaning given by section 453 of CTA 2010;

"open-ended investment company" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236 of that Act);

"participator", in relation to a company, has the meaning given by section 454 of CTA 2010.

PART 2

UNIT TRUST SCHEMES AND OEICS: WIDELY-MARKETED SCHEMES

Introduction

10 (1) This Part of this Schedule sets out the rules for determining, for the purposes of this Schedule and section 14F, whether or not a scheme is a widely-marketed scheme at any time.

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(2) In this Part of this Schedule "scheme" has the same meaning as in section 14F.

Widely-marketed schemes

11 (1) A scheme is a widely-marketed scheme at any time when the scheme meets conditions A to C.

(2) Condition A is that the scheme produces documents, available to investors and to Her Majesty's Revenue and Customs, which contain—
- (a) a statement specifying the intended categories of investor,
- (b) an undertaking that units in the scheme will be widely available, and
- (c) an undertaking that units in the scheme will be marketed and made available in accordance with the requirements of sub-paragraph (5)(a).

(3) Condition B is that—
- (a) the specification of the intended categories of investor does not have a limiting or deterrent effect, and
- (b) any other terms or conditions governing participation in the scheme do not have a limiting or deterrent effect.

(4) In sub-paragraph (3) "limiting or deterrent effect" means an effect which—
- (a) limits investors to a limited number of specific persons or specific groups of connected persons, or
- (b) deters a reasonable investor falling within one of (what are specified as) the intended categories of investor from investing in the scheme.

(5) Condition C is that—
- (a) units in the scheme are marketed and made available—
  - (i) sufficiently widely to reach the intended categories of investors, and
  - (ii) in a manner appropriate to attract those categories of investors, and
- (b) a person who falls within one of the intended categories of investors can, upon request to the manager of the scheme, obtain information about the scheme and acquire units in it.

(6) A scheme is not regarded as failing to meet condition C at any time by reason of the scheme's having, at that time, no capacity to receive additional investments, unless—
- (a) the capacity of the scheme to receive investments in it is fixed by the scheme documents (or otherwise), and
- (b) a pre-determined number of specific persons or specific groups of connected persons make investments in the scheme which collectively exhaust all, or substantially all, of that capacity.

Interpretation

12 In this Part of this Schedule—

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"open-ended investment company" has the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see section 236 of that Act);

"units" means the rights or interests (however described) of the participants in a unit trust scheme or open-ended investment company."

38 (1) Schedule 4ZZA (relevant high value disposals: gains and losses) is amended as follows.

(2) In paragraph 1 the existing text becomes sub-paragraph (1).

(3) After that sub-paragraph insert—

"(2) See also Part 4 of Schedule 4ZZB, which—

(a) makes provision about non-resident CGT disposals which are, or involve, relevant high value disposals, and

(b) includes provision about the computation of gains or losses on such disposals which are neither NRCGT gains or losses (as defined in section 57B and Schedule 4ZZB) nor ATED-related."

(4) In paragraph 2(1), after paragraph (b) insert—

"See also the special rule in paragraph 6 (which takes precedence over paragraphs 3 and 4 where it applies)."

(5) In paragraph 5, after sub-paragraph (3) insert—

"(3A) An election made in relation to an asset under paragraph 2(1)(b) of Schedule 4ZZB (disposals by non-residents etc of UK residential property interests: gains and losses) also has effect as an election made under this paragraph in relation to the asset."

(6) After paragraph 6 insert—

"Special rule for certain disposals to which both this Schedule and Schedule 4ZZB relate

6A (1) This paragraph applies where conditions A and B are met.

(2) Condition A is that the relevant high value disposal is—

(a) a non-resident CGT disposal (see section 14B), or

(b) one of two or more disposals which are (by virtue of section 2C and this Schedule) treated as comprised in a non-resident CGT disposal.

(3) Condition B is that—

(a) the interest disposed of by the relevant high value disposal was held by P on 5 April 2015,

(b) neither Case 2 nor Case 3 in paragraph 2 applies, and

(c) no election under paragraph 5 of this Schedule (or paragraph 2(1)(b) of Schedule 4ZZB) is or has been made in relation to the chargeable interest which (or a part of which) is the subject of the relevant high value disposal.

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(4) The ATED-related gain or loss accruing on the relevant high value disposal is computed as follows.

Step 1 Determine the amount of the post-April 2015 ATED-related gain or loss.

Step 2 Determine the amount of the pre-April 2015 ATED-related gain or loss.

Step 3 Add—

(a) the amount of any gain or loss determined under Step 1, and

(b) the amount of any gain or loss determined under Step 2,

(treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the ATED-related gain on the relevant high value disposal. If the result is a negative amount, that amount (expressed as a positive number) is the ATED-related loss on the relevant high value disposal.

(5) The post-April 2015 ATED-related gain or loss is equal to the amount that would be given by paragraph 3(1) as the amount of the ATED-related gain or loss if the relevant year for the purposes of that paragraph were 2015.

(6) The "pre-April 2015 ATED-related gain or loss" means the relevant fraction of the notional pre-April 2015 gain or loss.

(7) "The relevant fraction" is—

$$\frac{CD}{TD}$$

where—

"CD" is the number of days in the relevant ownership period which are ATED chargeable days;

"TD" is the total number of days in the relevant ownership period.

(8) If the interest disposed of was not held by P on 5 April 2013, the "notional pre-April 2015 gain or loss" is the gain or loss which would have accrued on 5 April 2015 had the interest been disposed of on that date for a consideration equal to its market value on that date.

(9) If the interest disposed of was held by P on 5 April 2013, the "notional pre-April 2015 gain or loss" is the gain or loss which would have accrued on 5 April 2015 if P had—

(a) acquired the interest on 5 April 2013 for a consideration equal to its market value on that date, and

(b) disposed of it on 5 April 2015 for a consideration equal to its market value on that date.

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(10) Paragraph 3(3) applies for the purposes of sub-paragraphs (8) and (9) as for the purposes of paragraph 3(2).

(11) In sub-paragraph (7) "relevant ownership period" means the period—

(a) beginning with the day on which P acquired the chargeable interest or, if later, 6 April 2013, and

(b) ending with 5 April 2015.

(12) For how to compute the amount of the gain or loss on the relevant high value disposal that is neither ATED-related nor an NRCGT gain or loss (as defined in section 57B and Schedule 4ZZB) see paragraphs 16 to 19 of Schedule 4ZZB."

(7) After paragraph 7 insert—

"Wasting assets

8 (1) Sub-paragraph (2) applies where it is necessary, in computing in accordance with paragraph 3(2) the notional post-commencement gain or loss accruing to a person on a relevant high value disposal, to determine whether or not the interest which is the subject of the disposal is a wasting asset.

(2) The assumption in paragraph 3(2) that the interest was acquired on a particular 5 April is to be ignored in determining that question.

(3) Sub-paragraph (4) applies where it is necessary, in computing in accordance with paragraph 6A(9) the notional pre-April 2015 gain or loss accruing to a person on a disposal, to determine whether or not the interest which is the subject of the disposal is a wasting asset.

(4) The assumption in paragraph 6A(9) that the interest was acquired on 5 April 2013 is to be ignored in determining that question.

(5) In this paragraph references to a "wasting asset" are to a wasting asset as defined for the purposes of Chapter 2 of Part 2 of this Act.

Capital allowances

9 (1) Sub-paragraph (2) applies where it is to be assumed for the purpose of computing—

(a) the notional post-commencement gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 3(2), or

(b) the notional pre-April 2015 gain or loss accruing to a person on a disposal in accordance with paragraph 6A(9),

that an asset was acquired by a person on 5 April 2013 for a consideration equal to its market value on that date.

(2) For the purposes of that computation, sections 41 (restriction of losses by reference to capital allowances etc) and 47 (wasting assets qualifying for capital allowances) are to apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by the person in acquiring or providing the asset as if that allowance were made

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in respect of the expenditure treated as incurred by the person on 5 April 2013 as mentioned in sub-paragraph (1)."

39 After Schedule 4ZZA insert—

"SCHEDULE
4ZZB

NON-RESIDENT CGT DISPOSALS: GAINS AND LOSSES

PART 1

INTRODUCTION

1 (1) This Schedule applies for the purpose of determining, in relation to a non-resident CGT disposal made by a person ("P")—
(a) whether an NRCGT gain or loss accrues to P on the disposal, and the amount of any such gain or loss, and
(b) whether a gain or loss other than an NRCGT gain or loss accrues to P on the disposal, and the amount of any such gain or loss;
(and see also sub-paragraph (2)(c)).

(2) In this Schedule—
(a) Part 2 is about elections to vary the method of computation of gains and losses;
(b) Part 3 contains the main rules for computing the gains and losses;
(c) Part 4 contains separate rules for computing, in a case where the non-resident CGT disposal is, or involves, a relevant high value disposal (as defined in section 2C)—
(i) the amount of any NRCGT gains or losses accruing on the disposal, and
(ii) the amount of any gains or losses accruing on the disposal that are neither ATED-related nor NRCGT gains or losses;
(d) Part 5 contains special rules about non-resident CGT disposals made by companies;
(e) Part 6 (miscellaneous provisions) contains special rules relating to wasting assets and capital allowances;
(f) Part 7 contains definitions for the purposes of this Schedule.

(3) See section 14B for the meaning of "non-resident CGT disposal".

PART 2

ELECTIONS FOR ALTERNATIVE METHODS OF COMPUTATION

2 (1) A person ("P") making a non-resident CGT disposal of (or of a part of) an interest in UK land which P held on 5 April 2015 may—
(a) make an election for straight-line time apportionment in relation to the interest in UK land;
(b) make an election for the retrospective basis of computation to apply in relation to that interest,

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(but may not do both).

(2) P may not make an election under sub-paragraph (1)(a) if the disposal is one to which Part 4 of this Schedule applies (cases involving relevant high value disposals).

(3) For the effect of making an election under sub-paragraph (1)(a), see paragraph 8.

(4) For the effect of making (or not making) an election under sub-paragraph (1)(b), see paragraphs 5(1)(b), 9(1)(b), 13(1)(b), 14(1)(a) and 15(1)(c) (and paragraph 6A(3)(c) of Schedule 4ZZA).

(5) An election made under paragraph 5 of Schedule 4ZZA (including any such election made before the coming into force of this paragraph) has effect as if it were also an election under sub-paragraph (1)(b).

3 (1) An election under paragraph 2(1) is irrevocable (and where an election has been made under paragraph 2(1) or paragraph 5 of Schedule 4ZZA in relation to an asset, no election may subsequently be made under either of those provisions in relation to the asset).

(2) An election under paragraph 2(1) may (regardless of section 42(2) of the Management Act) be made by being included in—

(a) a tax return under the Management Act for the tax year in which the first non-resident CGT disposal by P of the interest in UK land (or any part of it) is made, or

(b) the NRCGT return relating to the disposal,

(but not by any other method).

(3) References in sub-paragraph (2) to an election being included in a return include an election being included by virtue of an amendment of the return.

(4) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under paragraph 2(1).

PART 3

MAIN COMPUTATION RULES

Disposals to which this Part applies

4 (1) This Part of this Schedule applies where a person ("P") makes a non-resident CGT disposal of (or of a part of) an interest in UK land.

(2) But this Part of this Schedule does not apply if the disposal is—

(a) a relevant high value disposal, or

(b) a disposal in which a relevant high value disposal is comprised (see paragraph 12(3)).

(3) In this Part of this Schedule "the disposed of interest" means—

(a) the interest in UK land, or

(b) if the disposal is of part of that interest, the part disposed of.

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Introduction to paragraphs 6 to 8

5 (1) Paragraphs 6 to 8 apply where—

(a) the disposed of interest was held by P on 5 April 2015, and

(b) P has not made an election under paragraph 2(1)(b) in relation to the interest in UK land.

(2) In paragraphs 6 and 7—

(a) "notional post-April 2015 gain or loss" means the gain or loss which would have accrued on the disposal had P acquired the disposed of interest on 5 April 2015 for a consideration equal to its market value on that date;

(b) "notional pre-April 2015 gain or loss" means the gain or loss which would have accrued on 5 April 2015 had the disposed of interest been disposed of for a consideration equal to its market value on that date;

but see also paragraph 8(1).

(3) For the purpose of determining the amount of the hypothetical gain or loss mentioned in sub-paragraph (2)(a), no account is taken of section 57B or this Schedule (apart from paragraph 23).

Assets held at 5 April 2015: default method

6 (1) The NRCGT gain or loss accruing on the disposal is equal to the relevant fraction of the notional post-April 2015 gain or loss (as the case may be).

But see also sub-paragraph (3).

(2) "The relevant fraction" is—

$$\frac{RD}{TD}$$

where—

"RD" is the number of days in the post-commencement ownership period on which the subject matter of the disposed of interest consists wholly or partly of a dwelling;

"TD" is the total number of days in the post-commencement ownership period.

(3) If there has been mixed use of the subject matter of the disposed of interest on one or more days in the post-commencement ownership period, the NRCGT gain or loss accruing on the disposal is the fraction of the amount that would (apart from this sub-paragraph) be given by sub-paragraphs (1) and (2) that is, on a just and reasonable apportionment, attributable to the dwelling or dwellings.

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(4) For the purposes of this paragraph there is "mixed use" of land on any day on which the land consists partly, but not exclusively, of one or more dwellings.

(5) "Post-commencement ownership period" means the period beginning with 6 April 2015 and ending with the day before the day on which the disposal occurs.

7 The gain or loss accruing on the disposal which is not an NRCGT gain or (as the case may be) loss is computed as follows.

Step 1 Determine the amount of the notional pre-April 2015 gain or loss.

Step 2 In a case where there is a notional post-April 2015 gain, determine the amount of that gain remaining after the deduction of the NRCGT gain determined under paragraph 6.

Step 3 In a case where there is a notional post-April 2015 loss, determine the amount of that loss remaining after the deduction of the NRCGT loss determined under paragraph 6.

Step 4 Add—

(a) the amount of any gain or loss determined under Step 1, and

(b) the amount of any gain determined under Step 2 or (as the case may be) any loss determined under Step 3,

(treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the gain on the disposal which is not an NRCGT gain. If the result is a negative amount, that amount (expressed as a positive number) is the loss on the disposal which is not an NRCGT loss.

Modified application of paragraphs 5 to 7 where election made for straight-line time apportionment

8 (1) Where the non-resident CGT disposal is of (or of a part of) an interest in UK land in respect of which P makes, or has made, an election for straight-line time apportionment under paragraph 2(1)(a)—

(a) paragraphs (a) and (b) of paragraph 5(2) do not apply in relation to the disposal, and

(b) for the purposes of paragraphs 6 and 7, the "notional pre-April 2015 gain or loss" and the "notional post-April 2015 gain or loss" are to be determined in accordance with the following steps.

Step 1 Determine the amount of the gain or loss which accrues to P on the disposal. For the purpose of determining that amount, no account is taken of section 57B or this Schedule (apart from paragraph 23).

Step 2 An amount equal to the post-commencement fraction of that gain or loss is the notional post-April 2015 gain or (as the case may be) loss.

Step 3 An amount equal to the pre-commencement fraction of that gain or loss is the notional pre-April 2015 gain or (as the case may be) loss.

(2) The "post-commencement fraction" is—

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$$\frac{PCD}{TD}$$

where—

"PCD" is the number of days in the post-commencement ownership period;

"TD" is the total number of days in the ownership period.

(3) The "pre-commencement fraction" is—

$$\frac{TD - PCD}{TD}$$

where "PCD" and "TD" have the same meanings as in sub-paragraph (2).

(4) In this paragraph—

"ownership period" means the period beginning with the day on which P acquired the disposed of interest or, if later, 31 March 1982 and ending with the day before the day on which the disposal occurs;

"post-commencement ownership period" has the meaning given by paragraph 6(5).

Cases where asset acquired after 5 April 2015 or election made under paragraph 2(1)(b)

9 (1) This paragraph applies if—

(a) the disposed of interest was not held by P throughout the period beginning with 5 April 2015 and ending with the disposal, or

(b) the non-resident CGT disposal is of (or of part of) an interest in UK land in respect of which P makes, or has made, an election under paragraph 2(1)(b).

(2) The NRCGT gain or loss accruing on the disposal is computed as follows.

Step 1 Determine the amount of the gain or loss which accrues to P. For the purpose of determining the amount of that gain or loss, no account is taken of section 57B or this Schedule (apart from paragraph 23).

Step 2 The NRCGT gain or (as the case may be) loss accruing on the disposal is an amount equal to the relevant fraction of that gain or loss (but see Step 3).

Step 3 If there has been mixed use of the subject matter of the disposed of interest on one or more days in the relevant ownership period, the NRCGT gain or loss accruing on the disposal is equal to the appropriate fraction of the amount given by Step 2.

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(3) For the purposes of this paragraph there is "mixed use" of land on any day on which the land consists partly, but not exclusively, of one or more dwellings.

(4) In Step 3 "the appropriate fraction" means the fraction that is, on a just and reasonable apportionment, attributable to the dwelling or dwellings.

(5) The gain or loss accruing on the disposal which is not an NRCGT gain or (as the case may be) loss is to be computed as follows.

Step 1 In a case where there is a gain under Step 1 of sub-paragraph (2), determine the amount of that gain remaining after the deduction of the NRCGT gain determined under that sub-paragraph. That remaining gain is the gain accruing on the disposal which is not an NRCGT gain.

Step 2 In a case where there is a loss under Step 1 of sub-paragraph (2), determine the amount of that loss remaining after deduction of the NRCGT loss determined under that sub-paragraph. That remaining loss is the loss accruing on the disposal which is not an NRCGT loss.

(6) For the purposes of sub-paragraph (2), "the relevant fraction" is—

$$\frac{RD}{TD}$$

where—

"RD" is the number of days in the relevant ownership period on which the subject matter of the disposed of interest consists wholly or partly of a dwelling;

"TD" is the total number of days in the relevant ownership period.

(7) "The relevant ownership period" means the period—

(a) beginning with the day on which P acquired the disposed of interest or, if later, 31 March 1982, and

(b) ending with the day before the day on which the disposal mentioned in paragraph 4(1) occurs.

Interest subsisting under contract for off-plan purchase

10 (1) Sub-paragraph (2) applies where the non-resident CGT disposal referred to in paragraph 4(1) is a disposal of a UK residential property interest only because of the second condition in paragraph 1 of Schedule B1 (interest subsisting under a contract for the acquisition of land that consists of, or includes, a building that is to be constructed for use as a dwelling etc).

(2) The land that is the subject of the contract concerned is treated for the purposes of this Part of this Schedule as consisting of (or, as the case requires, including) a dwelling throughout P's period of ownership of the disposed of interest.

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PART 4

CASES INVOLVING RELEVANT HIGH VALUE DISPOSALS

Overview

11 (1) This Part is about non-resident CGT disposals which are, or involve, relevant high value disposals (see section 2B, which charges capital gains tax on ATED-related gains on relevant high value disposals).

(2) Paragraphs 12 to 15 contain provision about how any NRCGT gains and losses on such a disposal are computed, including provision—

(a) for the NRCGT gains or losses to be computed for each relevant high value disposal comprised in the non-resident CGT disposal (paragraphs 13 to 15), and

(b) for the results to be added (where necessary) to find the NRCGT gain or loss on the non-resident CGT disposal (see paragraph 12).

(3) For provision about how to compute any ATED-related gains or losses accruing on the relevant high value disposals, see Schedule 4ZZA.

(4) Paragraphs 16 to 19 contain provisions for computing any gains or losses accruing on the disposals mentioned in sub-paragraph (1) which are neither ATED-related nor NRCGT gains or losses, including provision—

(a) for such balancing gains or losses to be computed for each relevant high value disposal comprised in the non-resident CGT disposal, and

(b) for the results to be added together (where necessary) to find the balancing gain or loss on the non-resident CGT disposal (see paragraph 16).

(5) Paragraph 20 is about cases where a disposal which is not a relevant high value disposal is also comprised in the non-resident CGT disposal.

Disposal involving one or more relevant high value disposals

12 (1) This Part of this Schedule applies where—

(a) a person (other than an excluded person) ("P") makes a non-resident CGT disposal of (or of part of) an interest in UK land, and

(b) that disposal ("the disposal of land") is a relevant high value disposal or a relevant high value disposal is comprised in it.

In this sub-paragraph "excluded person" has the meaning given by section 2B(2).

(2) The NRCGT gain or loss accruing on the disposal of land is computed as follows.

Step 1 Determine in accordance with paragraphs 13 to 15 the amount of the NRCGT gain or loss accruing on each relevant high value disposal.

Step 2 Add together the amounts of any gains or losses determined under Step 1 (treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the NRCGT gain on

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the disposal of land. If the result is a negative amount, that amount (expressed as a positive number) is the NRCGT loss on the disposal of land. See paragraphs 16 to 19 for how to compute the gain or loss on the disposal of land which is neither ATED-related nor an NRCGT gain or loss.

(3) For the purposes of this Schedule, a relevant high value disposal is "comprised in" a non-resident CGT disposal if—

(a) the non-resident CGT disposal is treated for the purposes of section 2C and Schedule 4ZZA as two or more disposals, and

(b) the relevant high value disposal is one of those.

(4) In this Part of this Schedule—

(a) "the asset", in relation to a relevant high value disposal, means the chargeable interest which (or a part of which) is the subject of that disposal, and

(b) "the disposed of interest", in relation to a relevant high value disposal, means the asset or, if only part of the asset is the subject of the relevant high value disposal, that part of the asset.

(5) For the purposes of this Part of this Schedule a day is a "section 14D chargeable day" in relation to a relevant high value disposal if—

(a) it is a day on which the subject matter of the disposed of interest consists wholly or partly of a dwelling, but

(b) it is not an ATED chargeable day (as defined in paragraph 3 of Schedule 4ZZA).

Assets held at 5 April 2015 (where no election made and no rebasing in 2016 required)

13 (1) This paragraph applies where—

(a) the disposed of interest was held by P on 5 April 2015,

(b) P has not made an election under paragraph 2(1)(b) (or paragraph 5 of Schedule 4ZZA) in respect of the asset, and

(c) paragraph 15 does not apply.

(2) The NRCGT gain or loss accruing on the relevant high value disposal is equal to the special fraction of the notional post-April 2015 gain or loss (as the case may be) on that disposal.

(3) "Notional post-April 2015 gain or loss" means the gain or loss which would have accrued on the relevant high value disposal had P acquired the disposed of interest on 5 April 2015 for a consideration equal to the market value of that interest on that date.

(4) "The special fraction" is—

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$$\frac{SD}{TD}$$

where—

"SD" is the number of section 14D chargeable days (see paragraph 12(5)) in the post-commencement ownership period;

"TD" is the total number of days in the post-commencement ownership period.

(5) "The post-commencement ownership period" means the period beginning with 6 April 2015 and ending with the day before the day on which the relevant high value disposal occurs.

Asset acquired after 5 April 2015 or election made under paragraph 2(1)(b) (but no rebasing in 2016 required)

14 (1) This paragraph applies where—

(a) P makes, or has made, an election under paragraph 2(1)(b) (or paragraph 5 of Schedule 4ZZA) in respect of the asset, or

(b) the disposed of interest was not held by P throughout the period beginning with 5 April 2015 and ending with the disposal.

(2) But this paragraph does not apply if paragraph 15 applies.

(3) The NRCGT gain or loss accruing on the relevant high value disposal is computed as follows.

Step 1 Determine the amount of the gain or loss which accrues to P. (For the purpose of determining the amount of that gain or loss, no account need be taken of section 57B or this Schedule (apart from paragraph 23).)

Step 2 The NRCGT gain or loss accruing on the relevant high value disposal is equal to the special fraction of that gain or loss.

(4) For this purpose "the special fraction" is—

$$\frac{SD}{TD}$$

where—

"SD" is the number of section 14D chargeable days (see paragraph 12(5)) in the relevant ownership period;

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"TD" is the total number of days in the relevant ownership period.

(5) "Relevant ownership period" means the period—

(a) beginning with the day on which P acquired the disposed of interest or, if later, 31 March 1982, and

(b) ending with the day before the day on which the relevant high value disposal occurs.

Certain disposals after 5 April 2016 (computation involving additional rebasing in 2016)

15 (1) This paragraph applies where—

(a) the disposed of interest was held by P on 5 April 2016,

(b) the relevant high value disposal falls within Case 3 for the purposes of Schedule 4ZZA (see paragraph 2(4) of that Schedule), and

(c) no election is or has been made (or treated as made) by P under paragraph 2(1)(b) in respect of the asset.

(2) The NRCGT gain or loss accruing on the relevant high value disposal is computed as follows.

Step 1 Determine the amount equal to the special fraction of the notional post-April 2016 gain or loss (as the case may be).

Step 2 Determine the amount equal to the special fraction of the notional pre-April 2016 gain or loss (as the case may be).

Step 3 Add—

(a) the amount of any gain or loss determined under Step 1, and

(b) the amount of any gain or loss determined under Step 2,

(treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the NRCGT gain on the relevant high value disposal. If the result is a negative amount, that amount (expressed as a positive number) is the NRCGT loss on the relevant high value disposal.

(3) "The special fraction" is—

$$\frac{SD}{TD}$$

where—

"SD" is the number of section 14D chargeable days (see paragraph 12(5)) in the relevant ownership period;

"TD" is the total number of days in the relevant ownership period.

(4) The "relevant ownership period" is—

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(a) for the purpose of computing under Step 1 of sub-paragraph (2) the special fraction of the notional post-April 2016 gain or loss, the period beginning with 6 April 2016 and ending with the day before the day on which the relevant high value disposal occurs;

(b) for the purpose of computing under Step 2 of sub-paragraph (2) the special fraction of the notional pre-April 2016 gain or loss, the period beginning with the day on which P acquired the disposed of interest or, if later, 6 April 2015 and ending with 5 April 2016.

(5) "Notional post-April 2016 gain or loss" means the gain or loss which would have accrued on the relevant high value disposal had P acquired the disposed of interest on 5 April 2016 for a consideration equal to its market value on that date.

(6) If the disposed of interest was not held by P on 5 April 2015, "notional pre-April 2016 gain or loss" means the gain or loss which would have accrued on 5 April 2016 had the disposed of interest been disposed of for a consideration equal to the market value of the interest on that date.

(7) If the disposed of interest was held by P on 5 April 2015, "notional pre-April 2016 gain or loss" means the gain or loss which would have accrued to P on the disposal mentioned in paragraph (b), had P—

(a) acquired the disposed of interest on 5 April 2015 for a consideration equal to the market value of that interest on that date, and

(b) disposed of that interest on 5 April 2016 for a consideration equal to the market value of that interest on that date.

Amount of gain or loss that is neither ATED-related nor an NRCGT gain or loss

16 (1) The gain or loss on the disposal of land (see paragraph 12(1)(b)) which is neither ATED-related nor an NRCGT gain or loss ("the balancing gain or loss") is computed as follows.

Step 1 Determine in accordance with paragraphs 17 to 19 the amount of the gain or loss accruing on each relevant high value disposal which is neither ATED-related nor an NRCGT gain or loss. This is the "balancing" gain or loss for each such disposal.

Step 2 Add together the amounts of any balancing gains or losses determined under Step 1 (treating any amount which is a loss as a negative amount). If the result is a positive amount, that amount is the balancing gain on the disposal of land. If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the disposal of land.

(2) In relation to a relevant high value disposal, "balancing day" means a day which is neither—

(a) a section 14D chargeable day (see paragraph 12(5)), nor

(b) an ATED chargeable day.

(3) In relation to a relevant high value disposal, "non-ATED chargeable day" means a day which is not an ATED chargeable day.

(4) The references in sub-paragraphs (2) and (3) to an "ATED chargeable day" are to be interpreted in accordance with paragraph 3(6) of Schedule 4ZZA.

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17 (1) This paragraph applies in relation to a relevant high value disposal to which paragraph 13 applies.

(2) If paragraph 6A of Schedule 4ZZA does not apply, the amount of the balancing gain or loss on the relevant high value disposal is found by adding—

(a) the amount of the balancing gain or loss belonging to the notional post-April 2015 gain or loss, and

(b) the amount of the balancing gain or loss belonging to the notional pre-April 2015 gain or loss,

(treating any amount which is a loss as a negative amount).

If the result is a positive amount, that amount is the balancing gain on the relevant high value disposal.

If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the relevant high value disposal.

(3) If paragraph 6A of Schedule 4ZZA applies, the amount of the balancing gain or loss on the relevant high value disposal is found by adding—

(a) the amount of the balancing gain or loss belonging to the notional post-April 2015 gain or loss,

(b) the amount of the balancing gain or loss belonging to the notional pre-April 2015 gain or loss, and

(c) if P held the disposed of interest on 5 April 2013, the amount of the notional pre-April 2013 gain or loss,

(treating any amount which is a loss as a negative amount).

If the result is a positive amount, that amount is the balancing gain on the relevant high value disposal.

If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the relevant high value disposal.

(4) The balancing gain or loss belonging to the notional post-April 2015 gain or loss is equal to the balancing fraction of the notional post-April 2015 gain or loss.

(5) The balancing gain or loss belonging to the notional pre-April 2015 gain or loss is equal to the non-ATED related fraction of the notional pre-April 2015 gain or loss.

(6) "The balancing fraction" is—

$$\frac{BD}{TD}$$

where—

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"BD" is the number of balancing days (see paragraph 16(2)) in the appropriate ownership period;

"TD" is the total number of days in the appropriate ownership period.

(7) "The non-ATED related fraction" is—

$$\frac{NAD}{TD}$$

where—

"NAD" is the number of non-ATED chargeable days (see paragraph 16(3)) in the appropriate ownership period;

"TD" is the total number of days in the appropriate ownership period.

(8) "Appropriate ownership period" means—

(a) for the purpose of computing the balancing gain or loss belonging to the notional post-April 2015 gain or loss, the post-commencement ownership period defined in paragraph 13(5);

(b) for the purpose of computing the balancing gain or loss belonging to the notional pre-April 2015 gain or loss, the relevant ownership period defined in paragraph 6A(11) of Schedule 4ZZA.

(9) In this paragraph—

(a) "notional post-April 2015 gain or loss" has the same meaning as in paragraph 13;

(b) "notional pre-April 2015 gain or loss" has the same meaning as in paragraph 6A of Schedule 4ZZA;

(c) "notional pre-April 2013 gain or loss" means the gain or loss which would have accrued on 5 April 2013 had the disposed of interest been disposed of for a consideration equal to the market value of that interest at that date.

18 (1) In the case of a relevant high value disposal to which paragraph 14 applies, the amount of the balancing gain or loss is determined as follows.

(2) Determine the number of balancing days (see paragraph 16(2)) in the relevant ownership period.

(3) The balancing gain or loss on the disposal is equal to the balancing fraction of the amount of the gain or (as the case may be) loss determined under Step 1 of paragraph 14(3).

(4) "The balancing fraction" is—

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$$\frac{BD}{TD}$$

where—

"BD" is the number of balancing days in the relevant ownership period;

"TD" is the total number of days in the relevant ownership period.

(5) In this paragraph "relevant ownership period" has the same meaning as in paragraph 14.

19 (1) The amount of the balancing gain or loss on a relevant high value disposal to which paragraph 15 applies is found by adding—

(a) the amount of the balancing gain or loss belonging to the notional post-April 2016 gain or loss,

(b) the amount of the balancing gain or loss belonging to the notional pre-April 2016 gain or loss, and

(c) if P held the disposed of interest on 5 April 2015, the amount of the notional pre-April 2015 gain or loss,

(treating any amount which is a loss as a negative amount).

If the result is a positive amount, that amount is the balancing gain on the relevant high value disposal.

If the result is a negative amount, that amount (expressed as a positive number) is the balancing loss on the relevant high value disposal.

(2) The balancing gain or loss belonging to the notional post-April 2016 gain or loss is equal to the balancing fraction of the notional post-April 2016 gain or loss.

(3) The balancing gain or loss belonging to the notional pre-April 2016 gain or loss is equal to the balancing fraction of the notional pre-April 2016 gain or loss.

(4) "The balancing fraction" is—

$$\frac{BD}{TD}$$

where—

"BD" is the number of balancing days (see paragraph 16(2)) in the appropriate ownership period;

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"TD" is the total number of days in the appropriate ownership period.

(5) The appropriate ownership period is—

(a) for the purpose of computing the balancing gain or loss belonging to the notional post-April 2016 gain or loss, the relevant ownership period mentioned in paragraph 15(4)(a);

(b) for the purpose of computing the balancing gain or loss belonging to the notional pre-April 2016 gain or loss, the relevant ownership period mentioned in paragraph 15(4)(b).

(6) In this paragraph—

(a) "notional post-April 2016 gain or loss" and "notional pre-April 2016 gain or loss" mean the same as in paragraph 15;

(b) "notional pre-April 2015 gain or loss" means the gain or loss which would have accrued on 5 April 2015 if the disposed of interest had been disposed of for a consideration equal to the market value of that interest on that date.

Where relevant high value disposal and "other" disposal are comprised in the disposal of land

20 (1) This paragraph applies where the disposals comprised in the disposal of land (see paragraph 12(3)) include a disposal (the "non-ATED related disposal") which is not a relevant high value disposal.

(2) This Part of this Schedule (apart from this paragraph) applies in relation to the non-ATED related disposal as if it were a relevant high value disposal.

(3) Sub-paragraph (4) applies if there has, at any time in the relevant ownership period, been mixed use of the subject matter of the disposed of interest.

(4) The amount of any NRCGT gain or loss on the non-ATED related disposal computed under this Part of this Schedule is taken to be the appropriate fraction of the amount that it would otherwise be.

(5) In sub-paragraph (4) "the appropriate fraction" means the fraction that is, on a just and reasonable apportionment, attributable to the dwelling or dwellings.

(6) In this paragraph "the relevant ownership period" means, as applicable—

(a) the post-commencement ownership period, as defined in paragraph 13(5),

(b) the relevant ownership period, as defined in paragraph 14(5), or

(c) the relevant ownership period as defined in paragraph 15(4).

Interest subsisting under contract for off-plan purchase

21 (1) Sub-paragraph (2) applies where the non-resident CGT disposal made by P as mentioned in paragraph 12(1) is a disposal of a UK residential property interest only because of the second condition in paragraph 1 of Schedule B1 (interest subsisting under a contract for the acquisition of land that consists of, or includes, a building that is to be constructed for use as a dwelling etc).

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(2) The land that is the subject of the contract concerned is treated for the purposes of this Part of this Schedule as consisting of (or, as the case requires, including) a dwelling throughout P's period of ownership of the interest in UK land.

PART 5

SPECIAL RULES FOR COMPANIES

22 This Part of this Schedule applies where the person making the non-resident CGT disposal is a company.

Indexation

23 The following amounts are computed as if the computation were for corporation tax purposes—

(a) the notional post-April 2015 gain or loss for the purposes of paragraphs 6 and 7;

(b) the notional pre-April 2015 gain or loss for the purposes of paragraphs 6 and 7;

(c) the gain or loss determined under Step 1 of paragraph 9(2);

(d) the notional post-April 2015 gain or loss for the purposes of paragraph 13;

(e) the gain or loss determined under Step 1 of paragraph 14(3);

(f) the notional post-April 2016 gain or loss for the purposes of paragraph 15;

(g) the notional pre-April 2016 gain or loss for the purposes of paragraph 15;

(h) the notional post-April 2015 gain or loss, the notional pre-April 2015 gain or loss and the notional pre-April 2013 gain or loss for the purposes of paragraph 17;

(i) the notional post-April 2016 gain or loss, the notional pre-April 2016 gain or loss and the notional pre-April 2015 gain or loss for the purposes of paragraph 19.

PART 6

MISCELLANEOUS PROVISIONS

Wasting assets

24 (1) Sub-paragraph (2) applies where it is necessary, for the purposes of a relevant computation, to determine whether or not the asset which is the subject of the disposal in question is a wasting asset (as defined for the purposes of Chapter 2 of Part 2).

(2) The assumption (which operates for the purposes of that computation) that the asset was acquired on 5 April 2015 or, as the case may be, 5 April 2016 is to be ignored in determining that question.

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(3) In sub-paragraph (1) "relevant computation" means a computation of—

(a) the notional post-April 2015 gain or loss accruing to a person on a non-resident CGT disposal in accordance with paragraph 5(2)(a),

(b) the notional post-April 2015 gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 13(3),

(c) the notional post-April 2016 gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 15(5), or

(d) the notional pre-April 2016 gain or loss accruing to a person on a disposal in accordance with paragraph 15(7).

Capital allowances

25 (1) Sub-paragraph (2) applies where it is to be assumed for the purpose of computing—

(a) the notional post-April 2015 gain or loss accruing to a person on a non-resident CGT disposal in accordance with paragraph 5(2)(a),

(b) the notional post-April 2015 gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 13(3),

(c) the notional post-April 2016 gain or loss accruing to a person on a relevant high value disposal in accordance with paragraph 15(5), or

(d) the notional pre-April 2016 gain or loss accruing to a person on a disposal in accordance with paragraph 15(7),

that an asset was acquired by a person on 5 April 2015 or (as the case may be) 5 April 2016 ("the deemed acquisition date") for a consideration equal to its market value on that date.

(2) For the purposes of that computation, sections 41 (restriction of losses by reference to capital allowances and renewals allowances) and 47 (wasting assets qualifying for capital allowances) are to apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by the person in acquiring or providing the asset as if that allowance were made in respect of the expenditure treated as incurred by the person on the deemed acquisition date as mentioned in sub-paragraph (1).

PART 7

INTERPRETATION

26 In this Schedule—

"chargeable interest" has the same meaning as in Part 3 of the Finance Act 2013 (annual tax on enveloped dwellings) (see section 107 of that Act);

"dwelling" has the meaning given by paragraph 4 of Schedule B1;

"subject matter", in relation to an interest in UK land (or a chargeable interest) means the land to which the interest relates."

40 In Schedule 4C (transfers of value: attribution of gains etc), in paragraph 4, after sub-paragraph (2) insert—

"(3) Where any of the disposals which the trustees are treated as having made as mentioned in sub-paragraph (2) is a non-resident CGT disposal—

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(a) any chargeable gain or allowable loss accruing on that disposal, other than an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D, is to be treated for the purposes of sub-paragraph (2) as if it were a chargeable gain or (as the case requires) allowable loss falling to be taken into account in calculating the chargeable amount, and

(b) that disposal is otherwise to be disregarded for the purpose of calculating the chargeable amount."

PART 2

OTHER AMENDMENTS

41 TMA 1970 is amended in accordance with paragraphs 42 to 55.

42 After section 7 insert—

"**7A Disregard of certain NRCGT gains for purposes of section 7**

(1) This section applies where—

(a) a person ("P") is the taxable person in relation to an NRCGT return relating to a tax year ("year X") which is made and delivered to an officer of Revenue and Customs before the end of the notification period and contains an advance self-assessment,

(b) the return is in respect of a non-resident CGT disposal on which an NRCGT gain accrues, and

(c) P would (apart from this section) be required to give a notice under section 7 with respect to year X.

(2) For the purpose of determining whether or not P is required to give such a notice (and only for that purpose), P is regarded as not being chargeable to capital gains tax in respect of the NRCGT gain mentioned in subsection (1)(b).

(3) The reference in subsection (1) to the tax year to which an NRCGT return "relates" is to be interpreted in accordance with section 12ZB(7).

(4) In this section—

"advance self-assessment" has the meaning given by section 12ZE(1);

"the notification period" has the meaning given by section 7(1C);

the "taxable person", in relation to a non-resident CGT disposal, means the person who would be chargeable to capital gains tax in respect of any chargeable NRCGT gain accruing on the disposal (were such a gain to accrue).

(5) See—

section 14B of the 1992 Act for the meaning of "non-resident CGT disposal";

section 57B of, and Schedule 4ZZB to, the 1992 Act for the meaning of "NRCGT gain"."

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43 Before section 12AA (and the italic heading before it) insert—

"NRCGT returns

Interpretation of sections 12ZB to 12ZN

12ZA(1) In sections 12ZA to 12ZN—

"advance self-assessment" is to be interpreted in accordance with section 12ZE(1);

"amount notionally chargeable" is to be interpreted in accordance with section 12ZF(1);

"filing date", in relation to an NRCGT return, is to be interpreted in accordance with section 12ZB(8);

"interest in UK land" has the same meaning as in Schedule B1 to the 1992 Act (see paragraph 2 of that Schedule);

the "taxable person", in relation to a non-resident CGT disposal, means the person who would be chargeable to capital gains tax in respect of any chargeable NRCGT gain (see section 57B of, and Schedule 4ZZB to, the 1992 Act) accruing on the disposal (were such a gain to accrue).

(2) In those sections, references to the tax year to which an NRCGT return "relates" are to be interpreted in accordance with section 12ZB(7).

(3) For the purposes of those sections the "completion" of a non-resident CGT disposal is taken to occur—

(a) at the time of the disposal, or

(b) if the disposal is under a contract which is completed by a conveyance, at the time when the asset is conveyed.

(4) For the meaning in those sections of "non-resident CGT disposal" see section 14B of the 1992 Act (and see also section 12ZJ).

(5) For the meaning of "NRCGT group" in those sections see section 288(1) of the 1992 Act.

(6) In this section "conveyance" includes any instrument (and "conveyed" is to be construed accordingly).

NRCGT return

12ZB(1) Where a non-resident CGT disposal is made, the appropriate person must make and deliver to an officer of Revenue and Customs, on or before the filing date, a return in respect of the disposal.

(2) In subsection (1) the "appropriate person" means—

(a) the taxable person in relation to the disposal, or

(b) if the disposal is made by a member of an NRCGT group, the relevant members of the group.

(3) A return under this section is called an "NRCGT return".

(4) An NRCGT return must—

(a) contain the information prescribed by HMRC, and

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(b) include a declaration by the person making it that the return is to the best of the person's knowledge correct and complete.

(5) Subsection (1) does not apply to a non-resident CGT disposal to which section 188C of the 1992 Act applies (transfers within NRCGT group).

(6) For the purposes of subsection (2)(b), the "relevant members" of the NRCGT group are—

(a) the companies which are members of that group when the disposal is made, and

(b) any other companies which are, at any time before the time of the disposal in the tax year to which the return relates, members of that group.

(7) An NRCGT return "relates to" the tax year in which any gains on the non-resident CGT disposal would accrue.

(8) The "filing date" for an NRCGT return is the 30th day following the day of the completion of the disposal to which the return relates.

But see also section 12ZJ(5).

Single return in respect of two or more non-resident CGT disposals

12ZC Where—

(a) a person is required to make and deliver an NRCGT return with respect to two or more non-resident CGT disposals,

(b) the date of the completion of each of the disposals is the same, and

(c) any gains accruing on the disposals would accrue in the same tax year,

the person is to make and deliver a single return with respect to all those disposals.

NRCGT returns: grant and exercise of options

12ZD(1) This section applies where—

(a) by virtue of section 144(2) of the 1992 Act, the grant of an option binding the grantor to sell an interest in UK land is, on the exercise of the option, treated as the same transaction as the sale, and

(b) both the grant of the option and the transaction entered into by the grantor in fulfilment of the grantor's obligations under the option ("the sale") would be non-resident CGT disposals (were they not treated as a single transaction).

(2) On completion of the sale—

(a) the grantor is to be subject to the same obligations under sections 12ZB, 12ZE and 59AA (duties relating to returns and payments on account) in relation to the grant of the option as the grantor would be subject to were the option never to be exercised, and

(b) the consideration for the option is to be disregarded (despite section 144(2) of the 1992 Act) in calculating under section 12ZF the amount of capital gains tax notionally chargeable at the completion date of the single transaction mentioned in subsection (1)(a).

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(3) In this section "sell" is to be interpreted in accordance with section 144(6) of the 1992 Act.

NRCGT return to include advance self-assessment

12ZE(1) An NRCGT return ("the current return") relating to a tax year ("year Y") which a person ("P") is required to make in respect of one or more non-resident CGT disposals ("the current disposals") must include an assessment (an "advance self-assessment") of—

(a) the amount notionally chargeable at the filing date for the current return (see section 12ZF), and

(b) if P has made (or is to make) a prior NRCGT return, the amount of any increase in the amount notionally chargeable for year Y.

But see the exceptions in section 12ZG.

(2) In a case falling within subsection (1)(b)—

(a) there is an "increase in the amount notionally chargeable" for year Y if the amount notionally chargeable at the filing date for the current return exceeds the corresponding amount for the prior NRCGT return (or the prior NRCGT return which has the most recent filing date, if there is more than one), and

(b) the amount of that increase is the amount of the excess.

(3) "Prior NRCGT return" means an NRCGT return which—

(a) relates to year Y, and

(b) is in respect of a non-resident CGT disposal (or disposals) the completion date of which is earlier than that of the current disposals.

The "amount notionally chargeable"

12ZF(1) The "amount notionally chargeable" at the filing date for an NRCGT return ("the current return") is the amount of capital gains tax to which the person whose return it is ("P") would be chargeable under section 14D or 188D of the 1992 Act for the year to which the return relates ("year Y"), as determined—

(a) on the assumption in subsection (2),

(b) in accordance with subsection (3), and

(c) if P is an individual, on the basis of a reasonable estimate of the matters set out in subsection (4).

(2) The assumption mentioned in subsection (1)(a) is that in year Y no NRCGT gain or loss accrues to P on any disposal the completion of which occurs after the day of the completion of the disposals to which the return relates ("day X").

(3) In the determination of the amount notionally chargeable—

(a) all allowable losses accruing to P in year Y on disposals of assets the completion of which occurs on or before day X which are available to be deducted under paragraph (a) or (b) of section 14D(2) or (as the case may be) section 188D(2) of the 1992 Act are to be so deducted, and

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(b) any other relief or allowance relating to capital gains tax which is required to be given in P's case is to be taken into account, so far as the relief would be available on the assumption in subsection (2).

(4) The matters mentioned in subsection (1)(c) are—

(a) whether or not income tax will be chargeable at the higher rate or the dividend upper rate in respect of P's income for year Y (see section 4(4) of the 1992 Act), and

(b) (if P estimates that income tax will not be chargeable as mentioned in paragraph (a)) what P's Step 3 income will be for year Y.

(5) An advance self-assessment must, in particular, give particulars of any estimate made for the purposes of subsection (1)(c).

(6) A reasonable estimate included in an NRCGT return in accordance with subsection (5) is not regarded as inaccurate for the purposes of Schedule 24 to the Finance Act 2007 (penalties for errors).

(7) Where P is the relevant body of an NRCGT group—

(a) the references to P in subsections (2) and (3)(a) are to be read as references to any member of the NRCGT group;

(b) the reference to P in subsection (3)(b) is to be read as including any member of the NRCGT group.

(8) For the purposes of this section—

an estimate is "reasonable" if it is made on a basis that is fair and reasonable, having regard to the circumstances in which it is made;

"Step 3 income", in relation to an individual, has the same meaning as in section 4 of the 1992 Act.

(9) In this section, references to the "relevant body" of an NRCGT group are to be interpreted in accordance with section 188D(4) of the 1992 Act.

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

(11) For the meaning of "NRCGT gain" and "NRCGT loss" see section 57B of, and Schedule 4ZZB to, the 1992 Act.

Cases where advance self-assessment not required

12ZG(1) Where a person ("P") is required to make and deliver an NRCGT return relating to a tax year ("year Y"), section 12ZE(1) (requirement to include advance self-assessment in return) does not apply if condition A, B or C is met.

(2) Condition A is that P (or, if P is the trustees of a settlement, any trustee of the settlement) has been given, on or before the day on which the NRCGT return is required to be delivered, a notice under section 8 or 8A with respect to—

(a) year Y, or

(b) the previous tax year,

and that notice has not been withdrawn.

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(3) Condition B is that P has been given, on or before the day on which the NRCGT return is required to be delivered, a notice under paragraph 3 of Schedule 18 to the Finance Act 1998 (notice requiring delivery of a company tax return) specifying a period which includes the whole or part of—

(a) year Y, or

(b) the previous tax year,

and that notice has not been withdrawn.

(4) Condition C is that an annual tax on enveloped dwellings return has been delivered by P (or a representative partner acting instead of P) for the preceding chargeable period.

(5) In subsection (4)—

"the preceding chargeable period" means the chargeable period (as defined in section 94(8) of the Finance Act 2013) which ends with the 31 March preceding year Y;

"representative partner" has the meaning given by section 167(6) of the Finance Act 2013.

(6) The Treasury may by regulations prescribe further circumstances in which section 12ZE(1) is not to apply.

(7) Regulations under subsection (6)—

(a) may make different provision for different purposes;

(b) may include incidental, consequential, supplementary or transitional provision.

NRCGT returns and annual self-assessment: section 8

12ZH(1) This section applies where a person ("P") (other than the relevant trustees of a settlement)—

(a) is not required to give a notice under section 7 with respect to a tax year ("year X"), and

(b) would be required to give such a notice in the absence of section 7A (which removes that duty in certain cases where the person has made an NRCGT return that includes an advance self-assessment).

(2) In this section, "the relevant NRCGT return" means—

(a) the NRCGT return by virtue of which P is not required to give a notice under section 7 with respect to year X, or

(b) if more than one NRCGT return falls within paragraph (a), the one relating to the disposal which has the latest completion date.

(3) P is treated for the purposes of the Taxes Acts as having been required to make and deliver to an officer of Revenue and Customs a return under section 8 for the purpose of establishing, with respect to year X, the matters mentioned in section 8(1).

(4) For the purposes of subsection (3), section 8 is to be read as if subsections (1E) to (1G) of that section were omitted.

(5) If P does not give a notice under subsection (6) before 31 January in the tax year after year X, the Taxes Acts have effect, from that date, as if the

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advance self-assessment contained in the relevant NRCGT return were a self-assessment included, for the purposes set out in section 9(1), in a return under section 8 made by P and delivered on that date.

(6) If P gives HMRC a notice under this subsection specifying an NRCGT return which—
  (a) relates to year X, and
  (b) contains an advance self-assessment,

the Taxes Acts are to have effect, from the effective date of the notice, as if that advance self-assessment were a self-assessment included, for the purposes set out in section 9(1), in a return under section 8 made by P and delivered on that date.

(7) References in the Taxes Acts to a return under section 8 (for example, references to amending, or enquiring into, a return under that section) are to be read in accordance with subsections (5) and (6).

(8) A notice under subsection (6)—
  (a) must be given before 31 January in the tax year after year X;
  (b) must state that P considers the advance self-assessment in question to be an accurate self-assessment in respect of year X for the purposes of section 9.

(9) The "effective date" of a notice under subsection (6) is—
  (a) the day on which the NRCGT return specified in the notice is delivered, or
  (b) if later, the day on which the notice is given.

(10) The self-assessment which subsection (5) or (6) treats as having been made by P is referred to in this section as the "section 9 self-assessment".

(11) If P—
  (a) gives a notice under subsection (6), and
  (b) makes and delivers a subsequent NRCGT return relating to year X which contains an advance self-assessment,

that advance self-assessment is to be treated as amending the section 9 self-assessment.

(12) For the purposes of subsection (11), an NRCGT return made and delivered by P ("return B") is "subsequent" to an NRCGT return to which P's notice under subsection (6) relates ("the notified return") if the day of the completion of the disposal to which return B relates is later than the day of the completion of the disposal to which the notified return relates.

NRCGT returns and annual self-assessment: section 8A

12Z(1) This section applies where the relevant trustees of a settlement ("the trustees")—
  (a) are not required to give a notice under section 7 with respect to a tax year ("year X"), and
  (b) would be required to give such a notice in the absence of section 7A (which removes that duty in certain cases where the person has made an NRCGT return including an advance self-assessment).

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(2) In this section, "the relevant NRCGT return" means—
  (a) the NRCGT return by virtue of which P is not required to give a notice under section 7 with respect to year X, or
  (b) if more than one NRCGT return falls within paragraph (a), the one relating to the disposal which has the latest completion date.

(3) The trustees are treated for the purposes of the Taxes Acts as having been required to make and deliver to an officer of Revenue and Customs a return under section 8A, for the purpose of establishing, with respect to year X, the matters mentioned in section 8A(1).

(4) For the purposes of subsection (3), section 8A is to be read as if—
  (a) in subsection (1) of that section, ", and the settlors and beneficiaries," were omitted, and
  (b) subsections (1C) to (1E) of that section were omitted.

(5) If the trustees do not give a notice under subsection (6) before 31 January in the tax year after year X, the Taxes Acts have effect, from that date, as if the advance self-assessment contained in the relevant NRCGT return were a self-assessment included, for the purposes set out in section 9(1), in a return under section 8A made by the trustees and delivered on that date.

(6) If the trustees give HMRC a notice under this subsection specifying an NRCGT return which—
  (a) relates to year X, and
  (b) contains an advance self-assessment,

  the Taxes Acts are to have effect, from the effective date of the notice, as if that advance self-assessment were a self-assessment included, for the purposes set out in section 9(1), in a return under section 8A made by the trustees and delivered on that date.

(7) References in the Taxes Acts to a return under section 8A (for example, references to amending, or enquiring into, a return under that section) are to be read in accordance with subsections (5) and (6).

(8) A notice under subsection (6)—
  (a) must be given before 31 January in the tax year after year X;
  (b) must state that the trustees consider the advance self-assessment in question to be an accurate self-assessment in respect of year X for the purposes of section 9.

(9) The "effective date" of a notice under subsection (6) is—
  (a) the day on which the NRCGT return specified in the notice is delivered, or
  (b) if later, the day on which the notice is given.

(10) The self-assessment which subsection (5) or (6) treats as having been made by the trustees is referred to in this section as the "section 9 self-assessment".

(11) If the trustees—
  (a) give a notice under subsection (6), and
  (b) make and deliver a subsequent NRCGT return relating to year X which contains an advance self-assessment,

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that advance self-assessment is to be treated as amending the section 9 self-assessment.

(12) For the purposes of subsection (11), an NRCGT return made and delivered by the trustees ("return B") is "subsequent" to an NRCGT return to which the trustees' notice under subsection (6) relates ("the notified return") if the day of the completion of the disposal to which return B relates is later than the day of the completion of the disposal to which the notified return relates.

Sections 12ZA to 12ZI: determination of residence status

12ZJ(1) For the purposes of sections 12ZA to 12ZI, the question whether or not a disposal of a UK residential property interest is a non-resident CGT disposal is to be determined in accordance with subsections (2) and (3).

(2) A non-residence condition is to be taken to be met in relation to a disposal of a UK residential property interest if, at the time of the completion of the disposal—

(a) it is uncertain whether or not that condition will be met, but

(b) it is reasonable to expect that that condition will be met.

(3) If (in a case within subsection (2)) it later becomes certain that neither of the non-residence conditions is met in relation to the disposal, the disposal is treated as not being, and as never having been, a non-resident CGT disposal (and any necessary repayments or adjustments are to be made accordingly).

(4) Subsection (5) applies if—

(a) at the time of the completion of the disposal of a UK residential property interest it is uncertain whether or not the disposal is a non-resident CGT disposal because it is uncertain whether or not a non-residence condition will be met, but the case does not fall within subsection (2), and

(b) it later becomes certain that a non-residence condition is met in relation to the disposal.

(5) For the purposes of this Act, the filing date for the NRCGT return is taken to be the 30th day following the day on which it becomes certain that a non-residence condition is met in relation to the disposal.

(6) In this section "a non-residence condition" means condition A or B in section 14B of the 1992 Act.

Amendment of NRCGT return by the taxpayer

12ZK(1) A person may, by notice to an officer of Revenue and Customs, amend the person's NRCGT return.

(2) An amendment may not be made more than 12 months after 31 January of the year following the relevant tax year.

(3) In subsection (2) "the relevant tax year" means the tax year in which any gains on the disposal to which the return relates would accrue.

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Correction of NRCGT return by HMRC

12ZL(1) An officer of Revenue and Customs may amend an NRCGT return so as to correct—

(a) obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise), and

(b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer.

(2) A correction under this section is made by notice to the person whose return it is.

(3) No such correction may be made more than 9 months after—

(a) the day on which the return was delivered, or

(b) if the correction is required in consequence of an amendment of the return under section 12ZK (amendment by the taxpayer), the day on which that amendment was made.

(4) A correction under this section is of no effect if the person to whom the notice of correction was given gives notice rejecting the correction.

(5) Notice of rejection under subsection (4) must be given—

(a) to the officer of Revenue and Customs by whom the notice of correction was given,

(b) before the end of the period of 30 days beginning with the date of issue of the notice of correction.

Notice of enquiry

12ZM(1) An officer of Revenue and Customs may enquire into an NRCGT return if the officer gives notice of the intention to do so ("notice of enquiry")—

(a) to the person whose return it is,

(b) within the time allowed.

(2) The time allowed is—

(a) if the return was delivered on or before 31 January in the year following the relevant tax year (the "annual filing date"), up to the end of the period of 12 months after the day on which the return was delivered;

(b) if the return was delivered after the annual filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;

(c) if the return is amended under section 12ZL (correction by HMRC), up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31 January, 30 April, 31 July and 31 October.

(3) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.

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(4) If the notice of enquiry is given as a result of an amendment of the return under section 12ZK (amendment by taxpayer)—

(a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b), or

(b) after an enquiry into the return has been completed,

the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

(5) In subsection (2) "the relevant tax year" means the tax year in which any gain on the disposal to which the return relates would accrue.

Amendment of return by taxpayer during enquiry

12ZN (1) This section applies if an NRCGT return is amended under section 12ZK (amendment by taxpayer) at a time when an enquiry is in progress into the return.

(2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.

(3) So far as the amendment affects the amount notionally chargeable for the purposes of the return (see section 12ZF(1)), it does not take effect while the enquiry is in progress and—

(a) if the officer states in the closure notice that the officer has taken the amendment into account and that—

(i) the amendment has been taken into account in formulating the amendments contained in the notice, or

(ii) the officer's conclusion is that the amendment is incorrect,

the amendment is not to take effect;

(b) otherwise, the amendment takes effect when the closure notice is issued.

(4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which the notice of enquiry is given, and

(b) ending with the day on which the enquiry is completed."

44 (1) Section 28A (completion of enquiry into personal or trustee return) is amended as follows.

(2) In subsection (1), after "9A(1)" insert " or 12ZM ".

(3) In the heading, after "return" insert " or NRCGT return ".

45 Before section 29 insert—

Determination of amount notionally chargeable where no NRCGT return delivered

"28G (1) This section applies where it appears to an officer of Revenue and Customs that—

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(a) a person is required to make and deliver in respect of a non-resident CGT disposal an NRCGT return containing an advance self-assessment, and

(b) the person has not delivered the required return by the filing date for the return.

(2) The officer may make a determination, to the best of the officer's information and belief, of the amount of capital gains tax which should have been assessed in the required return as the amount notionally chargeable.

(3) Notice of any determination under this section must be served on the person in respect of whom it is made and must state the date on which it is issued.

(4) Until such time (if any) as it is superseded by an advance self-assessment on the basis of information contained in an NRCGT return, a determination under this section is to have effect as if it were an advance self-assessment contained in an NRCGT return made by the person in respect of the disposal concerned.

(5) Where—

(a) proceedings have been commenced for the recovery of an amount payable by virtue of a determination under this section, and

(b) before those proceedings are concluded, the determination is superseded by an advance self-assessment made by the person in respect of the disposal,

those proceedings may be continued as if they were proceedings for the recovery of so much of the amount payable by virtue of the advance self-assessment as is due and payable and has not been paid.

(6) No determination under this section, and no advance self-assessment superseding such a determination may be made—

(a) after the end of the period of 3 years beginning with 31 January of the year following the tax year to which the determination relates, or

(b) in the case of such an advance self-assessment, after the end of the period of 12 months beginning with the date of the determination.

(7) In this section—

"advance self-assessment" is to be interpreted in accordance with section 12ZE(1);

"amount notionally chargeable" is to be interpreted in accordance with section 12ZF(1);

"filing date", in relation to an NRCGT return, is to be interpreted in accordance with section 12ZB(8).

(8) For the meaning in this section of "non-resident CGT disposal" see section 14B of the 1992 Act."

46 In section 29 (assessment where loss of tax discovered), in subsection (7)(a), omit the "and" following sub-paragraph (i), and after that sub-paragraph insert—

"(ia) a reference to any NRCGT return made and delivered by the taxpayer which contains an advance self-assessment relating to the relevant year of assessment or either of the two immediately preceding chargeable periods; and".

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47 After section 29 insert—

"**29A Non-resident CGT disposals: determination of amount which should have been assessed**

(1) Subsection (2) applies if HMRC discover, as regards a non-resident CGT disposal made by a person ("P") (or two or more such disposals in a case falling within section 12ZC) and a tax year ("the relevant tax year") that—

(a) an amount that ought to have been assessed as the amount notionally chargeable in an advance self-assessment under section 12ZE(1) has not been so assessed by the filing date, or

(b) an assessment of the amount notionally chargeable for the purposes of section 12ZF(1) contained in an NRCGT return made and delivered by P has become insufficient.

(2) HMRC may determine that the amount or further amount which in its opinion ought to be assessed under section 12ZE to remedy the failure mentioned in subsection (1)(a) or the insufficiency mentioned in subsection (1)(b) is to be treated for the purposes of this Act as if it were so assessed in—

(a) an NRCGT return made by P in respect of the disposal, or

(b) (if P has made and delivered an NRCGT return in respect of the disposal) that return.

But see subsections (3) to (5).

(3) Where P has made and delivered in respect of the disposal an NRCGT return containing an advance self-assessment, HMRC may not make a determination under subsection (2) in respect of the disposal unless one of the two conditions mentioned below is met.

(4) The first condition is that the situation mentioned in subsection (1) was brought about carelessly or deliberately by P or a person acting on P's behalf.

(5) The second condition is that at the time when an officer of Revenue and Customs—

(a) ceased to be entitled to give notice of the officer's intention to enquire into the NRCGT return, or

(b) informed P of the completion of the officer's enquiries into the return,

the officer could not reasonably have been expected, on the basis of the information made available to the officer before that time, to be aware of the situation mentioned in subsection (1).

(6) For the purposes of subsection (5), information is made available to an officer of Revenue and Customs if—

(a) it is contained in an NRCGT return made and delivered by P which relates to the relevant tax year or either or the two immediately preceding tax years,

(b) it is contained in any return under section 8 or 8A made and delivered by P in respect of either of the two tax years immediately preceding the relevant tax year,

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(c) it is contained in any claim made by P which relates to P's capital gains tax position with respect to the relevant tax year or either of the two immediately preceding tax years,

(d) it is contained in any accounts, statements or documents accompanying a return falling within paragraph (a) or (b) or a claim falling within paragraph (c),

(e) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries by an officer of Revenue and Customs into a return falling within paragraph (a) or (b) or a claim falling within paragraph (c) are produced or provided by P to the officer, or

(f) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1)—

(i) could be reasonably expected to be inferred by an officer of Revenue and Customs from information falling within paragraphs (a) to (e), or

(ii) are notified in writing by the taxpayer to an officer of Revenue and Customs.

(7) In subsection (6)—

(a) any reference to a return made and delivered by P under section 8 in respect of a tax year includes, if P carries on a trade, profession or business in partnership, a reference to any partnership return with respect to the partnership for that tax year, and

(b) any reference to P includes a person acting on P's behalf.

(8) An objection to the making of a determination under subsection (2) on the ground that neither of the two conditions mentioned above is fulfilled may not be made otherwise than on an appeal against the assessment.

(9) In this section—

"advance self-assessment" has the meaning given by section 12ZE(1);

"amount notionally chargeable" is to be interpreted in accordance with section 12ZF(1);

"filing date", in relation to an NRCGT return, has the meaning given by section 12ZB(8).

(10) For the meaning in this section of "non-resident CGT disposal" see section 14B of the 1992 Act."

48 In section 34 (ordinary time limit of 4 years), after subsection (1) insert—

"(1A) In subsection (1) the reference to an assessment to capital gains tax includes a determination under section 29A (non-resident CGT disposals: determination of amount which should have been assessed)."

49 In section 42 (procedure for making claims), in subsection (11), after "8A," insert " 12ZB ".

50 In section 59A (payments on account of income tax), omit subsection (7).

51 After section 59A insert—

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"**59AA Non-resident CGT disposals: payments on account of capital gains tax**

(1) Subsections (2) and (3) apply where a person ("P") is required to make, in relation to a tax year, an NRCGT return in respect of one or more non-resident CGT disposals containing an advance self-assessment and the amount in subsection (6)(a) is greater than the amount in subsection (6)(b).

(2) With effect from the filing date for the return, the balancing amount is (or, where applicable, becomes) the amount payable by P on account of P's liability to capital gains tax for the tax year.

(3) Where P is the relevant members of an NRCGT group, P is responsible for discharging the obligation of the taxable person to pay any balancing amounts and such amounts are payable on account of the taxable person's liability to capital gains tax for the tax year.

(4) Subsection (5) applies where a person ("P") is required to make, in relation to a tax year, an NRCGT return containing an advance self-assessment and the amount in subsection (6)(a) is less than the amount in subsection (6)(b).

(5) The balancing amount is repayable to P on the filing date for the return.

(6) The amounts referred to in subsections (1) and (4) are—
   (a) the amount notionally chargeable contained in the self-assessment, and
   (b) the total of any amounts previously paid under this section on account of P's liability to capital gains tax for the tax year.

(7) In subsections (2) and (5) "the balancing amount" means the difference between those amounts.

(8) Where, in the case of a repayment, the NRCGT return is enquired into by an officer of Revenue and Customs—
   (a) nothing in subsection (5) requires the repayment to be made before the day on which, by virtue of section 28A(1), the enquiry is completed, but
   (b) the officer may at any time before that day make the repayment, on a provisional basis, to such extent as the officer thinks fit.

(9) Subsection (10) applies to—
   (a) any amount payable on account of capital gains tax as a result of the amendment or correction under section 12ZK, 12ZL or 28A of an advance self-assessment, and
   (b) any amount paid on account of capital gains tax which is repayable as a result of such an amendment or correction.

(10) The amount is payable or (as the case may be) repayable on or before the day specified by the relevant provision of Schedule 3ZA.

(11) Subsection (12) applies where a determination under section 28G (determination of amount notionally chargeable where no NRCGT return delivered) which has effect as a person's advance self-assessment is superseded by an advance self-assessment in an NRCGT return made and delivered by the person under section 12ZB.

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(12) Any amount which is payable on account of capital gains tax, and any amount paid on account of capital gains tax which is repayable, by virtue of the supersession is to be payable or (as the case may be) repayable on or before the filing date for the return.

(13) In this section—

"advance self-assessment" has the meaning given by section 12ZE(1);

"amount notionally chargeable" is to be interpreted in accordance with section 12ZF(1);

"filing date", in relation to an NRCGT return, has the meaning given by section 12ZB(8);

the "taxable person", in relation to a non-resident CGT disposal, means the person who would be chargeable to capital gains tax in respect of any chargeable NRCGT gain accruing on the disposal (were such a gain to accrue).

(14) For the meaning in this section of "non-resident CGT disposal" see section 14B of the 1992 Act.

(15) For the meaning in this section of "NRCGT group" see section 288(1) of the 1992 Act.

59AB Amounts payable on account: recovery

The provisions of the Taxes Acts as to the recovery of tax shall apply to an amount falling to be paid on account of tax in the same manner as they apply to an amount of tax."

52 (1) Section 59B (payment of income tax and capital gains tax) is amended as follows.

(2) In subsection (1)(b), after "59A" insert " or 59AA ".

(3) After subsection (2) insert—

"(2A) The reference in subsection (1)(b) to payments on account under section 59AA does not include any amounts already repaid under section 59AA(5)."

53 In section 107A (relevant trustees), in subsection (2)(b), after "59A" insert " , 59AA ".

54 In section 118 (interpretation), in subsection (1), at the appropriate place insert—

""NRCGT return" has the meaning given by section 12ZB;".

55 (1) Schedule 3ZA (date by which payment to be made after amendment or correction of self-assessment) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1), at the end insert " or an advance self-assessment (see section 12ZE(1)) ";

(b) in sub-paragraph (2), after "section" insert " 59AA(2) or ".

(3) In paragraph 2—

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(a) in sub-paragraph (1), at the end insert " or an amendment of an advance self-assessment under section 12ZK (amendment of NRCGT return by taxpayer) ";

(b) in sub-paragraph (3), after "9B(3)" insert " or 12ZN(3) " and after "self-assessment" insert " or advance self-assessment ".

(4) In paragraph 3(1), after "9ZB" insert " or 12ZL " and after "trustee return" insert " or NRCGT return ".

(5) In paragraph 5(1)—

(a) after "amount of tax" insert " or an amount on account of capital gains tax ";

(b) after "self-assessment" insert " or advance self-assessment ";

(c) omit "personal or trustee".

56 (1) In FA 2007, Schedule 24 (penalties for errors) is amended as follows.

(2) In paragraph 1, in the table in sub-paragraph (4), after the entry relating to accounts in connection with a partnership return insert—

"Capital gains tax	Return under section 12ZB of TMA 1970 (NRCGT return)."

(3) After paragraph 21B insert—

"Treatment of certain payments on account of tax

21C In paragraphs 1(2) and 5 references to "tax" are to be interpreted as if amounts payable under section 59AA(2) of TMA 1970 (non-resident CGT disposals: payments on account of capital gains tax) were tax."

57 In Schedule 36 to FA 2008 (information and inspection powers), after paragraph 21 insert—

"Taxpayer notices following NRCGT return

21ZA (1) Where a person has delivered an NRCGT return with respect to a non-resident CGT disposal, a taxpayer notice may not be given for the purpose of checking the person's capital gains tax position as regards the matters dealt with in that return.

(2) Sub-paragraph (1) does not apply where, or to the extent that, any of conditions A to C is met.

(3) Condition A is that notice of enquiry has been given in respect of—

(a) the return, or

(b) a claim (or an amendment of a claim) made by the person in relation to the chargeable period,

and the enquiry has not been completed.

(4) In sub-paragraph (3) "notice of enquiry" means a notice under section 12ZM of TMA 1970.

(5) Condition B is that an officer of Revenue and Customs has reason to suspect that—

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(a) an amount that ought to have been assessed under section 12ZE of TMA 1970 as payable on account of the person's liability to capital gains tax for the tax year to which the return relates has not been so assessed by the filing date for the return, or

(b) an assessment under section 12ZE of TMA 1970 of the amount payable on account of P's liability to capital gains tax for the tax year to which the return relates has become insufficient.

(6) Condition C is that the notice is given for the purpose of obtaining any information or document that is also required for the purpose of checking that person's position as regards a tax other than capital gains tax.

(7) In this paragraph—

"NRCGT return" has the meaning given by section 12ZB of TMA 1970;

"non-resident CGT disposal" has the meaning given by section 14B of TCGA 1992."

58 In CTA 2009, in section 2 (charge to corporation tax), in subsection (2A), for the words from "under" to the end substitute "under—

(a) section 2B of TCGA 1992 (companies etc chargeable to capital gains tax on ATED-related gains on relevant high value disposals), or

(b) section 14D or 188D of that Act (persons chargeable to capital gains tax on NRCGT gains on non-resident CGT disposals)."

59 (1) In Schedule 55 to FA 2009 (penalty for failure to make returns etc), in the Table in paragraph 1, after item 2 insert—

"2A	Capital gains tax	NRCGT return under section 12ZB of TMA 1970".

(2) That Schedule, as amended by sub-paragraph (1), is taken to have come into force for the purposes of NRCGT returns on the date on which this Act is passed.

PART 3

COMMENCEMENT

60 The amendments made by this Schedule have effect in relation to disposals made on or after 6 April 2015.

SCHEDULE 8

Section 38

RELEVANT HIGH VALUE DISPOSALS: GAINS AND LOSSES

Introduction

1 The Taxation of Chargeable Gains Act 1992 is amended as follows.

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

"Relevant high value disposal"

2 (1) Section 2C ("relevant high value disposal") is amended as follows.

(2) In subsection (6), in the definition of "the relevant ownership period" for "6 April 2013" substitute " 6 April in the relevant year ".

(3) In that subsection, after that definition insert—

""the relevant year" means—

(a) in Case 1 in paragraph 2 of Schedule 4ZZA, 2013;

(b) in Case 2 in that paragraph, 2015;

(c) in Case 3 in that paragraph, 2016;".

(4) In subsection (7)(b), for "1 April 2013" substitute " 1 April in the relevant year ".

Threshold amount for the tax year 2015-16

3 (1) Section 2D (CGT on ATED-related gains: the threshold amount) is amended as follows.

(2) In subsection (2) for "£2 million" substitute " £1 million ".

(3) In subsection (3) for "£2 million" substitute " £1 million ".

(4) In subsection (5) for " "£2 million"" substitute " "£1 million" ".

(5) The amendments made by this paragraph have effect in relation to disposals occurring in the tax year 2015-16.

Threshold amount from 6 April 2016

4 (1) Section 2D (CGT on ATED-related gains: the threshold amount) is amended as follows.

(2) In subsection (2) for "£1 million" substitute " £500,000 ".

(3) In subsection (3) for "£1 million" substitute " £500,000 ".

(4) In subsection (5) for " "£1 million"" substitute " "£500,000" ".

(5) The amendments made by this paragraph have effect in relation to disposals occurring on or after 6 April 2016.

Restriction of losses

5 In section 2E (restriction of losses), in subsection (3)—

(a) after "5 April 2013" insert " etc ", and

(b) for "post-April 2013" substitute " post-commencement ".

Calculation of gains and losses

6 Schedule 4ZZA (relevant high value disposals: gains and losses) is amended as follows.

7 For the italic heading before paragraph 2 substitute " Assets held on 5 April 2013, 5 April 2015 or 5 April 2016: no paragraph 5 election ".

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8 For paragraph 2 substitute—

"2 (1) In Cases 1 to 3 below—

(a) paragraph 3 applies for the purposes of computing the gain or loss accruing to P which is ATED-related, and

(b) paragraph 4 applies for the purposes of computing the gain or loss accruing to P which is not ATED-related.

(2) Case 1 is that—

(a) the interest disposed of was held by P on 5 April 2013, and

(b) neither Case 2 nor Case 3 applies.

(3) Case 2 is that—

(a) the interest disposed of was held by P on 5 April 2015,

(b) Case 3 does not apply, and

(c) no relevant single dwelling interest was subject to ATED on one or more days in the period ending with 31 March 2015 during which P held the interest disposed of.

(4) Case 3 is that—

(a) the interest disposed of was held by P on 5 April 2016, and

(b) no relevant single dwelling interest was subject to ATED on one or more days in the period ending with 31 March 2016 during which P held the interest disposed of.

(5) For the purposes of this paragraph—

(a) "relevant single-dwelling interest" means the single-dwelling interest by reference to which Condition B in section 2C is met in relation to the relevant high value disposal, or, if Condition B is met by reference to more than one such interest, each of them;

(b) a relevant single dwelling interest is "subject to ATED" on a day if P—

(i) was within the charge to annual tax on enveloped dwellings with respect to that interest on that day, or

(ii) would have been within that charge but for the day being "relievable" by virtue of any of the provisions mentioned in section 132 of the Finance Act 2013 (ATED: effect of reliefs).

(6) In paragraphs 3 and 4, "the relevant year" means—

(a) in relation to Case 1, 2013;

(b) in relation to Case 2, 2015;

(c) in relation to Case 3, 2016."

9 (1) Paragraph 3 is amended as follows.

(2) In sub-paragraph (1) for "post-April 2013" substitute " post-commencement ".

(3) In sub-paragraph (2)—

(a) for "post-April 2013" substitute " post-commencement ", and

(b) for "5 April 2013" substitute " 5 April in the relevant year ".

(4) In sub-paragraph (5), for "6 April 2013" substitute " 6 April in the relevant year ".

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10 (1) Paragraph 4 is amended as follows.

(2) In sub-paragraph (1)—

(a) for "pre-April 2013" substitute " pre-commencement ", and

(b) for "post-April 2013", in both places, substitute " post-commencement ".

(3) In sub-paragraph (2)—

(a) for "pre-April 2013" substitute " pre-commencement ", and

(b) for "5 April 2013" substitute " 5 April in the relevant year ".

(4) In sub-paragraph (4) for "post-April 2013" substitute " post-commencement ".

(5) In sub-paragraph (5) for "pre-April 2013" substitute " pre-commencement ".

11 (1) Paragraph 5 is amended as follows.

(2) In sub-paragraph (1) for "5 April 2013" substitute " 5 April in the relevant year ".

(3) In sub-paragraph (3) for "6 April 2013" substitute " 6 April in the relevant year ".

(4) For sub-paragraph (6) substitute—

"(6) In this paragraph—

"chargeable interest" has the same meaning as in Part 3 of the Finance Act 2013 (annual tax on enveloped dwellings) (see section 107 of that Act);

"relevant year" has the meaning given by paragraph 2."

12 In the italic heading before paragraph 6, for "assets acquired after 5 April 2013" substitute " or none of Cases 1 to 3 apply ".

13 In paragraph 6, for sub-paragraph (1)(b) substitute—

"(b) none of Cases 1, 2 and 3 in paragraph 2 applies to the disposal."

SCHEDULE 9

Section 39

PRIVATE RESIDENCE RELIEF

1 TCGA 1992 is amended in accordance with this Schedule.

2 In section 222 (relief on disposal of private residence)—

(a) after subsection (6) insert—

"(6A) Where an individual has determined, by giving notice under subsection (5)(a), that a residence is the individual's main residence, that determination does not cease to be effective at any time by reason only of the fact that, at that time, another of the individual's residences is treated by section 222B(1) as not being occupied as a residence (or, having been so treated, is no longer so treated).";

(b) in subsection (7), for "223" substitute " 222A ".

3 After section 222 insert—

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"**222A Determination of main residence: non-resident CGT disposals**

(1) This section applies where—

(a) an individual ("P") makes a disposal of, or of an interest in—

(i) a dwelling-house, or part of a dwelling-house, which was at any time in P's period of ownership occupied by P as a residence, or

(ii) land (as mentioned in section 222(1)(b)) which P had for P's own occupation and enjoyment with that residence as its garden or grounds, and

(b) the disposal is a non-resident CGT disposal (see section 14B).

In the remainder of this section the residence concerned is referred to as "the dwelling-house".

(2) So far as it is necessary for the purposes of section 222, P may determine, by a notice under this section, which of 2 or more residences (of which one is the dwelling-house) was P's main residence for any period within P's period of ownership of the dwelling-house.

(3) A notice under this section may vary, as respects any period within P's period of ownership of the dwelling-house, a notice previously given under section 222(5)(a).

See also subsections (4) and (7).

(4) A notice under this section may not vary a notice previously given under section 222(5)(a) as respects any period for which the previous notice had the effect of determining whether or not a disposed of residence was P's main residence.

(5) In subsection (4) "disposed of residence" means one of P's residences which was disposed of (in whole or in part) before the date of the disposal mentioned in subsection (1)(a).

(6) A notice under this section—

(a) must be given in the NRCGT return in respect of the disposal mentioned in subsection (1)(a), and

(b) may not subsequently be varied, whether by a notice under this section or section 222(5)(a).

(7) Where a notice under this section affects both P and an individual ("X") who was, in the period to which the notice relates ("the relevant period"), P's spouse or civil partner living with P—

(a) in a case where each of P and X is required to make an NRCGT return in respect of the disposal of an interest in the dwelling-house, notice given by P under this section is effective as respects any part of the relevant period when P and X were living together as spouses or civil partners only if notice to the same effect is also given under this section by X in respect of that period;

(b) in any other case, notice given by P under this section is effective as respects any part of the relevant period when P and X were living together as spouses or civil partners only if it is accompanied by

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written notification from X agreeing to the terms of the notice in respect of that period.

(8) Nothing in subsection (2) affects the application of section 222(5) in relation to P.

222B Non-qualifying tax years

(1) For the purposes of sections 222 to 226 the dwelling-house or part of a dwelling-house mentioned in section 222(1) is treated as not being occupied as a residence by the individual so mentioned ("P") at any time in P's period of ownership which falls within—

(a) a non-qualifying tax year, or

(b) a non-qualifying partial tax year.

In the remainder of this section the dwelling-house or part of a dwelling-house is referred to as "the dwelling-house".

(2) Except where the disposal mentioned in section 222(1) is a non-resident CGT disposal, subsection (1) does not have effect in respect of any tax year or partial tax year before the tax year 2015-16.

(3) A tax year the whole of which falls within P's period of ownership is "a non-qualifying tax year" in relation to the dwelling-house if—

(a) neither P nor P's spouse or civil partner was resident for that tax year in the territory in which the dwelling-house is situated, and

(b) the day count test was not met by P with respect to the dwelling-house for that tax year (see section 222C).

(4) A partial tax year is "a non-qualifying partial tax year" in relation to the dwelling-house if—

(a) neither P nor P's spouse or civil partner was resident for the tax year in question in the territory in which the dwelling-house is situated, and

(b) the day count test was not met by P with respect to the dwelling-house for that partial tax year.

(5) Where part only of a tax year falls within P's period of ownership, that part is a "partial tax year" for the purposes of this section.

(6) For the purposes of this section an individual is resident in a territory outside the United Kingdom ("the overseas territory") for a tax year ("year X") in relation to which condition A or B is met.

(7) Condition A is that the individual is, in respect of a period or periods making up more than half of year X, liable to tax in the overseas territory under the law of that territory by reason of the individual's domicile or residence.

(8) Condition B is that the individual would be resident in the overseas territory for year X in accordance with the statutory residence test in Part 1 of Schedule 45 to the Finance Act 2013, if in Parts 1 and 2 of that Schedule—

(a) any reference to the United Kingdom (however expressed) were read as a reference to the overseas territory,

(b) "overseas" meant anywhere outside that territory, and

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(c) in paragraph 26 (meaning of "work"), sub-paragraphs (2) to (4), (6) and (7) were disregarded.

(9) In applying the statutory residence test in accordance with subsection (8), any determination of whether—

(a) the individual was resident in the overseas territory for a tax year preceding year X, or

(b) another individual is resident in the overseas territory for year X,

is to be made in accordance with the statutory residence test, as modified by subsection (8).

(10) Section 11(1)(a) (visiting forces etc) is to be disregarded in determining for the purposes of this section whether or not an individual is resident in the United Kingdom.

(11) Subsection (1) is subject to—

(a) section 222(8) (job-related accommodation), and

(b) section 223(3) (absence reliefs).

222C Day count test

(1) This section explains how P meets the day count test (see section 222B) with respect to the dwelling-house or part of a dwelling-house mentioned in section 222(1) for a full or partial tax year.

In the remainder of this section the dwelling-house or part of a dwelling-house is referred to as "the dwelling-house".

(2) P meets that test for a tax year with respect to the dwelling-house if, during that year, P spends at least 90 days in one or more qualifying houses.

(3) P meets that test for a partial tax year with respect to the dwelling-house if, during that partial tax year, P spends at least the relevant number of days in one or more qualifying houses.

(4) To find the relevant number of days for the purposes of subsection (3), multiply 90 days by the relevant fraction and round up the result to the nearest whole number of days if necessary.

(5) The relevant fraction is—

$$\frac{X}{Y}$$

where—

"X" is the number of days in the partial tax year;

"Y" is the number of days in the tax year.

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(6) For the purposes of subsections (2) and (3) the days need not be consecutive, and days spent in different qualifying houses may be aggregated.

(7) A day spent by P's spouse or civil partner in a dwelling-house or part of a dwelling-house which is a qualifying house in relation to P counts as a day spent by P in the qualifying house (but no day is to be counted twice as a result of this subsection).

(8) For the purposes of this section, a day counts as a day spent by an individual in a qualifying house if—

(a) the individual is present at the house at the end of the day, or

(b) the individual—

(i) is present in the house for some period during the day, and

(ii) the next day, has stayed overnight in the house.

(9) For the purposes of this section—

(a) the dwelling-house is a qualifying house in relation to P, and

(b) any other dwelling-house or part of a dwelling-house which is situated in the same territory as the dwelling-house is a qualifying house in relation to P at any particular time if at that time any of the following has an interest in it—

(i) P,

(ii) an individual who is P's spouse or civil partner at that time, and

(iii) an individual who is P's spouse or civil partner at the time of disposal of the dwelling-house.

(10) In this section "partial tax year" has the meaning given by section 222B(5)."

4 (1) Section 223 (amount of relief) is amended as follows.

(2) In subsection (3)—

(a) after "the purposes of" insert " sections 222(5) and 222A and ";

(b) for "was the individual's only or main residence" substitute " were occupied by the individual as a residence ".

(3) For subsection (7) substitute—

"(7) In this section "period of ownership"—

(a) does not include any period before 31 March 1982, and

(b) where the whole or part of the gain to which section 222 applies is an NRCGT gain chargeable to capital gains tax by virtue of section 14D, does not include any period before 6 April 2015 (but see subsection (7A)).

(7A) Paragraph (b) of the definition of "period of ownership" does not apply in a case where paragraph 9 of Schedule 4ZZB applies by virtue of sub-paragraph (1)(b) of that paragraph (the individual has made an election for the retrospective basis of computation to apply).

(7B) In this section "period of absence" means a period during which the dwelling-house or the part of the dwelling-house was not occupied by the individual as a residence."

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5 After section 223 insert—

"**223A Amount of relief: non-resident CGT disposals**

(1) This section applies where—

(a) the individual mentioned in section 223(1) ("P") acquired the asset to which the gain mentioned in section 222(1) is attributable before 6 April 2015, and

(b) P's period of ownership for the purposes of section 223 begins on that date because of section 223(7)(b).

(2) Times before 6 April 2015 are to be ignored in determining whether or not condition A in section 223 is met in relation to a period of absence, unless P elects that this subsection is not to apply in relation to the period.

(3) An election under subsection (2)—

(a) must specify which day before 6 April 2015 P relies on in relation to the period of absence for the purpose of meeting condition A in section 223, and

(b) must be made in the NRCGT return in respect of the disposal.

(4) Where P has made an election under subsection (2), section 223 applies as if relevant prior periods of absence counted against the maximum periods (and maximum aggregate periods) specified in subsection (3)(a), (c) and (d) of that section.

(5) In relation to a maximum period (or maximum aggregate period) specified in paragraph (a), (c) or (d) of section 223(3), "relevant prior period of absence" means a period of absence which would have counted against that maximum period (or maximum aggregate period) if the bridge period were included in the period of ownership.

(6) In subsection (5) "the bridge period" means the period beginning with the day specified in the election and ending with 5 April 2015.

(7) In this section "period of absence" has the same meaning as in section 223."

6 (1) Section 225 (private residence occupied under terms of settlement) is amended as follows.

(2) The existing text becomes subsection (1).

(3) In that subsection—

(a) in the words before paragraph (a), after "person" insert " ("B") ";

(b) in paragraph (a), for "the occupation of the dwelling-house or part of the dwelling-house, and" substitute " the matters dealt with in subsection (2), ";

(c) in paragraph (b), for "the person entitled to occupy the dwelling-house or part of the dwelling-house;" substitute " B, and ";

(d) after paragraph (b) insert—

"(c) the notice which may be given by the trustees under section 222A is effective only if it is accompanied by written notification from B agreeing to the terms of the notice;".

(4) After that subsection insert—

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"(2) In sections 222 to 224, as applied by subsection (1), references to the individual, in relation to—

(a) the occupation of the dwelling-house or part of the dwelling-house,

(b) residence in a territory, or

(c) meeting the day count test,

are to be taken as references to B."

7 (1) Section 225A (private residence held by personal representatives) is amended as follows.

(2) In subsection (5)—

(a) in paragraph (a), for the words from "the occupation" to the end substitute " the matters dealt with in paragraph (aa), ";

(b) after paragraph (a) insert—

"(aa) in relation to the occupation of the dwelling-house or part of the dwelling-house, residence in a territory, or meeting the day count test, references to the individual are to be taken as references to a qualifying individual,";

(c) after paragraph (b) insert "and

(c) the notice which may be given by the personal representatives under section 222A is effective only if it is accompanied by written notification from the individual or individuals entitled to occupy the dwelling-house or part of the dwelling-house agreeing to the terms of the notice."

(3) After subsection (6) insert—

"(7) In subsection (5)(aa) "a qualifying individual" means an individual—

(a) who has a relevant entitlement, and

(b) by virtue of whom the first condition is met."

8 In section 225B (disposals in connection with divorce etc), in subsection (4), after "222(5)" insert " or 222A ".

9 In section 225E (disposals by disabled persons or persons in care homes etc), in subsection (6)(b), after "subsection (5) of that section" insert " or under section 222A ".

10 The amendments made by this Schedule have effect in relation to disposals made on or after 6 April 2015.

SCHEDULE 10

Section 46

PLANT AND MACHINERY ALLOWANCES: ANTI-AVOIDANCE

1 CAA 2001 is amended as follows.

Transfer and long funding leaseback: restrictions on lessee's allowances

2 (1) Section 70DA is amended as follows.

(2) After subsection (5) insert—

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"(5A) D is nil if—

(a) S is not required to bring a disposal value into account under this Part because of the transfer referred to in subsection (1)(a), and

(b) at any time before that transfer S or a linked person became owner of the plant or machinery without incurring either capital expenditure or qualifying revenue expenditure on its provision."

(3) After subsection (8) insert—

"(9) Linked person", in relation to plant or machinery, means a person—

(a) who owned the plant or machinery at any time before the transfer referred to in subsection (1)(a), and

(b) who was connected with S at any time between—

(i) the time when the person became owner of the plant or machinery, and

(ii) the time of the transfer referred to in subsection (1)(a).

(10) Expenditure on the provision of plant or machinery is "qualifying revenue expenditure" if it is expenditure of a revenue nature—

(a) that is at least equal to the amount of expenditure that would reasonably be expected to have been incurred on the provision of the plant or machinery in a transaction between persons dealing with each other at arm's length in the open market, or

(b) that is incurred by the manufacturer of the plant or machinery and is at least equal to the amount that it would have been reasonable to expect to have been the normal cost of manufacturing the plant or machinery."

(4) The amendments made by this paragraph have effect in relation to cases where the lease referred to in section 70DA(1)(b) of CAA 2001 is entered into on or after 26 February 2015.

Restriction on qualifying expenditure on sale, hire purchase (etc) and assignment

3 (1) Section 218 is amended as follows.

(2) In subsection (1), for "(2) and" substitute " (2), (2A) and ".

(3) After subsection (2) insert—

"(2A) D is nil if—

(a) S is not required to bring a disposal value into account under this Part because of the relevant transaction, and

(b) at any time before that transaction S or a linked person became owner of the plant or machinery without incurring either capital expenditure or qualifying revenue expenditure on its provision."

(4) In subsection (3), for the words from the beginning to "transaction," substitute " Otherwise, ".

(5) After that subsection insert—

"(3A) Linked person", in relation to plant or machinery, means a person—

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(a) who owned the plant or machinery at any time before the relevant transaction, and

(b) who was connected with S at any time between—

(i) the time when the person became owner of the plant or machinery, and

(ii) the time of the relevant transaction.

(3B) Expenditure on the provision of plant or machinery is "qualifying revenue expenditure" if it is expenditure of a revenue nature—

(a) that is at least equal to the amount of expenditure that would reasonably be expected to have been incurred on the provision of the plant or machinery in a transaction between persons dealing with each other at arm's length in the open market, or

(b) that is incurred by the manufacturer of the plant or machinery and is at least equal to the amount that it would have been reasonable to expect to have been the normal cost of manufacturing the plant or machinery."

(6) The amendments made by this paragraph have effect in relation to expenditure of B's that is incurred on or after 26 February 2015.

Transfer followed by hire-purchase etc: restrictions on hirer's allowances

4 (1) Section 229A is amended as follows.

(2) After subsection (5) insert—

"(5A) D is nil if—

(a) S is not required to bring a disposal value into account under this Part because of the transfer referred to in subsection (1)(a), and

(b) at any time before that transfer S or a linked person became owner of the plant or machinery without incurring either capital expenditure or qualifying revenue expenditure on its provision."

(3) After subsection (9) insert—

"(10) Linked person", in relation to plant or machinery, means a person—

(a) who owned the plant or machinery at any time before the transfer referred to in subsection (1)(a), and

(b) who was connected with S at any time between—

(i) the time when the person became owner of the plant or machinery, and

(ii) the time of the transfer referred to in subsection (1)(a).

(11) Expenditure on the provision of plant or machinery is "qualifying revenue expenditure" if it is expenditure of a revenue nature—

(a) that is at least equal to the amount of expenditure that would reasonably be expected to have been incurred on the provision of the plant or machinery in a transaction between persons dealing with each other at arm's length in the open market, or

(b) that is incurred by the manufacturer of the plant or machinery and is at least equal to the amount that it would have been reasonable

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to expect to have been the normal cost of manufacturing the plant or machinery."

(4) The amendments made by this paragraph have effect in relation to cases where the contract referred to in section 229A(1)(c) of CAA 2001 is entered into on or after 26 February 2015.

Restriction on qualifying expenditure on sale, hire purchase (etc) and assignment: VAT

5 (1) Section 242 is amended as follows.

(2) After subsection (4) insert—

"(4A) D is nil if—

(a) S is not required to bring a disposal value into account under this Part because of the relevant transaction, and

(b) at any time before that transaction S or a linked person became owner of the plant or machinery without incurring either capital expenditure or qualifying revenue expenditure on its provision."

(3) In subsection (5), for the words from the beginning to "transaction," substitute " Otherwise, ".

(4) In subsection (6)—

(a) omit paragraph (a), and

(b) in paragraph (b), for "the smallest amount under subsection (5)" substitute " subsection (5) applies and the smallest amount under that subsection ".

(5) After that subsection insert—

"(7) Linked person", in relation to plant or machinery, means a person—

(a) who owned the plant or machinery at any time before the relevant transaction, and

(b) who was connected with S at any time between—

(i) the time when the person became owner of the plant or machinery, and

(ii) the time of the relevant transaction.

(8) Expenditure on the provision of plant or machinery is "qualifying revenue expenditure" if it is expenditure of a revenue nature—

(a) that is at least equal to the amount of expenditure that would reasonably be expected to have been incurred on the provision of the plant or machinery in a transaction between persons dealing with each other at arm's length in the open market, or

(b) that is incurred by the manufacturer of the plant or machinery and is at least equal to the amount that it would have been reasonable to expect to have been the normal cost of manufacturing the plant or machinery."

(6) The amendments made by this paragraph have effect in relation to expenditure of B's that is incurred on or after 26 February 2015.

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SCHEDULE 11

Section 47

EXTENSION OF RING FENCE EXPENDITURE SUPPLEMENT

Amendments of Chapter 5 of Part 8 of CTA 2010

1 Chapter 5 of Part 8 of CTA 2010 (ring fence expenditure supplement) is amended as follows.

2 In section 307 (overview of Chapter), in subsection (5) for "6" substitute " 10 ".

3 In section 309 (accounting periods), in subsection (4), for the words from "Chapter" to the end substitute "Chapter—

(a) in relation to straddling periods (see sections 311, 324 and 327(4) to (7)), and

(b) in relation to accounting periods which begin before, but end on or after, 5 December 2013 (see sections 311(1C), 318A and 328A)."

4 (1) Section 311 (limit on number of accounting periods for which supplement may be claimed) is amended as follows.

(2) In subsection (1) for "6" substitute " 10 ".

(3) After subsection (1) insert—

"(1A) In this Chapter—

"the initial 6 periods" means the first 6 accounting periods (in chronological order) for which the company claims supplement under this Chapter;

"the additional 4 periods" means the 4 accounting periods after the initial 6 periods for which the company claims supplement under this Chapter.

(1B) None of the additional 4 periods may be accounting periods beginning before 5 December 2013.

(1C) But, where—

(a) a company has an accounting period which begins before 5 December 2013 and ends on or after that date, and

(b) that accounting period falls after the initial 6 accounting periods,

so much of that accounting period as falls before 5 December 2013 and so much of it as falls on or after that date are treated as separate accounting periods for the purposes of this Chapter."

(4) In the heading of the section after "Limit on number" insert " etc ".

5 In section 316 (the mixed pool of qualifying pre-commencement expenditure and supplement previously allowed), after subsection (5) insert—

"(6) This section is subject to section 318A (adjustment of pool to remove pre-2013 expenditure after the initial 6 periods)."

6 In section 317 (reduction in respect of disposal receipts under CAA 2001), at the end insert—

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"(4) This section is subject to section 318A(5) (exclusion of deductible amounts in respect of pre-2013 expenditure when determining pre-commencement supplement for additional 4 periods)."

7 After section 318 insert—

"**318A Adjustment of pool to remove pre-2013 expenditure after the initial 6 periods**

(1) This section applies for the purposes of determining the amount of any pre-commencement supplement on any claim made by a company for supplement under this Chapter in respect of an accounting period which is one of the additional 4 periods.

(2) The pool which (under section 316) the company is to be taken to have had, at all times in the pre-commencement periods of the company, is to be taken to have been reduced at the time specified in subsection (4).

(3) The amount of the reduction is the sum of—

(a) the relevant amount (if any) which the company carries forward under Schedule 19B to ICTA,

(b) the total amount of qualifying pre-commencement expenditure allocated to the pool for pre-commencement periods beginning before 5 December 2013, and

(c) the total amount of the company's pre-commencement supplement allocated to the pool for pre-commencement periods beginning before that date.

(4) The time is—

(a) immediately after the last of the initial 6 periods, or

(b) if later, 5 December 2013.

(5) Subsection (3) of section 317 (reduction in respect of disposal receipts under CAA 2001) has effect as if the reference in paragraph (a) of that subsection to "all such events" did not include events occurring in relation to an asset representing expenditure incurred before 5 December 2013.

(6) Where a company has a pre-commencement period ("the straddling 2013 period") which begins before 5 December 2013 and ends on or after that date, for the purposes of making a reduction under this section—

(a) so much of the straddling 2013 period as falls before 5 December 2013 ("the pre-2013 period"), and

(b) so much of that period as falls on or after that date ("the post-2013 period"),

are to be treated as separate pre-commencement periods.

(7) Accordingly, any amount of qualifying pre-commencement expenditure, and any amount of the company's pre-commencement supplement, allocated to the pool for the straddling 2013 period is to be—

(a) apportioned between the pre-2013 period and the post-2013 period in proportion to the number of days in each, and

(b) treated as allocated to the pool in question for the period in question (rather than the straddling 2013 period).

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(8) If the basis of the apportionment in subsection (7) would work unjustly or unreasonably in the company's case, the company may elect for the apportionment to be made on another basis that is just and reasonable and specified in the election."

8 (1) Section 326 (the ring fence pool) is amended as follows.

(2) In subsection (3), for "the following provisions of this Chapter" substitute " sections 327 and 328 ".

(3) In subsection (4), after "made", in the first place, insert " under section 327 or 328 ".

(4) After subsection (5) insert—

"(6) This section is subject to section 328A (adjustment of pool to remove pre-2013 losses after the initial 6 periods)."

9 In section 327 (reductions in respect of utilised ring fence losses), after subsection (3) insert—

"(3A) Subsection (3) is subject to section 328A(11)."

10 After section 328 insert—

"**328A Adjustment of pool to remove pre-2013 losses after the initial 6 periods**

(1) This section applies for the purposes of determining the amount of any post-commencement supplement on any claim in respect of any of the additional 4 periods.

(2) The ring fence pool is to be taken to have been reduced at the time specified in subsection (6).

(3) The amount of the reduction is the amount of the total pre-2013 pool reduced (but not below nil) by the amount of the total pre-2013 reduction.

(4) "The amount of the total pre-2013 pool" means the sum of—

(a) the carried forward qualifying Schedule 19B amount (within the meaning of section 326(5)) which is in the pool at the time specified in subsection (6) (if any),

(b) the total amount of the company's ring fence losses added to the pool in post-commencement periods beginning before 5 December 2013,

(c) if the commencement period begins on or after 5 December 2013, so much of any ring fence loss added to the pool in that period as does not exceed the sum of—

(i) any pre-commencement expenditure added to the pool in a pre-commencement period ending before 5 December 2013, and

(ii) any pre-commencement supplement allowed in respect of such a pre-commencement period, and

(d) the total amount of the company's post-commencement supplement added to the pool in post-commencement periods beginning before that date.

(5) "The amount of the total pre-2013 reduction" means the total amount of the reductions in the ring fence pool falling to be made under section 327 or

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328 in post-commencement periods beginning before the time specified in subsection (6).

(6) The time is—

(a) immediately after the last of the 6 initial periods, or

(b) if later, 5 December 2013.

(7) The amount (if any) in the non-qualifying pool under section 325(3) is reduced to nil (and so ceases to exist under section 325(4)).

(8) Section 318A(6) ("the straddling 2013 period") applies for the purposes of making a reduction under this section as it applies for the purposes of making a reduction under section 318A.

(9) Accordingly—

(a) any ring fence loss of the company added to the pool in the straddling 2013 period is to be apportioned between the pre-2013 period and the post-2013 period in proportion to the number of days in each and treated as allocated to the pool for the period in question;

(b) any amount of the company's post-commencement supplement allocated to the pool for the straddling period is to be apportioned between the pre-2013 period and the post-2013 period in proportion to the number of days in each and treated as allocated to the pool for the period in question;

(c) the total amount of reductions in the ring fence pool falling to be made in the straddling period is apportioned between the pre-2013 period and the post-2013 period in proportion to the number of days in each and treated as a reduction falling to be made in the period in question.

(10) If the basis of the apportionment in subsection (9)(a), (b) or (c) would work unjustly or unreasonably in the company's case, the company may elect for the apportionment to be made on another basis that is just and reasonable and specified in the election.

(11) Once a reduction in the pool has been made under this section—

(a) nothing in section 327 applies to require a reduction in the pool in respect of the use under section 45 of a loss if and to the extent that the loss is represented by the reduction made under this section, and

(b) if and to the extent that losses are represented by the reduction they are to be used under section 45 to reduce any profits of a post-commencement period before ring fence losses of the company the use of which would trigger a reduction of the ring fence pool under section 327."

Abolition of extended ring fence expenditure supplement for onshore activities

11 In section 270 of CTA 2010 (overview of Part 8) omit subsection (5A).

12 (1) Schedule 4 to CTA 2010 (index of defined expressions) is amended as follows.

(2) The following definitions are inserted at the appropriate places—

"the initial 6 periods (in Chapter 5 of Part 8)	section 311(1A)";

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"the additional 4 periods (in Chapter 5 of Part 8)	section 311(1A)".

(3) The following definitions are omitted—

"the commencement period (in Chapter 5A of Part 8)	section 329D(1)";
"offshore oil-related activities (in Chapter 5A of Part 8)	section 329C(3)";
"onshore oil-related activities (in Chapter 5A of Part 8)	section 329C(2)";
"onshore ring fence loss (in Chapter 5A of Part 8)	section 329P";
"the onshore ring fence pool (in Chapter 5A of Part 8)	section 329Q";
"the period of the loss (in Chapter 5A of Part 8)	section 329P";
"post-commencement additional supplement (in Chapter 5A of Part 8)	section 329N(1)";
"the post-commencement additional supplement provisions (in Chapter 5A of Part 8)	section 329N(4)";
"post-commencement period (in Chapter 5A of Part 8)	section 329D(1)";
"pre-commencement additional supplement (in Chapter 5A of Part 8)	section 329I(1)";
"pre-commencement period (in Chapter 5A of Part 8)	section 329D(1)";
"qualifying company (in Chapter 5A of Part 8)	section 329B";
"qualifying pre-commencement onshore expenditure (in Chapter 5A of Part 8)	section 329G";
"the relevant percentage (in Chapter 5A of Part 8)	section 329E";
"straddling period (in Chapter 5A of Part 8)	section 329D(3)";
"unrelieved group ring fence profits (in Chapter 5A of Part 8)	section 329H".

13 (1) In Part 8 of CTA 2010, Chapter 5A (extended ring fence expenditure supplement for onshore activities) is repealed.

(2) Accordingly, section 69 of and Schedule 14 to FA 2014 are also repealed.

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Commencement

14 The amendments made by this Schedule have effect in relation to accounting periods ending on or after 5 December 2013.

SCHEDULE 12 Section 49

SUPPLEMENTARY CHARGE: INVESTMENT ALLOWANCE

PART 1

AMENDMENTS OF PART 8 OF CTA 2010

1 Part 8 of CTA 2010 (oil activities) is amended in accordance with paragraphs 2 and 3.

Investment allowance

2 After Chapter 6 insert—

"CHAPTER 6A

SUPPLEMENTARY CHARGE: INVESTMENT ALLOWANCE

Introduction

Overview

332A(1) This Chapter sets out how relief for certain expenditure incurred in relation to a qualifying oil field is given by way of reduction of a company's adjusted ring fence profits.

(2) The Chapter includes provision about—

(a) the oil fields that are qualifying oil fields (section 332B);

(b) the expenditure that is investment expenditure (section 332BA);

(c) the generation of allowance by the incurring of relievable investment expenditure in relation to a qualifying oil field (sections 332C and 332CA);

(d) restrictions on the expenditure that is relievable (sections 332D to 332DC);

(e) how allowance is activated by relevant income from the same oil field (sections 332F to 332FC and 332H to 332HB) in order to be available for reducing adjusted ring fence profits (sections 332E and 332EA);

(f) the division of an accounting period into reference periods where a company has different shares of the equity in a qualifying oil field at different times in the period (section 332G);

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(g) the transfer of allowance where shares of the equity in a qualifying oil field are disposed of (sections 332I to 332IB).

(3) For provision about the conversion of field allowance under Chapter 7 (as it had effect before 1 April 2015) into allowance under this Chapter, see paragraphs 7 and 8 of Schedule 12 to FA 2015.

"Qualifying oil field" and "investment expenditure"

Meaning of "qualifying oil field"

332B In this Chapter "qualifying oil field" means an oil field that is not wholly or partly included in a cluster area (see section 356JD).

Meaning of "investment expenditure"

332BA(1) For the purposes of this Chapter, expenditure incurred by a company is "investment" expenditure only if it is—

(a) capital expenditure, or

(b) expenditure of such other description as may be prescribed by the Treasury by regulations.

(2) Regulations under subsection (1)(b) may provide for any of the provisions of the regulations to have effect in relation to expenditure incurred before the regulations are made.

(3) But subsection (2) does not apply to any provision of amending or revoking regulations which has the effect that expenditure of any description ceases to be investment expenditure.

(4) Regulations under subsection (1)(b) may—

(a) make different provision for different purposes;

(b) make transitional provision and savings.

Investment allowance

Generation of investment allowance

332C(1) Subsection (2) applies where a company—

(a) is a participator in a qualifying oil field, and

(b) incurs any relievable investment expenditure on or after 1 April 2015 in relation to the oil field.

(2) The company is to hold an amount of allowance equal to 62.5% of the amount of the expenditure.

Allowance held under this Chapter is called "investment allowance".

(3) For the purposes of this section investment expenditure incurred by a company is "relievable" only if, and so far as, it is incurred for the purposes of oil-related activities (see section 274).

(4) Subsections (1) to (3) are subject to—

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(a) section 332D (which prevents expenditure on the acquisition of an asset from being relievable in certain circumstances),
(b) section 332DA (which restricts relievable expenditure in relation to an oil field that previously qualified for a field allowance under Chapter 7 as a new oil field),
(c) section 332DB (which restricts relievable expenditure in relation to a project by reference to which an oil field previously qualified for a field allowance under Chapter 7 as an additionally-developed oil field), and
(d) section 332DC (which prevents certain expenditure from being relievable if it relates to an oil field in respect of which onshore allowance may be obtained under Chapter 8).

(5) Investment allowance is said in this Chapter to be "generated" at the time when the investment expenditure is incurred (see section 332K) and is referred to as being generated—
(a) "by" the company concerned;
(b) "in" the qualifying oil field concerned.

(6) Where—
(a) investment expenditure is incurred only partly for the purposes of oil-related activities, or
(b) the oil-related activities for the purposes of which investment expenditure is incurred are carried on only partly in relation to a particular qualifying oil field,

the expenditure is to be attributed to the activities or field concerned on a just and reasonable basis.

Expenditure incurred before field is determined

332CA(1) This section applies to expenditure incurred by a company on or after 1 April 2015 for the purposes of oil-related activities if or to the extent that the following conditions are met.

(2) The conditions are—
(a) that the expenditure was in respect of an area,
(b) that, at the time the expenditure was incurred, the area had not been determined under Schedule 1 to OTA 1975 to be an oil field,
(c) that the area is subsequently determined under that Schedule to be an oil field, and
(d) that the company is a licensee in the oil field.

(3) Where this section applies in relation to an amount of expenditure, that amount is treated for the purposes of this Chapter as incurred by the company—
(a) in relation to the oil field, and
(b) at the time when the area is determined under Schedule 1 to OTA 1975 to be an oil field.

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Restrictions on relievable expenditure

Expenditure on acquisition of asset: disqualifying conditions

332D(1) Investment expenditure incurred by a company ("the acquiring company") on the acquisition of an asset is not relievable expenditure for the purposes of section 332C if either of the disqualifying conditions in this section applies to the asset.

(2) The first disqualifying condition is that investment expenditure incurred before the acquisition, by the acquiring company or another company, in acquiring, bringing into existence or enhancing the value of the asset was relievable under section 332C.

(3) The second disqualifying condition is that—

(a) the asset—

(i) is the whole or part of the equity in a qualifying oil field, or

(ii) is acquired in connection with a transfer to the acquiring company of the whole or part of the equity in a qualifying oil field,

(b) expenditure was incurred before the acquisition, by the acquiring company or another company, in acquiring, bringing into existence or enhancing the value of the asset, and

(c) any of that expenditure—

(i) related to the qualifying oil field, and

(ii) would have been relievable under section 332C if this Chapter had been fully in force and had applied to expenditure incurred at that time.

(4) For the purposes of subsection (3)(a)(ii) it does not matter whether the asset is acquired at the time of the transfer.

Restriction where field qualified for field allowance as new field

332DA(1) This section applies to expenditure which—

(a) is incurred by a company in relation to an oil field that was for the purposes of Chapter 7 a new oil field with an authorisation day before 1 January 2016,

(b) would in the absence of this section be relievable under section 332C, and

(c) is not excluded from this section by—

(i) subsection (5) (material completion),

(ii) subsection (7) (company without share of equity), or

(iii) subsection (8) (additionally-developed oil fields).

In the following provisions of this section, expenditure to which this section applies is referred to as "relevant expenditure".

(2) Relevant expenditure incurred by a company on any day ("the relevant day") is not relievable expenditure for the purposes of section 332C except—

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(a) if immediately before the relevant day the cumulative total of relevant expenditure attributable to the company's share of the equity in the oil field (see subsection (3)) exceeds the relevant field threshold (see subsection (4)), or

(b) to the extent that, in a case not within paragraph (a), the amount of relevant expenditure incurred on the relevant day, when added to that cumulative total, exceeds the relevant field threshold.

(3) The "cumulative total of relevant expenditure attributable to the company's share of the equity in the oil field" at any time is the total amount of relevant expenditure which is incurred by the company during the period beginning with the start date and ending with that time, but this is subject to sections 332IA(3) and 332IB(4) (which relate to the disposal and acquisition of equity in an oil field).

In this subsection "the start date" means 1 April 2015 or, if later, the authorisation day (within the meaning of Chapter 7) for the field.

(4) The "relevant field threshold" is an amount given by the formula—

$$160\% \times F \times E$$

where—

F is the total field allowance for the oil field, as originally determined under section 356 for the purposes of Chapter 7;

E is the company's share of the equity in the oil field at the end of the relevant day.

(5) This section does not apply to expenditure which is incurred on or after the day determined by the Secretary of State as that on which the relevant project was materially completed.

(6) "The relevant project" means—

(a) in a case that fell within section 351(1)(a), the development described in the field development plan for the field, and

(b) in a case that fell within section 351(1)(b) or (c), the programme of development for the field.

(7) This section does not apply to expenditure incurred by a company if—

(a) at the time when the expenditure is incurred, the company is not a licensee in the oil field, and

(b) the expenditure is incurred in making an asset available in a way which gives rise to tariff receipts (as defined by section 15(3) of the Oil Taxation Act 1983) or tax-exempt tariffing receipts (as defined by section 6A(2) of that Act).

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(8) This section does not apply to expenditure to which section 332DB applies.

Restriction where project in additionally-developed field qualified for field allowance

332DB(1) This section applies to expenditure which—

(a) is incurred by a company in relation to a project by reference to which an oil field was immediately before 1 April 2015 an additionally-developed oil field for the purposes of Chapter 7,

(b) would in the absence of this section be relievable under section 332C, and

(c) is not excluded from this section by subsection (5) (material completion) or subsection (6) (company without share of project-related reserves).

In the following provisions of this section, expenditure to which this section applies is referred to as "relevant expenditure".

(2) Relevant expenditure incurred by a company in relation to a project on any day ("the relevant day") is not relievable expenditure for the purposes of section 332C except—

(a) if immediately before the relevant day the cumulative total of relevant expenditure attributable to the company's share of project-related reserves (see subsection (3)) exceeds the relevant project threshold (see subsection (4)), or

(b) to the extent that, in a case not within paragraph (a), the amount of relevant expenditure incurred on the relevant day, when added to that cumulative total, exceeds the relevant project threshold.

(3) The "cumulative total of relevant expenditure attributable to the company's share of project-related reserves" at any time is the total amount of relevant expenditure which is incurred by the company during the period beginning with 1 April 2015 and ending with that time, but this is subject to sections 332IA(5) and 332IB(6) (which relate to the disposal and acquisition of shares in project-related reserves).

(4) The "relevant project threshold" is an amount given by the formula—

$$160\% \times F \times E$$

where—

F is the total field allowance for the oil field in relation to the project, as originally determined under section 356A for the purposes of Chapter 7;

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E is the company's share of project-related reserves at the end of the relevant day.

(5) This section does not apply to expenditure which is incurred on or after the day determined by the Secretary of State as that on which the project was materially completed.

(6) This section does not apply to expenditure incurred by a company if—

(a) the company does not, at the time when the expenditure is incurred, hold a share of project-related reserves, and

(b) the expenditure is incurred in making an asset available in a way which gives rise to tariff receipts (as defined by section 15(3) of the Oil Taxation Act 1983) or tax-exempt tariffing receipts (as defined by section 6A(2) of that Act).

(7) In this section "project-related reserves", in relation to a project and an oil field, means the additional reserves of oil that the oil field has as a result of the project.

Restriction relating to fields qualifying for onshore allowance

332D (1) This section applies to investment expenditure which is incurred—

(a) for the purposes of onshore oil-related activities in respect of an oil field which is a qualifying site within the meaning of section 356C (generation of onshore allowance), and

(b) on a day at the beginning of which neither of the disqualifying conditions in section 356CA (disqualifying conditions for section 356C(4)(b)) is met.

(2) Expenditure to which this section applies is not relievable expenditure for the purposes of section 332C.

(3) In this section "onshore oil-related activities" has the same meaning as in Chapter 8 (see section 356BA).

Reduction of adjusted ring fence profits

Reduction of adjusted ring fence profits

332E (1) A company's adjusted ring fence profits for an accounting period are to be reduced by the cumulative total amount of activated allowance for the accounting period (but are not to be reduced below zero).

(2) In relation to a company and an accounting period, the "cumulative total amount of activated allowance" is—

$$A + C$$

where—

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A is the total of any amounts of activated allowance the company has, for any qualifying oil fields, for the accounting period (see section 332F(2)) or for reference periods within the accounting period (see section 332H(1)), and

C is any amount carried forward to the period under section 332EA.

Carrying forward of activated allowance

332EA (1) This section applies where, in the case of a company and an accounting period, the cumulative total amount of activated allowance (see section 332E(2)) is greater than the adjusted ring fence profits.

(2) The difference is carried forward to the next accounting period.

Activated and unactivated allowance: basic calculation rules

Activation of allowance: no change of equity share

332F (1) This section applies where—

(a) for the whole or part of an accounting period, a company is a licensee in a qualifying oil field,

(b) the accounting period is not divided into reference periods (see section 332G),

(c) the company holds, for the accounting period and the qualifying oil field, a closing balance of unactivated allowance (see section 332FA) which is greater than zero, and

(d) the company has relevant income from the qualifying oil field for the accounting period.

(2) The amount of activated allowance the company has for that accounting period and that qualifying oil field is the smallest of—

(a) the closing balance of unactivated allowance held for the accounting period and the oil field;

(b) the company's relevant income from that oil field for that accounting period;

(c) in a case where section 332FB applies, the relevant activation limit for the accounting period and the oil field (see subsection (2) of that section).

(3) In this Chapter "relevant income", in relation to a qualifying oil field and an accounting period of a company, means production income of the company from any oil extraction activities carried on in that oil field that is taken into account in calculating the company's adjusted ring fence profits for the accounting period.

The closing balance of unactivated allowance for an accounting period

332FA The closing balance of unactivated allowance held by a company for an accounting period and a qualifying oil field is—

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

Activation limit for former additionally-developed fields

332FB(1) This section applies to a company for an accounting period in relation to an oil field if—

(a) immediately before 1 April 2015 the oil field was an additionally-developed oil field for the purposes of Chapter 7 as a result of a project that fell within section 349A(1), and

(b) the project is not an excluded project (see subsection (3)).

(2) For the purposes of section 332F(2)(c), the "relevant activation limit" for the accounting period and the oil field is the amount that would be the closing balance of unactivated allowance held by the company for the accounting period if paragraph 7(3) of Schedule 12 to FA 2015 (conversion of unactivated field allowance) had never applied to any allowance attributable to the project.

(3) The project is an "excluded" project if condition A or condition B is met.

(4) Condition A is that—

(a) a substantial amount of work has been done in relation to the project, and

(b) the accounting period begins on or after the first day of the year of expected first production for the project.

(5) The "year of expected first production" for the project is the year that was notified to the Secretary of State, on or before the day on which the project was authorised by the Secretary of State, as the calendar year in which additional reserves of oil were expected to be first won from the field as a result of the project.

(6) Condition B is that the accounting period begins on or after the day determined under section 332DB(5) as that on which the project was materially completed.

Carrying forward of unactivated allowance

332FC(1) If, in the case of an accounting period of a company and a qualifying oil field, the amount given by subsection (2) is greater than zero, that amount is treated as investment allowance held by the company for that oil field for the next period (and is treated as held with effect from the beginning of that period).

(2) The amount is—

$$U - A - T$$

where—

U is the closing balance of unactivated allowance held for the accounting period and the qualifying oil field (see section 332FA);

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A is the amount of activated allowance that the company has for the accounting period and the qualifying oil field (see section 332F(2));

T is any amount that is required by section 332IA(1) (reduction of allowance if equity disposed of) to be deducted in connection with a disposal or disposals made on the day following the end of the accounting period.

(3) If the accounting period is followed by a reference period of the company belonging to that qualifying oil field (see section 332G), "the next period" means that period.

(4) If subsection (3) does not apply "the next period" means the next accounting period of the company.

Changes in equity share: reference periods

Reference periods

332G(1) This section applies where—

(a) a company is a licensee in a qualifying oil field for the whole or part of an accounting period, and

(b) the company has different shares of the equity in the field on different days in the accounting period.

(2) For the purposes of this Chapter, the accounting period is to be divided into as many consecutive periods (called "reference periods") as are necessary to secure that—

(a) a reference period begins with the first day of the accounting period,

(b) a reference period begins with the date of each disposal or acquisition of a share of the equity in the qualifying oil field that is made by the company in that accounting period (not including acquisitions or disposals made on the first day of the accounting period), and

(c) a reference period ends with the last day of the accounting period.

(3) Each such reference period "belongs to" the qualifying oil field concerned.

Changes in equity share: activation of allowance

Activation of allowance: reference periods

332H(1) The amount (if any) of activated allowance that a company has for a qualifying oil field for a reference period is the smallest of the following—

(a) the total amount of unactivated allowance that is attributable to the reference period and the oil field (see section 332HA);

(b) the company's relevant income from the oil field for the reference period (see subsection (2));

(c) in a case where section 332FB (activation limit applying in case of certain fields) applies, the relevant activation limit for the reference period and the oil field (see subsection (3)).

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(2) The company's relevant income from the oil field for the reference period is so much of the company's relevant income from the oil field for the accounting period (see section 332F(3)) as arises in the reference period.

(3) If section 332FB (activation limit applying in case of certain fields) applies in relation to the oil field for the accounting period in which the reference period falls, the "relevant activation limit" for the reference period and the oil field is the amount that would be the total amount of unactivated allowance attributable to the reference period and the oil field if paragraph 7(3) of Schedule 12 to FA 2015 (conversion of unactivated field allowance) had never applied to any allowance attributable to the project in question.

Unactivated amounts attributable to a reference period

332HA(1) For the purposes of section 332H(1)(a), the total amount of unactivated allowance attributable to a reference period and a qualifying oil field is—

$$P + Q$$

where—

P is the amount of allowance generated by the company in the reference period in the oil field (including any amount treated under section 332IB(1) as generated by the company in that oil field in that reference period);

Q is the amount given by subsection (2) or (3).

(2) Where the reference period is not immediately preceded by another reference period but is preceded by an accounting period of the company, Q is equal to the amount (if any) that is to be carried forward from that preceding accounting period under section 332FC(1).

(3) Where the reference period is immediately preceded by another reference period, Q is equal to the amount (if any) carried forward under section 332HB(1).

Carry-forward of unactivated allowance from a reference period

332HB(1) If, in the case of a reference period ("RP1") of a company, the amount given by subsection (2) is greater than zero, that amount is treated as investment allowance held by the company for the qualifying oil field for the next period (and is treated as held with effect from the beginning of that period).

(2) The amount is—

$$U - A - T$$

where—

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U is the total amount of unactivated allowance attributable to the reference period and the qualifying oil field (see section 332HA(1));

A is the amount of activated allowance that the company has for the qualifying oil field for the reference period (see section 332H(1));

T is any amount that is required by section 332IA(1) (reduction of allowance if equity disposed of) to be deducted in connection with a disposal or disposals made on the day following the end of the reference period.

(3) If RP1 is immediately followed by another reference period of the company (belonging to the same qualifying oil field), "the next period" means that reference period.

(4) If subsection (3) does not apply, "the next period" means the next accounting period of the company.

Transfers of allowance on disposal of equity share

Introduction to sections 332IA and 332IB

332I(1) Sections 332IA and 332IB apply where—

(a) a company ("the transferor") disposes of the whole or part of its share of the equity in a qualifying oil field, and

(b) one or more of the following conditions is met.

(2) The "unactivated allowance condition" is that immediately before the disposal the transferor holds unactivated investment allowance for the oil field.

(3) The "section 332DA expenditure condition" is that—

(a) immediately before the disposal the company has for the purposes of section 332DA (restriction where field qualified for field allowance as new field) a cumulative total of relevant expenditure attributable to its share of the equity in the oil field, and

(b) the date of the disposal falls before any date determined under section 332DA(5) (material completion).

(4) The "section 332DB expenditure condition" is that—

(a) immediately before the disposal the company has for the purposes of section 332DB (restriction where project in additionally-developed field qualified for field allowance) a cumulative total of relevant expenditure attributable to its share of project-related reserves in relation to the oil field, and

(b) the date of the disposal falls before any date determined under section 332DB(5) (material completion).

(5) In sections 332IA and 332IB—

(a) each of the companies to which a share of the equity is disposed of is referred to as "a transferee", and

(b) references to conditions are to be read in accordance with this section.

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Reduction of allowance if equity is disposed of

332IA(1) If the unactivated allowance condition is met, the following amount is to be deducted in calculating the total amount of unactivated investment allowance attributable to the qualifying oil field concerned that is to be carried forward under section 332FC or 332HB from an accounting period or reference period of the transferor—

$$\left(U - A\right) \times \frac{(\mathrm{E1} - \mathrm{E2})}{\mathrm{E1}}$$

where—

U and A are—

(a) in the case of a disposal made on the day following the end of an accounting period, the same as in section 332FC(2) (in its application to that period), or

(b) in the case of a disposal made on the day following the end of a reference period, the same as in section 332HB(2) (in its application to that period);

E1 is the transferor's share of the equity in the qualifying oil field immediately before the disposal;

E2 is the transferor's share of the equity in the qualifying oil field immediately after the disposal.

(2) Subsection (3) applies if the section 332DA expenditure condition is met.

(3) As from the beginning of the accounting period or reference period that begins with the day on which the disposal is made, the following amount is to be deducted in calculating for the purposes of section 332DA the cumulative total of relevant expenditure attributable to the transferor's share of the equity in the oil field—

$$X \times \frac{(\mathrm{E1} - \mathrm{E2})}{\mathrm{E1}}$$

where—

X is the cumulative total of relevant expenditure attributable to the transferor's share of the equity in the oil field (for the purposes of section 332DA), determined immediately before the disposal;

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E1 and E2 have the same meaning as in subsection (1).

(4) Subsection (5) applies if the section 332DB expenditure condition is met.

(5) As from the beginning of the accounting period or reference period that begins with the day on which the disposal is made, the following amount is to be deducted in calculating for the purposes of section 332DB the cumulative total of relevant expenditure attributable to the transferor's share of project-related reserves—

$$X \times \frac{(\mathrm{E1} - \mathrm{E2})}{\mathrm{E1}}$$

where—

X is the cumulative total of relevant expenditure attributable to the transferor's share of project-related reserves (for the purposes of section 332DB), determined immediately before the disposal;

E1 is the transferor's share, immediately before the disposal, of the additional reserves of oil that the oil field has as a result of the project;

E2 is the transferor's share, immediately after the disposal, of the additional reserves of oil that the oil field has as a result of the project.

Acquisition of allowance if equity acquired

332IB(1) If the unactivated allowance condition is met, a transferee is treated as generating in the qualifying oil field concerned, at the beginning of the reference period or accounting period of the transferee that begins with the day on which the disposal is made, investment allowance of the amount given by subsection (2).

(2) The amount is—

$$R \times \frac{\mathrm{E3}}{\mathrm{E1} - \mathrm{E2}}$$

where—

R is the amount determined for the purposes of the deduction under section 332IA(1);

E3 is the share of the equity in the qualifying oil field that the transferee has acquired from the transferor;

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E1 and E2 are the same as in section 332IA(1).

(3) Subsection (4) applies if the section 332DA expenditure condition is met.

(4) A transferee is treated for the purposes of section 332DA(3) as having incurred in respect of the qualifying oil field, at the beginning of the reference period or accounting period of the transferee that begins with the day on which the disposal is made, expenditure of the following amount—

$$R \times \frac{\mathrm{E3}}{(\mathrm{E1} - \mathrm{E2})}$$

where—

R is the amount determined for the purposes of the deduction under section 332IA(3);

E1, E2 and E3 have the same meaning as in subsection (2).

(5) Subsection (6) applies if the section 332DB expenditure condition is met.

(6) A transferee is treated for the purposes of section 332DB(3) as having incurred in respect of the project, at the beginning of the reference period or accounting period of the transferee that begins with the day on which the disposal is made, expenditure of the following amount—

$$R \times \frac{\mathrm{E3}}{(\mathrm{E1} - \mathrm{E2})}$$

where—

R is the amount determined for the purposes of the deduction under section 332IA(5);

E3 is the share of the project-related reserves that the transferee has acquired from the transferor;

E1 and E2 have the same meaning as in section 332IA(5).

(7) In subsection (6) "project-related reserves" means the additional reserves of oil that the oil field has as a result of the project.

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Miscellaneous

Adjustments

332J(1) This section applies if there is any alteration in a company's adjusted ring fence profits for an accounting period after this Chapter has effect in relation to the profits.

(2) Any necessary adjustments to the operation of this Chapter (whether in relation to the profits or otherwise) are to be made (including any necessary adjustments to the effect of section 332E on the profits or to the calculation of the amount to be carried forward under section 332EA).

Regulations amending specified percentages

332JA(1) The Treasury may by regulations substitute a different percentage for the percentage that is at any time specified in any of the following provisions—

(a) section 332C(2) (calculation of allowance as a percentage of investment expenditure);

(b) section 332DA(4) (calculation of relevant field threshold in relation to former new field);

(c) section 332DB(4) (calculation of relevant project threshold in relation to former additionally-developed field).

(2) Regulations under subsection (1) may include transitional provision.

Interpretation

When expenditure is incurred

332K(1) Section 5 of CAA 2001 (when capital expenditure is incurred) applies for the purposes of this Chapter as for the purposes of that Act.

(2) Regulations under section 332BA(1)(b) may make provision about when any expenditure that is investment expenditure as a result of the regulations is to be treated for the purposes of this Chapter as incurred.

(3) This section is subject to section 332CA(3).

Other definitions

332KA In this Chapter (except where otherwise specified)—

"adjusted ring fence profits", in relation to a company and an accounting period, is to be read in accordance with section 330ZA;

"cumulative total amount of activated allowance" has the meaning given by section 332E(2);

"investment allowance" has the meaning given by section 332C(2);

"licence" has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act);

"licensee" has the same meaning as in Part 1 of OTA 1975;

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"relevant income", in relation to a qualifying oil field and an accounting period, has the meaning given by section 332F(3)."

3 Chapter 7 (reduction of supplementary charge for eligible oil fields) is omitted.

PART 2

COMMENCEMENT AND TRANSITIONAL PROVISION

Interpretation

4 In this Part of this Schedule, the following expressions have the same meaning as in Chapter 7 of Part 8 of CTA 2010—

"additionally-developed oil field";
"authorisation day";
"eligible oil field";
"new oil field".

General rules for commencement

5 The amendment made by paragraph 2 has effect in relation to accounting periods ending on or after 1 April 2015.

6 (1) The amendment made by paragraph 3 has effect—

(a) in relation to projects authorised as mentioned in section 349A(1)(a) of CTA 2010 on or after 1 April 2015 in additionally-developed oil fields,
(b) in relation to new oil fields whose authorisation day is on or after 1 January 2016, and
(c) in the case of—
(i) projects authorised as mentioned in section 349A(1)(a) of CTA 2010 before 1 April 2015 in additionally-developed oil fields, or
(ii) new oil fields whose authorisation day is before 1 January 2016,

in relation to accounting periods ending on or after 1 April 2015.

(2) But sub-paragraph (1)(c) is subject to paragraphs 7 and 8 (which relate to field allowance under Chapter 7 of Part 8 of CTA 2010).

Unactivated field allowance to become unactivated investment allowance

7 (1) This paragraph applies if, in the absence of this Schedule, a company would hold a field allowance for an eligible oil field as a result of section 337 or 347(2) of CTA 2010 immediately before the relevant date.

(2) "The relevant date" is—

(a) in relation to a new oil field whose authorisation day is on or before 1 April 2015, 1 April 2015;
(b) in relation to an additionally-developed oil field, 1 April 2015;
(c) in relation to a new oil field whose authorisation day is after 1 April 2015 but before 1 January 2016, the authorisation day.

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(3) The unactivated amount of field allowance held by the company for the oil field immediately before the relevant date, as determined under section 339 of CTA 2010, is to be treated for the purposes of Chapter 6A of Part 8 of CTA 2010 (inserted by paragraph 2) as an amount of unactivated investment allowance generated by the company in the oil field in the relevant period.

(4) "The relevant period" is—

(a) the accounting period in which the relevant date falls, or

(b) where the company has different shares of the equity in the oil field on different days in that accounting period, the reference period (within the meaning of Chapter 6A of Part 8 of CTA 2010) in which the relevant date falls.

Activated field allowance to become activated investment allowance

8 (1) This paragraph applies if, in the absence of this Schedule, a company would under section 335 or 336 of CTA 2010 carry all or part of a pool of field allowances into the accounting period in which 1 April 2015 falls ("the commencement period").

(2) The amount that would be carried into that accounting period is to be treated for the purposes of Chapter 6A of Part 8 of CTA 2010 (inserted by paragraph 2) as an amount of activated investment allowance carried forward to the commencement period under section 332EA of that Act.

SCHEDULE 13

Section 50

SUPPLEMENTARY CHARGE: CLUSTER AREA ALLOWANCE

PART 1

AMENDMENTS OF PART 8 OF CTA 2010

1 Part 8 of CTA 2010 (oil activities) is amended in accordance with paragraphs 2 to 4.

Cluster area allowance

2 After Chapter 8 insert—

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"CHAPTER 9

SUPPLEMENTARY CHARGE: CLUSTER AREA ALLOWANCE

Introduction

Overview

356JC(1) This Chapter sets out how relief for certain expenditure incurred in relation to a cluster area is given by way of reduction of a company's adjusted ring fence profits.

(2) The Chapter includes provision about—

(a) the determination of cluster areas (sections 356JD and 356JDA);

(b) the meaning of investment expenditure (section 356JE);

(c) the generation of allowance by the incurring of relievable investment expenditure in relation to a cluster area (section 356JF);

(d) how allowance is activated by relevant income from the same cluster area (sections 356JH to 356JHB and 356JJ to 356JJB) in order to be available for reducing adjusted ring fence profits (sections 356JG and 356JGA);

(e) the division of an accounting period into reference periods where a company has different shares of the equity in a licensed area or sub-area at different times in the period (section 356JI);

(f) the transfer of allowance where shares of the equity in a licensed area or sub-area are disposed of (sections 356JK to 356JKB);

(g) elections to treat allowance attributable to an unlicensed part of a cluster area as if it were attributable to a licensed area or sub-area in the cluster area (section 356JL).

Determination of cluster areas

Meaning of "cluster area"

356JD(1) In this Part "cluster area" means an offshore area which the Secretary of State determines to be a cluster area.

(2) A cluster area is treated as not including any previously authorised oil field (or any part of such an oil field) (see section 356JDA).

(3) An area is "offshore" for the purposes of this section if the whole of it lies on the seaward side of the baselines from which the territorial sea of the United Kingdom is measured.

(4) Before determining an area to be a cluster area the Secretary of State must—

(a) give written notice of the proposed determination to every person who is a licensee in respect of a licensed area or sub-area which is wholly or partly included in the proposed cluster area and to any other licensee whose interests appear to the Secretary of State to be affected, and

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(b) publish a notice of the proposed determination on a website that is, and indicates that it is, kept by or on behalf of the Secretary of State.

(5) The Secretary of State must consider any representations made in writing and within 30 days of the date of the publication of the notice under subsection (4)(b) (or, in the case of representations made by a person to whom notice is given under subsection (4)(a), within 30 days of receipt of the notice, if later).

(6) A determination under this section—

(a) has effect from the day on which it is published,

(b) may be in any form the Secretary of State thinks appropriate, and

(c) must assign to the cluster area an identifying number or other designation.

(7) After making a determination the Secretary of State must—

(a) give written notice of the determination to every person who is a licensee in respect of a licensed area or sub-area which is wholly or partly included in the cluster area and any other person to whom notice of the proposed determination was given;

(b) publish a notice of the determination on a website that is, and indicates that it is, kept by or on behalf of the Secretary of State.

(8) The Secretary of State may vary or revoke a determination made under this section, and subsections (4), (5), (6)(a) and (b) and (7) are to apply as if the variation or revocation were a new determination.

Meaning of "previously authorised oil field"

356JDA(1) In section 356JD "previously authorised oil field", in relation to a cluster area, means an oil field, other than a decommissioned oil field, whose development (in whole or in part) was authorised for the first time before the relevant day.

(2) An oil field is a "decommissioned oil field" in relation to a cluster area if, immediately before the relevant day, all assets of the oil field which are relevant assets have been decommissioned.

(3) In this section, "relevant day", in relation to an oil field and a cluster area, means the date of publication of the first determination, or variation of a determination, under section 356JD as a result of which the oil field is (ignoring section 356JD(2)) wholly or partly included in the cluster area.

(4) Sub-paragraphs (2) to (9) of paragraph 7 of Schedule 1 to OTA 1975 apply for the purpose of determining whether relevant assets of an oil field are decommissioned as they apply for the purpose of determining whether qualifying assets of a relevant area are decommissioned.

(5) For the purposes of this section, an asset is a relevant asset of an oil field if—

(a) it has at any time been a qualifying asset (within the meaning of the Oil Taxation Act 1983) in relation to any participator in the field, and

(b) it has at any time been used for the purpose of winning oil from the field.

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(6) In this section references to authorisation of development of an oil field are to be interpreted in accordance with section 356IB.

(7) See also paragraph 5 of Schedule 13 to FA 2015, as a result of which certain proposed determinations made before the day on which that Act is passed are treated as made under section 356JD for the purposes of this Chapter.

Meaning of "investment expenditure"

Meaning of "investment expenditure"

356JE (1) For the purposes of this Chapter, expenditure incurred by a company is "investment" expenditure only if it is—

(a) capital expenditure, or

(b) expenditure of such other description as may be prescribed by the Treasury by regulations.

(2) Regulations under subsection (1)(b) may provide for any of the provisions of the regulations to have effect in relation to expenditure incurred before the regulations are made.

(3) But subsection (2) does not apply to any provision of amending or revoking regulations which has the effect that expenditure of any description ceases to be investment expenditure.

(4) Regulations under subsection (1)(b) may—

(a) make different provision for different purposes;

(b) make transitional provision and savings.

Cluster area allowance

Generation of cluster area allowance

356JF (1) Subsection (2) applies where a company—

(a) is a licensee in a licensed area or sub-area which is wholly or partly included in a cluster area, and

(b) incurs any relievable investment expenditure on or after 3 December 2014 in relation to the cluster area.

(2) The company is to hold an amount of allowance equal to 62.5% of the amount of the expenditure.

Allowance held under this Chapter is called "cluster area allowance".

(3) For the purposes of this section investment expenditure incurred by a company is "relievable" only if, and so far as, it is incurred for the purposes of oil-related activities (see section 274).

(4) Subsections (1) to (3) are subject to section 356JFA (which prevents expenditure on the acquisition of an asset from being relievable in certain circumstances).

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(5) Cluster area allowance is said in this Chapter to be "generated" at the time when the investment expenditure is incurred (see section 356JN) and is referred to as being generated—

(a) "by" the company concerned;

(b) "in" the cluster area concerned.

(6) Where—

(a) investment expenditure is incurred only partly for the purposes of oil-related activities, or

(b) the oil-related activities for the purposes of which investment expenditure is incurred are carried on only partly in relation to a particular cluster area,

the expenditure is to be attributed to the activities or area concerned on a just and reasonable basis.

Expenditure on acquisition of asset: disqualifying conditions

356JFA(1) Investment expenditure incurred by a company ("the acquiring company") on the acquisition of an asset is not relievable expenditure for the purposes of section 356JF if either of the disqualifying conditions in this section applies to the asset.

(2) The first disqualifying condition is that investment expenditure incurred before the acquisition, by the acquiring company or another company, in acquiring, bringing into existence or enhancing the value of the asset was relievable under section 356JF.

(3) The second disqualifying condition is that—

(a) the asset—

(i) is the whole or part of the equity in a licensed area or sub-area, or

(ii) is acquired in connection with a transfer to the acquiring company of the whole or part of the equity in a licensed area or sub-area,

(b) expenditure was incurred, at any time before the acquisition, by the acquiring company or another company, in acquiring, bringing into existence or enhancing the value of the asset, and

(c) any of that expenditure—

(i) related to the cluster area, and

(ii) would have been relievable under section 356JF if this Chapter had applied to expenditure incurred at that time.

(4) For the purposes of subsection (3)(a)(ii), it does not matter whether the asset is acquired at the time of the transfer.

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Reduction of adjusted ring fence profits

Reduction of adjusted ring fence profits

356JG(1) A company's adjusted ring fence profits for an accounting period are to be reduced by the cumulative total amount of activated allowance for the accounting period (but are not to be reduced below zero).

(2) In relation to a company and an accounting period, the "cumulative total amount of activated allowance" is—

$$A + C$$

where—

A is the total of any amounts of activated allowance the company has, for any cluster areas, for the accounting period (see section 356JH(2)) or for reference periods within the accounting period (see section 356JJ(1)), and

C is any amount carried forward to the period under section 356JGA.

Carrying forward of activated allowance

356JGA(1) This section applies where, in the case of a company and an accounting period, the cumulative total amount of activated allowance (see section 356JG(2)) is greater than the adjusted ring fence profits.

(2) The difference is carried forward to the next accounting period.

Activated and unactivated allowance: basic calculation rules

Activation of allowance: no change of equity share

356JH(1) This section applies where—

(a) for the whole or part of an accounting period, a company is a licensee in a licensed area or sub-area which is wholly or partly included in a cluster area,

(b) the accounting period is not divided into reference periods (see section 356JI),

(c) the company holds, for the accounting period and the cluster area, a closing balance of unactivated allowance (see section 356JHA) which is greater than zero, and

(d) the company has relevant income from the cluster area for the accounting period.

(2) The amount of activated allowance the company has for that accounting period and that cluster area is the smaller of—

(a) the closing balance of unactivated allowance held for the accounting period and the cluster area;

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(b) the company's relevant income for that accounting period from that cluster area.

(3) In this Chapter "relevant income", in relation to a cluster area and an accounting period of a company, means production income of the company from any oil extraction activities carried on in that area that is taken into account in calculating the company's adjusted ring fence profits for the accounting period.

The closing balance of unactivated allowance for an accounting period

356JHA The closing balance of unactivated allowance held by a company for an accounting period and a cluster area is—

Carrying forward of unactivated allowance

356JHB (1) If, in the case of an accounting period of a company and a cluster area, the amount given by subsection (2) is greater than zero, that amount is treated as cluster area allowance held by the company for that cluster area for the next period (and is treated as held with effect from the beginning of that period).

(2) The amount is—

$$U - A - T$$

where—

U is the closing balance of unactivated allowance held for the accounting period and the cluster area;

A is the amount of activated allowance that the company has for the accounting period and the cluster area (see section 356JH(2));

T is the sum of any amounts transferred by the company under section 356JK in connection with a disposal or disposals made on the day following the end of the accounting period.

(3) If the accounting period is followed by a reference period of the company belonging to that cluster area (see section 356JI), "the next period" means that period.

(4) If subsection (3) does not apply "the next period" means the next accounting period of the company.

Changes in equity share: reference periods

Reference periods

356JI (1) This section applies where—

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(a) a company is a licensee for the whole or part of an accounting period in one or more licensed areas or sub-areas ("the relevant areas") which are wholly or partly included in a cluster area, and

(b) in the case of at least one of the relevant areas, the company has different shares of the equity in the area on different days in the accounting period.

(2) For the purposes of this Chapter, the accounting period is to be divided into as many consecutive periods (called "reference periods") as are necessary to secure that—

(a) a reference period begins with the first day of the accounting period,

(b) a reference period begins with the date of each disposal or acquisition of a share of the equity in any of the relevant areas that is made by the company in that accounting period (not including acquisitions or disposals made on the first day of the accounting period), and

(c) a reference period ends with the last day of the accounting period.

(3) Each such reference period "belongs to" the cluster area concerned.

Changes in equity share: activation of allowance

Activation of allowance: reference periods

356JJ(1) The amount (if any) of activated allowance that a company has for a cluster area for a reference period is the smaller of the following—

(a) the company's relevant income from the cluster area for the reference period;

(b) the total amount of unactivated allowance that is attributable to the reference period and the cluster area (see section 356JJA).

(2) The company's relevant income from the cluster area for the reference period is so much of the company's relevant income from the cluster area for the accounting period (see section 356JH(3)) as arises in the reference period.

Unactivated amounts attributable to a reference period

356JJA(1) For the purposes of section 356JJ(1)(b), the total amount of unactivated allowance attributable to a reference period and a cluster area is—

$$P + Q$$

where—

P is the amount of allowance generated by the company in the reference period in the cluster area (including any amount treated under section 356JKB(1) as generated by the company in that area in that reference period);

Q is the amount given by subsection (2) or (3).

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(2) Where the reference period is not immediately preceded by another reference period but is preceded by an accounting period of the company, Q is equal to the amount (if any) that is to be carried forward from that preceding accounting period under section 356JHB(1).

(3) Where the reference period is immediately preceded by another reference period, Q is equal to the amount (if any) carried forward under section 356JJB(1).

Carry-forward of unactivated allowance from a reference period

356JJB(1) If, in the case of a reference period ("RP1") of a company, the amount given by subsection (2) is greater than zero, that amount is treated as cluster area allowance held by the company for the cluster area concerned for the next period.

(2) The amount is—

$$U - A - T$$

where—

U is the total amount of unactivated allowance attributable to the reference period and the cluster area (see section 356JJA);

A is the amount of activated allowance that the company has for the cluster area for the reference period (see section 356JJ);

T is the sum of any amounts transferred by the company under section 356JK in connection with a disposal or disposals made on the day following the end of the reference period.

(3) If RP1 is immediately followed by another reference period of the company (belonging to the same cluster area), "the next period" means that reference period.

(4) If subsection (3) does not apply, "the next period" means the next accounting period of the company.

Transfers of allowance on disposal of equity share

Disposal of equity share: transfer of allowance

356JK(1) Subsections (2) and (3) apply where—

(a) a company ("the transferor") makes a disposal, on the day following the end of an accounting period or reference period, of the whole or part of its share of the equity in a licensed area or sub-area which is wholly or partly included in a cluster area ("the relevant cluster area"), and

(b) the maximum transferable amount is greater than zero.

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Each company to which a share of the equity is disposed of is referred to in this section as a "transferee".

(2) The transferor may, by an election, transfer to the transferee (or transferees) a specified amount of cluster area allowance (greater than zero) which—
  (a) is not less than the minimum transferable amount, and
  (b) is not more than the maximum transferable amount.

(3) If the transferor does not make an election under subsection (2), the minimum transferable amount of cluster area allowance (if greater than zero) is transferred to the transferee (or transferees).

(4) An election under subsection (2)—
  (a) must be made within the 60 days beginning with the date of the disposal,
  (b) must—
    (i) specify the date of the disposal and the amount of cluster area allowance transferred, and
    (ii) identify the transferees, and
  (c) is irrevocable.

(5) The minimum transferable amount is—

$$(G - A) \times \frac{E1 - E2}{E1}$$

where—

G is so much of the total generated allowance for the relevant cluster area (see subsection (6)) as is attributable on a just and reasonable basis to the licensed area or sub-area mentioned in subsection (1);

A is the total of any amounts of allowance which have, in relation to any accounting period or reference period of the transferor ending before the date of the disposal, been activated under section 356JH or 356JJ in relation to the relevant cluster area;

E1 is the transferor's share of the equity in the licensed area or sub-area immediately before the disposal;

E2 is the transferor's share of the equity in the licensed area or sub-area immediately after the disposal.

(6) In the definition of "G" in subsection (5), "the total generated allowance for the relevant cluster area" means the total of—
  (a) all amounts of cluster area allowance generated by the transferor in that cluster area before the date of the disposal, and
  (b) any amounts treated under section 356JKB(1) as so generated on the date of the disposal.

(7) The maximum transferable amount is—

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$$M \times \frac{\mathrm{E1} - \mathrm{E2}}{\mathrm{E1}}$$

where—

M is the smaller of—

(a) G (as defined in subsection (5)), and

(b) the transferor's pre-transfer total of unactivated allowance for the relevant cluster area;

E1 and E2 have the same meaning as in subsection (5).

(8) In subsection (7) the transferor's "pre-transfer total of unactivated allowance for the relevant cluster area" means—

$$P + Q - (A + S)$$

where—

P and Q are—

(a) if the disposal is made on the day following the end of an accounting period, the same as in section 356JHA (in its application to that period), or

(b) if the disposal is made on the day following the end of a reference period, the same as in section 356JJA(1) (in its application to that period);

A is—

(a) if the disposal is made on the day following the end of an accounting period, the same as in section 356JHB(2) (in its application to that period), or

(b) if the disposal is made on the day following the end of a reference period, the same as in section 356JJB(2) (in its application to that period);

S is the total of any amounts of allowance transferred by the transferor in connection with any prior disposals (see section 356JKA) made in relation to the relevant cluster area on the day on which the disposal is made.

(9) For the effect of a transfer of cluster area allowance in relation to the transferor, see—

(a) for disposals made on the day following the end of an accounting period, section 356JHB (reduction of unactivated allowance carried forward from accounting period), or

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(b) for disposals made on the day following the end of a reference period, section 356JJB (reduction of unactivated allowance carried forward from reference period).

More than one disposal on a single day

356JKA(1) Subsections (2) to (4) apply where a company makes, on a single day and in relation to a single cluster area, more than one disposal falling within section 356JK(1)(a).

(2) The company may, by an election, choose the order of priority of the disposals for the purposes of section 356JK(8).

(3) A disposal which is placed higher in the order of priority than another disposal is a "prior disposal" in relation to the other for the purposes of the definition of "S" in section 356JK(8).

(4) An election under subsection (2) is irrevocable.

Effect of transfer of allowance for transferee

356JKB(1) Where a transfer of cluster area allowance is made under section 356JK, each transferee is treated as generating in the cluster area concerned, at the beginning of the accounting period or reference period of the transferee that begins with the day on which the disposal is made, cluster area allowance of the amount given by subsection (2).

(2) The amount is—

$$T \times \frac{\mathrm{E3}}{\mathrm{E1} - \mathrm{E2}}$$

where—

T is the total amount of cluster area allowance transferred in connection with the disposal;

E3 is the share of equity in the licensed area or sub-area that the transferee has acquired from the transferor;

E1 and E2 are the same as in section 356JK(5).

(3) In this section references to the transferor and the transferees are to be read in accordance with section 356JK(1).

Use of allowance attributable to unlicensed area

Use of allowance attributable to unlicensed area

356JL(1) Subsection (2) applies where—

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(a) a company ("C") disposes of the whole or part of its share of the equity in a licensed area or sub-area ("area A"),
(b) that area is wholly or partly included in a cluster area, and
(c) C has generated in the cluster area, on or before the day of the disposal, cluster area allowance which is wholly or partly attributable to an unlicensed area ("area U") in the cluster area.

(2) C may, by an election, assign to area A, or to any other relevant licensed area or sub-area in the cluster area, so much of the total of generated allowance for the cluster area as is attributable to area U.

(3) The reference in subsection (2) to a "relevant" licensed area or sub-area is to a licensed area or sub-area in which C is a licensee.

(4) In subsection (2), "the total of generated allowance for the cluster area" means the total of all amounts of cluster area allowance generated by C in the cluster area at any time on or before the day of the disposal (including any amounts treated under section 356JKB(1) as so generated).

(5) An election under this section must be made within the 60 days beginning with the date of the disposal and must specify—
(a) the amount of cluster area allowance transferred,
(b) the unlicensed area to which it was attributable, and
(c) the licensed area or sub-area to which it is assigned.

(6) An election under this section is irrevocable.

(7) Where an amount of cluster area allowance is assigned to a licensed area or sub-area by an election under this section, that amount is taken, for the purposes of this Chapter—
(a) to have been attributable to that licensed area or sub-area with effect from the beginning of the day on which the disposal is made, and
(b) never to have been attributable to area U.

(8) In this section—
"attributable" means attributable on a just and reasonable basis;
"unlicensed area" means an area which is not (and is not part of) a licensed area or sub-area.

Miscellaneous

Adjustments

356JM(1) This section applies if there is any alteration in a company's adjusted ring fence profits for an accounting period after this Chapter has effect in relation to the profits.

(2) Any necessary adjustments to the operation of this Chapter (whether in relation to the profits or otherwise) are to be made (including any necessary adjustments to the effect of section 356JG on the profits or to the calculation of the amount to be carried forward under section 356JGA).

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Regulations amending percentage in section 356JF(2)

356JMA(1) The Treasury may by regulations substitute a different percentage for the percentage that is at any time specified in section 356JF(2) (calculation of allowance as a percentage of investment expenditure).

(2) Regulations under subsection (1) may include transitional provision.

Interpretation

When capital expenditure is incurred

356JN(1) Section 5 of CAA 2001 (when capital expenditure is incurred) applies for the purposes of this Chapter as for the purposes of that Act.

(2) Regulations under section 356JE(1)(b) may make provision about when any expenditure that is investment expenditure as a result of the regulations is to be treated for the purposes of this Chapter as incurred.

Licensed sub-areas

356JNA Where any person is entitled to a share of equity in a licensed area which relates to part only of that area—

(a) that part is referred to in this Chapter as a "licensed sub-area", and

(b) the share of equity is referred to in this Chapter as a share of equity in the licensed sub-area,

and references to a licensee in a licensed sub-area are to be interpreted accordingly.

Other definitions

356JNB In this Chapter (except where otherwise specified)—

"adjusted ring fence profits", in relation to a company and an accounting period, is to be read in accordance with section 330ZA;

"cluster area allowance" has the meaning given by section 356JF(2);

"cumulative total amount of activated allowance" has the meaning given by section 356JG(2);

"licence" has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act);

"licensed area" has the same meaning as in Part 1 of OTA 1975;

"licensee" has the same meaning as in Part 1 of OTA 1975 (but see also section 356JNA);

"relevant income", in relation to a cluster area and an accounting period, has the meaning given by section 356JH(3)."

Restriction of field allowances

3 Section 349A (meaning of "additionally-developed oil field"), so far as it continues to have effect for certain purposes (in accordance with Part 2 of Schedule 12 to this

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Act) in the case of projects authorised before 1 April 2015, is to be read as if in subsection (1)—

(a) the "and" at the end of paragraph (aa) were omitted;

(b) after paragraph (b) there were inserted ", and

(c) on the authorisation day the oil field has never been (and is not treated by virtue of paragraph 5 of Schedule 13 to FA 2015 as having been) wholly or partly included in a cluster area."

4 Section 350 (meaning of "new oil field"), so far as it continues to have effect for certain purposes (in accordance with Part 2 of Schedule 12 to this Act) in the case of development authorised before 1 January 2016, is to be read as if after subsection (4) there were inserted—

"(5) Any authorisation of development of an oil field is treated as not being an authorisation of development for the purposes of subsection (1)(b) if it is given on a day on which the oil field is (or is treated by virtue of paragraph 5 of Schedule 13 to FA 2015 as having been) wholly or partly included in a cluster area."

PART 2

TRANSITIONAL PROVISION

Proposed determinations of cluster areas

5 (1) Sub-paragraph (2) applies if the Secretary of State has published, on any day ("the day of publication") in the period beginning with 3 December 2014 and ending with the day before the day on which this Act is passed, a proposal to determine a specified offshore area to be a cluster area for the purposes of Chapter 9 of Part 8 of CTA 2010.

(2) The proposal is treated for the purposes of that Chapter—

(a) as a determination validly made under section 356JD of that Act and as having had effect from the day of publication, and

(b) if the Secretary of State has published (before the end of the period mentioned in sub-paragraph (1)) an announcement of the withdrawal of the proposal, as having ceased to have effect on the date of publication of that announcement.

But this sub-paragraph is subject to paragraph 6.

(3) If a proposal published as mentioned in sub-paragraph (1) (and not withdrawn before the day on which this Act is passed) assigns an identifying number or other designation to the proposed cluster area, that number or other designation is treated as having been assigned under section 356JD(6).

(4) An area is "offshore" for the purposes of this paragraph if the whole of it lies on the seaward side of the baselines from which the territorial sea of the United Kingdom is measured.

(5) In this paragraph, references to publication are to publication on a website that is, and indicates that it is, kept by or on behalf of the Secretary of State.

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Option to exclude certain fields from cluster area allowance

6 (1) This paragraph applies where—

(a) a cluster area has been determined under section 356JD of CTA 2010 on a day before the cut-off date, or is treated under paragraph 5 as having been so determined, and

(b) a particular oil field would (in the absence of this paragraph) be wholly or partly included in the cluster area for the purposes of Chapter 9 of Part 8 of CTA 2010.

(2) The relevant companies may, within 60 days of the day the determination of the cluster area is published, jointly elect that Chapters 6A and 9 of Part 8 of CTA 2010, and Chapter 7 of that Part so far as it continues to have effect, are to have effect as if no part of the oil field were included in the cluster area (and an election made as mentioned in this sub-paragraph is effective whether made before or after the day on which this Act is passed).

(3) An election under sub-paragraph (2) made on or after the day on which this Act is passed is irrevocable.

(4) In this paragraph "the relevant companies" means the companies which are licensees in the oil field at the date of the election.

(5) "The cut-off date" means a day to be specified in regulations made by the Treasury.

(6) Section 1171(4) of CTA 2010 (regulations etc subject to annulment) does not apply to regulations under sub-paragraph (5).

(7) In this paragraph expressions which are used in Chapter 9 of Part 8 of CTA 2010 have the same meaning as in that Chapter.

SCHEDULE 14

Section 51

INVESTMENT ALLOWANCE AND CLUSTER AREA ALLOWANCE: FURTHER AMENDMENTS

PART 1

AMENDMENTS OF CTA 2010

1 CTA 2010 is amended as follows.

2 (1) Section 270 (overview of Part) is amended as follows.

(2) After subsection (6) insert—

"(6A) Chapter 6A makes provision about the reduction of supplementary charge by an allowance for certain expenditure incurred in relation to qualifying oil fields for the purposes of oil-related activities."

(3) Omit subsection (7).

(4) After subsection (7A) insert—

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"(7B) Chapter 9 makes provision about the reduction of supplementary charge by an allowance for certain expenditure incurred in relation to a cluster area for the purposes of oil-related activities."

(5) In subsection (8)—

(a) at the end of paragraph (a) insert " and ", and

(b) omit paragraph (c) and the "and" before it.

3 In section 330 (supplementary charge in respect of ring fence trades), for subsection (5) substitute—

"(5) This Chapter is subject to—

(a) Chapter 6A (reduction of supplementary charge: investment allowance),

(b) Chapter 8 (reduction of supplementary charge: onshore allowance), and

(c) Chapter 9 (reduction of supplementary charge: cluster area allowance)."

4 After section 330 insert—

"**330ZA Ordering of allowances**

(1) In this section "relieving Chapter" means any of the following—

(a) Chapter 6A (reduction of supplementary charge: investment allowance);

(b) Chapter 8 (reduction of supplementary charge: onshore allowance);

(c) Chapter 9 (reduction of supplementary charge: cluster area allowance).

(2) Where a company has allowances under more than one relieving Chapter available for reducing the adjusted ring fence profits that are to be chargeable under section 330(1) for an accounting period, the company may choose the order in which the relieving Chapters in question are to be applied.

(3) In any relieving Chapter, "adjusted ring fence profits", in relation to a company and an accounting period, means the adjusted ring fence profits which would (ignoring all relieving Chapters except those which the company chooses to apply before that Chapter) be taken into account in calculating the supplementary charge on the company under section 330(1) for the accounting period."

5 In section 356C (generation of onshore allowance), in subsection (9)(a), for "section 351" substitute " section 356IB ".

6 Omit section 356DB (companies with both field allowance and onshore allowance).

7 Before section 356J (but after the heading "Interpretation") insert—

Authorisation of development": oil fields

"356IB(1) In this Chapter a reference to authorisation of development of an oil field is a reference to a national authority—

(a) granting a licensee consent for development of the field,

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(b) serving on a licensee a programme of development for the field, or

(c) approving a programme of development for the field.

(2) In this section—

"consent for development", in relation to an oil field, does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area,

"development", in relation to an oil field, means winning oil from the field otherwise than in the course of searching for oil or drilling wells, and

"national authority" means—

(a) the Secretary of State, or

(b) a Northern Ireland department."

8 In section 356JB (definitions for Chapter 8), in the definition of "adjusted ring fence profits", for the words from "means" to the end substitute " is to be read in accordance with section 330ZA ".

9 (1) Schedule 4 (index of defined expressions) is amended as follows.

(2) Omit the entries for—

"additionally-developed oil field (in Chapter 7 of Part 8)",
"adjusted ring fence profits (in Chapter 7 of Part 8)",
"adjusted ring fence profits (in Chapter 8 of Part 8)",
"authorisation day (in Chapter 7 of Part 8)",
"authorisation of development of an oil field (in Chapter 7 of Part 8)",
"eligible oil field (in Chapter 7 of Part 8)",
"licensee (in Chapter 7 of Part 8)",
"new oil field (in Chapter 7 of Part 8)",
"qualifying oil field (in Chapter 7 of Part 8)",
"relevant income (in Chapter 7 of Part 8)",
"small oil field (in Chapter 7 of Part 8)",
"total field allowance for a new oil field (in Chapter 7 of Part 8)",
"total field allowance for an additionally-developed oil field",
"ultra heavy oil field (in Chapter 7 of Part 8)", and
"ultra high pressure/high temperature oil field (in Chapter 7 of Part 8)".

(3) At the appropriate places insert—

"adjusted ring fence profits (in Chapters 6A, 8 and 9 of Part 8)	section 330ZA";";
"cluster area (in Part 8)	section 356JD";
"cluster area allowance (in Chapter 9 of Part 8)	section 356JF(2)";
"cumulative total amount of activated allowance (in Chapter 6A of Part 8)	section 332E(2)";

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"cumulative total amount of activated allowance (in Chapter 9 of Part 8)	section 356JG(2)";
"investment allowance (in Chapter 6A of Part 8)	section 332C(2)";
"investment expenditure (in Chapter 6A of Part 8)	section 332BA";
"investment expenditure (in Chapter 9 of Part 8)	section 356JE";
"licence (in Chapter 6A of Part 8)	section 332KA";
"licence (in Chapter 9 of Part 8)	section 356JNB";
"licensed area (in Chapter 9 of Part 8)	section 356JNB";
"licensed sub-area (in Chapter 9 of Part 8)	section 356JNA";
"licensee (in Chapter 6A of Part 8)	section 332KA";
"licensee (in Chapter 9 of Part 8)	section 356JNB";
"qualifying oil field (in Chapter 6A of Part 8)	section 332B";
"reference period (in Chapter 6A of Part 8)	section 332G";
"reference period (in Chapter 9 of Part 8)	section 356JI";
"relevant income (in Chapter 6A of Part 8)	section 332F(3)";
"relevant income (in Chapter 9 of Part 8)	section 356JH(3)".

PART 2

COMMENCEMENT

10 (1) The amendments made by Part 1 of this Schedule have effect in relation to accounting periods ending on or after 1 April 2015.

(2) Sub-paragraph (1) is subject to sub-paragraphs (3) and (4).

(3) So far as they relate to cluster area allowance under Chapter 9 of Part 8 of CTA 2010 (as inserted by Schedule 13) the amendments made by Part 1 of this Schedule have effect in relation to expenditure incurred on or after 3 December 2014.

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(4) So far as they relate to investment allowance under Chapter 6A of Part 8 of CTA 2010 (as inserted by Schedule 12) in respect of oil fields not falling within paragraph 6(1)(a) or (b) of that Schedule, the amendments made by Part 1 of this Schedule have effect subject to paragraphs 7 and 8 of that Schedule.

SCHEDULE 15

Section 65

LANDFILL TAX: MATERIAL CONSISTING OF FINES

1 Part 3 of FA 1996 (landfill tax) is amended as follows.

2 (1) Section 42 (amount of tax charged on a taxable disposal) is amended as follows.

(2) In subsection (2), after "qualifying material" insert " or qualifying fines ".

(3) After subsection (3) insert—

"(3A) Qualifying fines are a mixture of—

(a) fines that consist of such qualifying material as is prescribed by order, and

(b) fines that consist of material that is not qualifying material,

that satisfies all the requirements prescribed in an order.

(3B) An order under subsection (3A) relating to the mixture of fines may require, in particular—

(a) that fines that consist of material that is not qualifying material do not exceed a prescribed proportion;

(b) that the mixture of fines does not include prescribed materials or prescribed descriptions of materials;

(c) that the mixture of fines is such that, if subjected to a prescribed test, it would give a prescribed result;

(d) that the mixture of fines originates, or does not originate, in a prescribed way."

(4) In subsection (4)(a), after "listed" insert " or what fines are to be qualifying fines ".

(5) In subsection (6), after "listed," insert " or what fines are to be qualifying fines, ".

3 In section 63 (qualifying material: special provisions), after subsection (4) insert—

"(4A) Subsections (2) to (4) do not apply where the material disposed of consists of qualifying fines."

4 After section 63 insert—

"**63A Qualifying fines: special provisions**

(1) This section applies for the purposes of section 42.

(2) An order may provide that fines must not be treated as qualifying fines unless prescribed conditions are met.

(3) A condition may relate to any matter the Treasury think fit.

Status: *Point in time view as at 30/11/2015. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

(4) The conditions may include conditions making provision about—

(a) the production of a document which includes a statement of the nature of the fines;

(b) carrying out a specified test on fines proposed to be disposed of as qualifying fines;

(c) the frequency with which tests are to be carried out on any fines proposed to be disposed of as qualifying fines;

(d) the frequency with which tests are to be carried out on any fines that come from a particular source and are proposed to be disposed of as qualifying fines;

(e) the steps to be taken by operators of landfill sites in relation to persons sending fines to be disposed of as qualifying fines.

(5) The conditions may enable provision to be made by notices issued by the Commissioners in accordance with such provision as is made in the conditions.

(6) A notice issued as described in subsection (5) may be revoked by a notice issued in the same way.

(7) If an order includes provision falling within subsection (4)(b), the Commissioners may direct a person to carry out such a test in relation to any fines proposed to be disposed of as qualifying fines.

(8) In this section "specified" means specified in—

(a) a condition prescribed under subsection (2), or

(b) a notice issued as described in subsection (5)."

5 In section 70(1) (interpretation), at the appropriate place insert—

""fines" means particles produced by a waste treatment process that involves an element of mechanical treatment;".

6 (1) In section 71 (orders and regulations), subsection (7) is amended as follows.

(2) After paragraph (a) insert—

"(aa) an order under section 42(3A) providing for fines which would otherwise be qualifying fines not to be qualifying fines;".

(3) After paragraph (c) insert—

"(cza) an order under section 63A(2) other than one which provides only that an earlier order under section 63A(2) is not to apply to fines;".

7 (1) Schedule 5 (provision about information etc) is amended as follows.

(2) In the heading to Part 1, after "Information" insert " and samples ".

(3) After paragraph 2A insert—

"Information: qualifying fines

2B (1) Regulations may make provision about giving the Commissioners information about fines proposed to be disposed of, or disposed of, as qualifying fines.

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

(2) Regulations under this paragraph may require a person to notify the Commissioners if the result of a test carried out on fines indicates that the fines are not qualifying fines.

Samples: qualifying fines

2C (1) Regulations may require persons—

(a) where a sample is taken from a quantity of fines in order to carry out a test on the fines, to retain a prescribed amount of that sample;

(b) to preserve fines retained under paragraph (a) for such period not exceeding three months as may be specified in the regulations.

(2) A duty under regulations under this paragraph to preserve fines may be discharged by taking such steps to preserve them as the Commissioners may specify in writing."

(4) In paragraph 10 (power to take samples), after sub-paragraph (1) insert—

"(1A) An authorised person, if it appears to the person necessary for the protection of the revenue against mistake or fraud, may at any time take, from material which the person has reasonable cause to believe is an amount of fines retained under paragraph 2C(1)(a), such samples as the person may require with a view to determining how the fines tested ought to be or to have been treated for the purposes of tax."

(5) In paragraph 22 (information)—

(a) in sub-paragraph (1)(b), after "2" insert " or 2A ";

(b) in sub-paragraph (3), for the words from "who" to "liable" substitute "who—

(a) fails to preserve records in compliance with any provision of regulations made under paragraph 2 (read with that paragraph and any direction given under the regulations), or

(b) fails to preserve records in compliance with any provision of regulations made under paragraph 2A (read with that paragraph and any direction given under the regulations),

is liable ".

8 The amendments made by this Schedule have effect in relation to disposals that are—

(a) made in England and Wales or Northern Ireland, and

(b) made (or treated as made) on or after 1 April 2015.

Status: *Point in time view as at 30/11/2015. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

SCHEDULE 16

Section 98

RECOVERY OF UNPAID DIVERTED PROFITS TAX DUE FROM NON-UK RESIDENT COMPANY

PART 1

IMPOSING LIABILITY ON UK REPRESENTATIVE OF NON-UK RESIDENT COMPANY

1 (1) Chapter 6 of Part 22 of CTA 2010 (collection etc of tax from UK representatives of non-UK resident companies) has effect as if the enactments referred to in section 969(1) of that Act included enactments relating to diverted profits tax so far as they make provision for or in connection with the charging, collection and recovery of diverted profits tax or of interest on that tax.

(2) In its application in accordance with sub-paragraph (1), that Chapter has effect subject to the following modifications.

(3) In a case where section 86 applies in relation to company, that Chapter applies in relation to the avoided PE in relation to that company as it would apply to a permanent establishment in the United Kingdom through which the company carries on a trade.

(4) In section 969(3) of that Act references to "chargeable profits of the company attributable to that establishment" are to be read as references to "taxable diverted profits arising to the company".

(5) In section 971 of that Act references to the giving or service of a notice includes a reference to the issuing of a notice.

PART 2

RECOVERY OF DIVERTED PROFITS TAX FROM RELATED COMPANIES

Cases in which this Part applies

2 (1) This Part of this Schedule applies if—

(a) an amount of diverted profits tax has been charged on a company for an accounting period,

(b) the whole or any part of that amount is unpaid at the end of the due and payable date, and

(c) the company is non-UK resident.

(2) In this Part of this Schedule "the taxpayer company" means the company mentioned in sub-paragraph (1).

Meaning of "the relevant period"

3 In this Part of this Schedule "the relevant period", in relation to an amount of unpaid diverted profits tax for an accounting period of the taxpayer company, means the period—

(a) beginning 12 months before the start of the accounting period, and

(b) ending when the unpaid tax became payable.

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Meaning of "related company"

4 (1) A company is a "related company", for the purposes of this Part of this Schedule, if, at any time in the relevant period, it was a member—

(a) of the same group as the taxpayer company,

(b) of a consortium which at that time owned the taxpayer company, or

(c) of the same group as a company which at that time was a member of a consortium owning the taxpayer company.

(2) For the purposes of sub-paragraph (1)(a) two companies are members of the same group if—

(a) one is the 51% subsidiary of the other, or

(b) both are 51% subsidiaries of a third company.

(3) For the purposes of sub-paragraph (1)(c), two companies are members of the same group if they are members of the same group of companies within the meaning of Part 5 of CTA 2010 (group relief).

(4) For the purposes of this Part of this Schedule—

(a) a company is a member of a consortium if it is a member of a consortium within the meaning of Part 5 of CTA 2010, and

(b) a company is owned by a consortium if it is owned by a consortium within the meaning of that Part.

(5) In this paragraph "51% subsidiary" has the meaning given by section 1154 of CTA 2010.

Notice requiring payment of unpaid tax

5 (1) An officer of Revenue and Customs may serve a notice on a related company requiring it, within 30 days of the service of the notice, to pay—

(a) in a case which is not a consortium case, the amount of the unpaid tax, or

(b) in a consortium case, the proportion of that amount found under paragraph 7.

(2) The notice must state—

(a) the amount of diverted profits tax charged on the taxpayer company for the accounting period in question that remains unpaid,

(b) the date when it first became payable, and

(c) the amount which is to be paid by the company on which the notice is served.

(3) The notice has effect—

(a) for the purposes of the recovery from that company of the amount required to be paid and of interest on that amount, and

(b) for the purposes of appeals,

as if it were a charging notice and that amount were an amount of diverted profits tax charged on that company.

(4) In this Part of this Schedule "consortium case" means a case where the related company is not within paragraph 4(1)(a).

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

Time limit for giving notice

6 A notice under this Part of this Schedule must be served before the end of the period of 3 years beginning with the date when the charging notice or supplementary charging notice imposing the charge to tax was issued.

Amount payable in consortium case

7 (1) In a consortium case, the amount that the related company may be required to pay by notice under this Part of this Schedule is the proportion of the unpaid tax corresponding—

(a) if the company is only within paragraph 4(1)(b), to the share which the company has had in the consortium for the relevant period,

(b) if the company is only within paragraph 4(1)(c), to the share which companies that have been members of the same group of companies as the company have had in the consortium for the relevant period, or

(c) if the company is within paragraph 4(1)(b) and (c), to whichever is the greater of the amounts given by paragraph (a) and (b).

(2) For the purposes of this paragraph, a member's share in a consortium, in relation to the relevant period, is whichever is the lowest in that period of the percentages specified in sub-paragraph (3).

(3) Those percentages are—

(a) the percentage of the ordinary share capital of the taxpayer company which is beneficially owned by the member,

(b) the percentage to which the member is beneficially entitled of any profits available for distribution to equity holders of the taxpayer company, and

(c) the percentage to which the member would be beneficially entitled of any assets of the taxpayer company available for distribution to its equity holders on a winding up.

(4) If any of the percentages mentioned in sub-paragraph (3) has fluctuated in the relevant period, the average percentage over the period is to be taken.

(5) Chapter 6 of Part 5 of CTA 2010 (equity holders and profits or assets available for distribution) applies for the purposes of sub-paragraph (3) as it applies for the purposes of sections 143(3)(b) and (c) and 144(3)(b) and (c) of that Act.

Part 2: supplementary

8 (1) A company that has paid an amount in pursuance of a notice under this Part of this Schedule may recover that amount from the taxpayer company.

(2) A payment in pursuance of a notice under this Part of this Schedule is not allowed as a deduction in calculating income, profits or losses for any tax purposes.

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

SCHEDULE 17

Section 117

DISCLOSURE OF TAX AVOIDANCE SCHEMES

Requirement to update DOTAS information

1 After section 310B of FA 2004 insert—

"**310C Duty of promoters to provide updated information**

(1) This section applies where—

(a) information has been provided under section 308 about any notifiable arrangements, or proposed notifiable arrangements, to which a reference number is allocated under section 311, and

(b) after the provision of the information, there is a change in relation to the arrangements of a kind mentioned in subsection (2).

(2) The changes referred to in subsection (1)(b) are—

(a) a change in the name by which the notifiable arrangements, or proposed notifiable arrangements, are known;

(b) a change in the name or address of any person who is a promoter in relation to the notifiable arrangements or, in the case of proposed notifiable arrangements, the notifiable proposal.

(3) A person who is a promoter in relation to the notifiable arrangements or, in the case of proposed notifiable arrangements, the notifiable proposal must inform HMRC of the change mentioned in subsection (1)(b) within 30 days after it is made.

(4) Subsections (5) and (6) apply for the purposes of subsection (3) where there is more than one person who is a promoter in relation to the notifiable arrangements or proposal.

(5) If the change in question is a change in the name or address of a person who is a promoter in relation to the notifiable arrangements or proposal, it is the duty of that person to comply with subsection (3).

(6) If a person provides information in compliance with subsection (3), the duty imposed by that subsection on any other person, so far as relating to the provision of that information, is discharged."

2 In section 316 of that Act (information to be provided in form and manner specified by HMRC), in subsection (2), after "310A," insert " 310C, ".

3 In section 98C of TMA 1970 (notification under Part 7 of FA 2004), in subsection (2), after paragraph (ca) insert—

"(cb) section 310C (duty of promoters to provide updated information),".

Arrangements to be given reference number

4 In section 311(1)(a) of FA 2004 (period for allocation of reference number to arrangements) for "30 days" substitute " 90 days ".

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

Notification of employees

5 (1) Section 312A of FA 2004 (duty of client to notify parties of number) is amended as follows.

(2) After subsection (2) insert—

"(2A) Where the client—

(a) is an employer, and

(b) by reason of the arrangements or proposed arrangements, receives or might reasonably be expected to receive an advantage, in relation to any relevant tax, in relation to the employment of one or more of the client's employees,

the client must, within the prescribed period, provide to each of the client's relevant employees prescribed information relating to the reference number."

(3) For subsection (3) substitute—

"(3) For the purposes of this section—

(a) a tax is a "relevant tax", in relation to arrangements or arrangements proposed in a proposal of any description, if it is prescribed in relation to arrangements or proposals of that description by regulations under section 306;

(b) "relevant employee" means an employee in relation to whose employment the client receives or might reasonably be expected to receive the advantage mentioned in subsection (2A);

(c) "employee" includes a former employee;

(d) a reference to employment includes holding an office (and references to "employee" and "employer" are to be construed accordingly)."

(4) In subsection (4), for "the duty under subsection (2)" substitute " one or both of the duties under this section ".

(5) In subsection (5), after "subsection (2)" insert " or (2A) ".

6 In section 313 of that Act (duty of parties to notifiable arrangements to notify Board of number, etc), after subsection (5) insert—

"(6) The duty under subsection (1) does not apply in prescribed circumstances."

7 In section 316 of that Act (information to be provided in form and manner specified by HMRC), in subsection (2), after "312A(2)" insert " and (2A) ".

8 In section 98C of TMA 1970 (notification under Part 7 of FA 2004), in subsection (2), in paragraph (da), after "312A(2)" insert " and (2A) ".

Employers' duty of disclosure

9 After section 313ZB of FA 2004 insert—

"**313ZC Duty of employer to notify HMRC of details of employees etc**

(1) This section applies if conditions A, B and C are met.

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Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2015. (See end of Document for details)*

(2) Condition A is that a person who is a promoter in relation to notifiable arrangements or a notifiable proposal is providing (or has provided) services in connection with the notifiable arrangements or notifiable proposal to a person ("the client").

(3) Condition B is that the client receives information under section 312(2) or as mentioned in section 312(5).

(4) Condition C is that the client is an employer in circumstances where, as a result of the notifiable arrangement or proposed notifiable arrangement—

(a) one or more of the client's employees receive, or might reasonably be expected to receive, in relation to their employment, an advantage in relation to any relevant tax, or

(b) the client receives or might reasonably be expected to receive such an advantage in relation to the employment of one or more of the client's employees.

(5) Where an employee is within subsection (4)(a), or is an employee mentioned in subsection (4)(b), the client must provide HMRC with prescribed information relating to the employee at the prescribed time or times.

(6) The client need not comply with subsection (5) in relation to any notifiable arrangements at any time after HMRC have given notice under section 312(6) or 313(5) in relation to the notifiable arrangements.

(7) The duty under subsection (5) does not apply in prescribed circumstances.

(8) Section 312A(3) applies for the purposes of this section as it applies for the purposes of that section."

10 In section 316 of that Act (information to be provided in form and manner specified by HMRC), in subsection (2), for "and 313ZA(3)" substitute " , 313ZA(3) and 313ZC(5) ".

11 In section 98C of TMA 1970 (notification under Part 7 of FA 2004), in subsection (2), after paragraph (dc) insert—

"(dca) section 313ZC (duty of employer to provide details of employees etc),".

Identifying scheme users

12 (1) Section 313C of FA 2004 (information provided to introducers) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies where HMRC suspect—

(a) that a person ("P") is an introducer in relation to a proposal, and

(b) that the proposal may be notifiable.

(1A) HMRC may by written notice require P to provide HMRC with one or both of the following—

(a) prescribed information in relation to each person who has provided P with any information relating to the proposal;

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(b) prescribed information in relation to each person with whom P has made a marketing contact in relation to the proposal."

(3) In subsection (3), for "or by virtue of subsection (1)" substitute " subsection (1A) ".

(4) For the heading substitute " Provision of information to HMRC by introducers ".

13 In section 98C of TMA 1970 (notification under Part 7 of FA 2004: penalties), in subsection (2)(f) after "information" insert " or have been provided with information ".

Additional information

14 "After section 316 of FA 2004 insert—

Duty to provide additional information

316A(1) This section applies where a person is required to provide information under section 312(2) or 312A(2) or (2A).

(2) HMRC may specify additional information which must be provided by that person to the recipients under section 312(2) or 312A(2) or (2A) at the same time as the information referred to in subsection (1).

(3) HMRC may specify the form and manner in which the additional information is to be provided.

(4) For the purposes of this section "additional information" means information supplied by HMRC which relates to notifiable proposals or notifiable arrangements in general."

15 In section 98C of TMA 1970 (notification under Part 7 of FA 2004), in subsection (2), omit the "and" at the end of paragraph (e) and after paragraph (f) insert ", and

(g) section 316A (duty to provide additional information)."

Protection of persons making voluntary disclosures

16 "After section 316A of FA 2004 insert—

Confidentiality

316B No duty of confidentiality or other restriction on disclosure (however imposed) prevents the voluntary disclosure by any person to HMRC of information or documents which the person has reasonable grounds for suspecting will assist HMRC in determining whether there has been a breach of any requirement imposed by or under this Part."

Publication of DOTAS information

17 After section 316B of FA 2004 insert—

"**316C Publication by HMRC**

(1) HMRC may publish information about—

(a) any notifiable arrangements, or proposed notifiable arrangements, to which a reference number is allocated under section 311;

(b) any person who is a promoter in relation to the notifiable arrangements or, in the case of proposed notifiable arrangements, the notifiable proposal.

(2) The information that may be published is (subject to subsection (4))—

(a) any information relating to arrangements within subsection (1)(a), or a person within subsection (1)(b), that is prescribed information for the purposes of section 308, 309 or 310;

(b) any ruling of a court or tribunal relating to any such arrangements or person (in that person's capacity as a promoter in relation to a notifiable proposal or arrangements);

(c) the number of persons in any period who enter into transactions forming part of notifiable arrangements within subsection (1)(a);

(d) whether arrangements within subsection (1)(a) are APN relevant (see subsection (7));

(e) any other information that HMRC considers it appropriate to publish for the purpose of identifying arrangements within subsection (1)(a) or a person within subsection (1)(b).

(3) The information may be published in any manner that HMRC considers appropriate.

(4) No information may be published under this section that identifies a person who enters into a transaction forming part of notifiable arrangements within subsection (1)(a).

(5) But where a person who is a promoter within subsection (1)(b) is also a person mentioned in subsection (4), nothing in subsection (4) is to be taken as preventing the publication under this section of information so far as relating to the person's activities as a promoter.

(6) Before publishing any information under this section that identifies a person as a promoter within subsection (1)(b), HMRC must—

(a) inform the person that they are considering doing so, and

(b) give the person reasonable opportunity to make representations about whether it should be published.

(7) Arrangements are "APN relevant" for the purposes of subsection (2)(d) if HMRC has indicated in a publication that it may exercise (or has exercised) its power under section 219 of the Finance Act 2014 (accelerated payment notices) by virtue of the arrangements being DOTAS arrangements within the meaning of that section.

316D Section 316C: subsequent judicial rulings

(1) This section applies if—

(a) information about notifiable arrangements, or proposed notifiable arrangements, is published under section 316C,

(b) at any time after the information is published, a ruling of a court or tribunal is made in relation to tax arrangements, and

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(c) HMRC is of the opinion that the ruling is relevant to the arrangements mentioned in paragraph (a).

(2) A ruling is "relevant" to the arrangements if—

(a) the principles laid down, or reasoning given, in the ruling would, if applied to the arrangements, allow the purported advantage arising from the arrangements in relation to tax, and

(b) the ruling is final.

(3) HMRC must publish information about the ruling.

(4) The information must be published in the same manner as HMRC published the information mentioned in subsection (1)(a) (and may also be published in any other manner that HMRC considers appropriate).

(5) A ruling is "final" if it is—

(a) a ruling of the Supreme Court, or

(b) a ruling of any other court or tribunal in circumstances where—

(i) no appeal may be made against the ruling,

(ii) if an appeal may be made against the ruling with permission, the time limit for applications has expired and either no application has been made or permission has been refused,

(iii) if such permission to appeal against the ruling has been granted or is not required, no appeal has been made within the time limit for appeals, or

(iv) if an appeal was made, it was abandoned or otherwise disposed of before it was determined by the court or tribunal to which it was addressed.

(6) Where a ruling is final by virtue of sub-paragraph (ii), (iii) or (iv) of subsection (5)(b), the ruling is to be treated as made at the time when the sub-paragraph in question is first satisfied.

(7) In this section "tax arrangements" means arrangements in respect of which it would be reasonable to conclude (having regard to all the circumstances) that the obtaining of an advantage in relation to tax was the main purpose, or one of the main purposes."

Increase in penalties for failure to comply with section 313 of FA 2004

18 In section 98C of TMA 1970 (notification under Part 7 of FA 2004)—

(a) in subsection (3) for "penalty of the relevant sum" substitute " penalty not exceeding the relevant sum ", and

(b) in subsection (4)—

(i) in paragraph (a) for "£100" substitute " £5,000 ",

(ii) in paragraph (b) for "£500" substitute " £7,500 ", and

(iii) in paragraph (c) for "£1,000" substitute " £10,000 ".

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Transitional provisions

19 (1) Section 310C of FA 2004 applies in relation to notifiable arrangements, or proposed notifiable arrangements, only if a reference number under section 311 of that Act is allocated to the arrangements on or after the day on which this Act is passed.

(2) But section 310C of FA 2004 does not apply in relation to notifiable arrangements, or proposed notifiable arrangements, where prescribed information relating to the arrangements was provided to HMRC before that day in compliance with section 308 of that Act.

20 Any notice given by HMRC under section 312A(4) of FA 2004 (notice that section 312A(2) duty does not apply) before the day on which this Act is passed is treated on and after that day as given also in relation to the duty under section 312A(2A) of that Act.

21 (1) Section 316C of FA 2004 applies in relation to notifiable arrangements, or proposed notifiable arrangements, only if a reference number under section 311 of that Act is allocated to the arrangements on or after the day on which this Act is passed.

(2) But section 316C of FA 2004 does not apply in relation to notifiable arrangements, or proposed notifiable arrangements, where prescribed information relating to the arrangements was provided to HMRC before that day in compliance with section 308, 309 or 310 of that Act.

(3) Section 316C(2)(b) of FA 2004 applies in relation to a ruling of a court or tribunal only if the ruling is given on or after the day on which this Act is passed.

SCHEDULE 18

Section 118

ACCELERATED PAYMENTS: GROUP RELIEF

Amendments of Part 4 of FA 2014

1 Part 4 of FA 2014 (accelerated payments etc) is amended as follows.

2 In section 199 (overview of Part 4), in paragraph (c) omit the "and" at the end of sub-paragraph (ii), and after sub-paragraph (iii) insert ", and

(iv) provision restricting the surrender of losses and other amounts for the purposes of group relief."

3 (1) Section 220 (content of notice given while a tax enquiry is in progress) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (b), after "the payment" insert " (if any) ", and

(b) omit the "and" at the end of that paragraph, and after paragraph (c) insert ", and

(d) if the denied advantage consists of or includes an asserted surrenderable amount, specify that amount and any action which is required to be taken in respect of it under section 225A."

(3) After subsection (4) insert—

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"(4A) Asserted surrenderable amount" means so much of a surrenderable loss as a designated HMRC officer determines, to the best of that officer's information and belief, to be an amount—

(a) which would not be a surrenderable loss of P if the position were as stated in paragraphs (a), (b) or (c) of subsection (4), and

(b) which is not the subject of a claim by P for relief from corporation tax reflected in the understated tax amount (and hence in the payment required to be made under section 223).

(4B) "Surrenderable loss" means a loss or other amount within section 99(1) of CTA 2010 (or part of such a loss or other amount)."

(4) In subsection (6), for "the payment specified under subsection (2)(b)" substitute " any payment specified under subsection (2)(b) or amount specified under subsection (2)(d) ".

4 (1) Section 221 (content of notice given pending an appeal) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (b), after "the disputed tax" insert " (if any) ", and

(b) omit the "and" at the end of paragraph (b) and after paragraph (c) insert ", and

(d) if the denied advantage consists of or includes an asserted surrenderable amount (within the meaning of section 220(4A)), specify that amount and any action which is required to be taken in respect of it under section 225A."

5 (1) Section 222 (representations about a notice) is amended as follows.

(2) In subsection (2) omit the "or" at the end of paragraph (a), and after paragraph (b) insert ", or

(c) objecting to the amount specified in the notice under section 220(2)(d) or section 221(2)(d)."

(3) In subsection (4)—

(a) omit the "and" at the end of paragraph (a),

(b) in paragraph (b), after "different amount" insert " (or no amount) ", and

(c) omit the "or" after sub-paragraph (i) of that paragraph and after sub-paragraph (ii) insert ", or

(iii) remove from the notice the provision made under section 220(2)(b) or section 221(2)(b), and

(c) if representations were made under subsection (2)(c) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount (or no amount) ought to have been specified under section 220(2)(d) or 221(2)(d), and then—

(i) confirm the amount specified in the notice,

(ii) amend the notice to specify a different amount, or

(iii) remove from the notice the provision made under section 220(2)(d) or section 221(2)(d),".

6 (1) Section 223 (effect of notice given while tax enquiry is in progress) is amended as follows.

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(2) For subsection (1) substitute—

"(1) This section applies where—

(a) an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while a tax enquiry is in progress) (and not withdrawn), and

(b) an amount is stated in the notice in accordance with section 220(2)(b)."

(3) In subsection (2), for "the amount specified in the notice in accordance with section 220(2)(b)" substitute " that amount ".

(4) Accordingly, in the heading for that section after "progress" insert " : accelerated payment ".

7 After section 225 insert—

"Prevention of surrender of losses

225A Effect of notice: surrender of losses ineffective, etc

(1) This section applies where—

(a) an accelerated payment notice is given (and not withdrawn), and

(b) an amount is specified in the notice in accordance with section 220(2)(d) or 221(2)(d).

(2) P may not consent to any claim for group relief in respect of the amount so specified.

(3) Subject to subsection (2), paragraph 75 (other than sub-paragraphs (7) and (8)) of Schedule 18 to FA 1998 (reduction in amount available for surrender) has effect as if the amount so specified ceased to be an amount available for surrender at the time the notice was given to P.

(4) For the purposes of subsection (3), paragraph 75 of that Schedule has effect as if, in sub-paragraph (2) of that paragraph for "within 30 days" there were substituted " before the end of the payment period (within the meaning of section 223(5) of the Finance Act 2014) ".

(5) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made in accordance with paragraph 75(6) of Schedule 18 to FA 1998 where, pursuant to subsection (3), a claimant company receives—

(a) notice of the withdrawal of consent under paragraph 75(3) of that Schedule, or

(b) a copy of a notice containing directions under paragraph 75(4) of that Schedule.

(6) Subsection (7) applies where—

(a) a company makes such an amendment to its company tax return at a time when an enquiry is in progress into the return, and

(b) paragraph 31(3) of that Schedule prevents the amendment from taking effect until the enquiry is completed.

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(7) Section 219 (circumstances in which an accelerated payment notice may be given) has effect, in its application to that company in a case where section 219(2)(a) applies (tax enquiry in progress), as if—

(a) for the purposes of section 219(3), that amendment to the return had not been made,

(b) in section 219(4), after paragraph (c) there were inserted—

"(d) P has amended its company tax return, in accordance with paragraph 75(6) of Schedule 18 to FA 1998, in circumstances where pursuant to section 225A(3), P has received—

(i) notice of the withdrawal of consent under paragraph 75(3) of that Schedule, or

(ii) a copy of a notice containing directions under paragraph 75(4) of that Schedule,

but paragraph 31(3) of that Schedule prevents that amendment having effect.",

(c) in section 220(4), after paragraph (c) there were inserted—

"(d) in the case of a notice given by virtue of section 219(4)(d) (cases involving withdrawal of consent for losses claimed), it were assumed that P had never made the claim to group relief to which the amendment to its company tax return relates.", and

(d) in section 227(10), for "or (c)" there were substituted " , (c) or (d) ".

(8) Subsections (2) and (3) are subject to—

(a) section 227(14) to (16) (provision about claims for group relief, and consents to claims, following amendment or withdrawal of an accelerated payment notice), and

(b) section 227A (provision about claims for group relief, and consents to claims, once tax position finally determined)."

8 (1) Section 227 (withdrawal, modification or suspension of accelerated payment notice) is amended as follows.

(2) In subsection (2) omit the "or" after paragraph (b) and after paragraph (c) insert ", or

(d) reduce the amount specified in the accelerated payment notice under section 220(2)(d) or 221(2)(d)."

(3) In subsection (4), after "(2)(c)" insert " or (d) ".

(4) In subsection (6)(b), after "advantage" insert " etc ".

(5) In subsection (7), omit the "and" after paragraph (a) and after paragraph (b) insert ", and

(c) if the amount of the asserted surrenderable amount is less than the amount specified in the notice, amend the notice under subsection (2)(d) to substitute the lower amount."

(6) After subsection (12) insert—

"(12A) Where, as a result of an accelerated payment notice specifying an amount under section 220(2)(d) or 221(2)(d), a notice of consent by P to a claim

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for group relief in respect of the amount specified (or part of it) became ineffective by virtue of section 225A(3), nothing in subsection (12) operates to revive that notice."

(7) After subsection (13) insert—

"(14) If the accelerated payment notice is amended under subsection (2)(d) or withdrawn—

(a) section 225A(2) and (3) (which prevents consent being given to group relief claims) cease to apply in relation to the released amount, and

(b) a claim for group relief may be made in respect of any part of the released amount within the period of 30 days after the day on which the notice is amended or withdrawn.

(15) The time limits otherwise applicable to amendment of a company tax return do not apply to the extent that it makes a claim for group relief within the time allowed by subsection (14).

(16) "The released amount" means—

(a) in a case where the accelerated payment notice is amended under subsection (2)(d), the amount represented by the reduction, and

(b) in a case where the accelerated payment notice is withdrawn, the amount specified under section 220(2)(d) or 221(2)(d)."

9 After section 227 insert—

"Group relief claims after accelerated payment notices

227A Group relief claims after accelerated payment notices

(1) This section applies where as a result of an accelerated payment notice given to P—

(a) P was prevented from consenting to a claim for group relief in respect of an amount under section 225A(2), or

(b) pursuant to section 225A(3), a consent given by P to a claim for group relief in respect of an amount was ineffective.

(2) If a final determination establishes that the amount P has available to surrender consists of or includes the amount referred to in subsection (1)(a) or (b) or a part of it ("the allowed amount")—

(a) section 225A(2) and (3) (which prevents consent being given to group relief claims) ceases to apply in relation to the allowed amount, and

(b) a claim for group relief in respect of any part of the allowed amount may be made within the period of 30 days after the relevant time.

(3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes a claim for group relief in respect of any part of the allowed amount within the time limit allowed by subsection (2)(b).

(4) In this section—

"final determination" means—

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(a) a conclusion stated in a closure notice under paragraph 34 of Schedule 18 to FA 1998 against which no appeal is made;

(b) the final determination of a tax appeal within paragraph (d) or (e) of section 203;

"relevant time" means—

(a) in a case within paragraph (a) above, the end of the period during which the appeal could have been made;

(b) in the case within paragraph (b) above, the end of the day on which the final determination occurs."

10 (1) Schedule 32 (accelerated payments and partnerships) is amended as follows.

(2) In paragraph 4 (content of partner payment notice)—

(a) in sub-paragraph (1), in paragraph (b), after "the payment" insert " (if any) ",

(b) in that sub-paragraph omit the "and" at the end of paragraph (b) and after paragraph (c) insert ", and

(d) if the denied advantage consists of or includes an asserted surrenderable amount, specify that amount and any action which is required to be taken in respect of it under paragraph 6A.",

(c) after sub-paragraph (4) insert—

"(4A) Asserted surrenderable amount" means so much of a surrenderable loss which the relevant partner asserts to have as a designated HMRC officer determines, to the best of that officer's information and belief, to be an amount—

(a) which would not be a surrenderable loss of that partner if the position were as stated in paragraphs (a), (b) or (c) of sub-paragraph (3), and

(b) which is not the subject of a claim by the relevant partner to relief from corporation tax which is reflected in the amount of the understated partner tax of that partner (and hence in the payment required to be made under paragraph 6).

(4B) "Surrenderable loss" means a loss or other amount within section 99(1) of CTA 2010 (or part of such a loss or other amount).", and

(d) in sub-paragraph (5), for "the payment specified under sub-paragraph (1)(b)" substitute " any payment specified under sub-paragraph (1)(b) or amount specified under sub-paragraph (1)(d) ".

(3) In paragraph 5 (representations about a partner payment notice)—

(a) in sub-paragraph (2) omit the "or" at the end of paragraph (a), and after paragraph (b) insert ", or

(c) objecting to the amount specified in the notice under paragraph 4(1)(d).",

(b) in sub-paragraph (4), omit the "and" at the end of paragraph (a),

(c) in paragraph (b) of that sub-paragraph, after "different amount" insert " (or no amount) ",

(d) in that paragraph, omit the "or" at the end of sub-paragraph (i) and after sub-paragraph (ii) insert ", or

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(iii) remove from the notice the provision made under paragraph 4(1)(b),", and

(e) after that paragraph insert ", and

(c) if representations were made under sub-paragraph (2)(c) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount (or no amount) ought to have been specified under paragraph 4(1)(d), and then—

(i) confirm the amount specified in the notice,

(ii) amend the notice to specify a different amount, or

(iii) remove from the notice the provision made under paragraph 4(1)(d),".

(4) In paragraph 6 (effect of partner payment notice)—

(a) for sub-paragraph (1) substitute—

"(1) This paragraph applies where—

(a) a partner payment notice has been given to a relevant partner (and not withdrawn), and

(b) an amount is stated in the notice in accordance with paragraph 4(1)(b).", and

(b) in sub-paragraph (2) for "the amount specified in the notice in accordance with paragraph 4(1)(b)" substitute " that amount ".

(5) After paragraph 6 insert—

"6A (1) This paragraph applies where—

(a) an accelerated payment notice is given (and not withdrawn), and

(b) an amount is specified in the notice in accordance with paragraph 4(1)(d).

(2) The relevant partner may not at any time when the notice has effect consent to any claim for group relief in respect of the amount so specified.

(3) Subject to sub-paragraph (2), paragraph 75 (other than sub-paragraphs (7) and (8)) of Schedule 18 to FA 1998 (reduction in amount available for surrender) has effect at any time when the notice has effect as if that specified amount ceased to be an amount available for surrender at the time the notice was given to the relevant partner.

(4) For the purposes of sub-paragraph (3), paragraph 75 of that Schedule has effect as if, in sub-paragraph (2) of that paragraph for "within 30 days" there were substituted " before the end of the payment period (within the meaning of paragraph 6(5) of Schedule 32 to the Finance Act 2014) ".

(5) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made in accordance with paragraph 75(6) of Schedule 18 to FA 1998 where the relevant partner withdraws consent by virtue of sub-paragraph (3)."

(6) In paragraph 8 (withdrawal, suspension or modification of partner payment notices), in sub-paragraph (2)—

(a) before paragraph (a) insert—

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"(za) section 227(2)(d), (12A) and (16) has effect as if the references to section 220(2)(d) or 221(2)(d) were to paragraph 4(1)(d) of this Schedule,", and

(b) omit the "and" after paragraph (a) and after paragraph (b) insert ", and

(c) section 227(12A) has effect as if the reference to section 225A(3) were to paragraph 6A(3) of this Schedule."

Consequential amendment

11 In section 55 of TMA 1970 (recovery of tax not postponed), in subsection (8C) omit the "or" after paragraph (b) and after paragraph (c) insert ", or

(d) the amount of tax specified in an assessment under paragraph 76 of Schedule 18 to the Finance Act 1998 where—

(i) an asserted surrenderable amount is specified in the notice under section 220(2)(d) of the Finance Act 2014 or under paragraph 4(1)(d) of Schedule 32 to that Act, and

(ii) the claimant company has failed to act in accordance with paragraph 75(6) of Schedule 18 to the Finance Act 1998."

Transitional provision

12 (1) Section 225A(3) of FA 2014 (effect of notices: surrender of losses ineffective) (inserted by paragraph 7 of this Schedule) has effect in relation to an amount specified in a notice in accordance with section 220(2)(d) or 221(2)(d) of that Act (inserted by paragraphs 3(2) and 4(2) of this Schedule) whether the consent to a claim for group relief was given, or the claim itself was made, before or on or after the day on which this Act is passed.

(2) Paragraph 6A(3) of Schedule 32 to FA 2014 (partnerships: effect of notices: surrender of losses ineffective) (inserted by paragraph 10(5) of this Schedule) has effect in relation to an amount specified in a notice in accordance with paragraph 4(1)(d) of that Schedule (inserted by paragraph 10(2) of this Schedule) whether the consent to a claim for group relief was given, or the claim itself was made, before or on or after the day on which this Act is passed.

SCHEDULE 19

Section 119

PROMOTERS OF TAX AVOIDANCE SCHEMES

1 Part 5 of FA 2014 (promoters of tax avoidance schemes) is amended as follows.

Treating persons as meeting a threshold condition

2 (1) Section 237 (duty to give conduct notice) is amended as follows.

(2) After subsection (1) insert—

"(1A) Subsections (5) to (9) also apply if an authorised officer becomes aware at any time ("the relevant time") that—

(a) a person has, in the period of 3 years ending with the relevant time, met one or more threshold conditions,

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(b) at the relevant time another person ("P") meets one or more of those conditions by virtue of Part 2 of Schedule 34 (meeting the threshold conditions: bodies corporate and partnerships), and

(c) P is, at the relevant time, carrying on a business as a promoter."

(3) In subsection (3), for the words from "the" to the end substitute " when a person is treated as meeting a threshold condition ".

(4) For subsection (5) substitute—

"(5) The authorised officer must determine—

(a) in a case within subsection (1), whether or not P's meeting of the condition mentioned in subsection (1)(a) (or, if more than one condition is met, the meeting of all of those conditions, taken together) should be regarded as significant in view of the purposes of this Part, or

(b) in a case within subsection (1A), whether or not—

(i) the meeting of the condition by the person as mentioned in subsection (1A)(a) (or, if more than one condition is met, the meeting of all of those conditions, taken together), and

(ii) P's meeting of the condition (or conditions) as mentioned in subsection (1A)(b),

should be regarded as significant in view of those purposes."

(5) In subsection (7), for "subsection (5)" substitute " subsection (5)(a) ".

(6) After subsection (7) insert—

"(7A) If the authorised officer determines under subsection (5)(b) that both—

(a) the meeting of the condition or conditions by the person as mentioned in subsection (1A)(a), and

(b) P's meeting of the condition or conditions as mentioned in subsection (1A)(b),

should be regarded as significant, the officer must give P a conduct notice, unless subsection (8) applies."

(7) In subsection (9), omit "mentioned in subsection (1)(a)".

(8) After subsection (9) insert—

"(10) If, as a result of subsection (1A), subsections (5) to (9) apply to a person, this does not prevent the giving of a conduct notice to the person mentioned in subsection (1A)(a)."

3 In section 283 (interpretation of Part 5), in the definition of "conduct notice", after "section 237(7)" insert " or (7A) ".

4 (1) Part 2 of Schedule 34 (meeting the threshold conditions) is amended as follows.

(2) In the heading, at the end insert " AND PARTNERSHIPS ".

(3) For paragraph 13 substitute—

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"Interpretation

13A (1) This paragraph contains definitions for the purposes of this Part of this Schedule.

(2) Each of the following is a "relevant body"—
- (a) a body corporate, and
- (b) a partnership.

(3) "Relevant time" means the time referred to in section 237(1A) (duty to give conduct notice to person treated as meeting threshold condition).

(4) "Relevant threshold condition" means a threshold condition specified in any of the following paragraphs of this Schedule—
- (a) paragraph 2 (deliberate tax defaulters);
- (b) paragraph 4 (dishonest tax agents);
- (c) paragraph 6 (criminal offences);
- (d) paragraph 7 (opinion notice of GAAR advisory panel);
- (e) paragraph 8 (disciplinary action against a member of a trade or profession);
- (f) paragraph 9 (disciplinary action by regulatory authority);
- (g) paragraph 10 (failure to comply with information notice).

(5) A person controls a body corporate if the person has power to secure that the affairs of the body corporate are conducted in accordance with the person's wishes—
- (a) by means of the holding of shares or the possession of voting power in relation to the body corporate or any other relevant body,
- (b) as a result of any powers conferred by the articles of association or other document regulating the body corporate or any other relevant body, or
- (c) by means of controlling a partnership.

(6) A person controls a partnership if the person is a controlling member or the managing partner of the partnership.

(7) "Controlling member" has the same meaning as in Schedule 36 (partnerships).

(8) "Managing partner", in relation to a partnership, means the member of the partnership who directs, or is on a day-to-day level in control of, the management of the business of the partnership.

Treating persons under another's control as meeting a threshold condition

13B (1) A relevant body ("RB") is treated as meeting a threshold condition at the relevant time if—
- (a) the threshold condition was met by a person ("C") at a time when—
  - (i) C was carrying on a business as a promoter, or
  - (ii) RB was carrying on a business as a promoter and C controlled RB, and

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(b) RB is controlled by C at the relevant time.

(2) Where C is an individual sub-paragraph (1) applies only if the threshold condition mentioned in sub-paragraph (1)(a) is a relevant threshold condition.

(3) For the purposes of determining whether the requirements of sub-paragraph (1) are met by reason of meeting the requirement in sub-paragraph (1)(a)(i), it does not matter whether RB existed at the time when the threshold condition was met by C.

Treating persons in control of others as meeting a threshold condition

13C (1) A person other than an individual is treated as meeting a threshold condition at the relevant time if—

(a) a relevant body ("A") met the threshold condition at a time when A was controlled by the person, and

(b) at the time mentioned in paragraph (a) A, or another relevant body ("B") which was also at that time controlled by the person, carried on a business as a promoter.

(2) For the purposes of determining whether the requirements of sub-paragraph (1) are met it does not matter whether A or B (or neither) exists at the relevant time.

Treating persons controlled by the same person as meeting a threshold condition

13D (1) A relevant body ("RB") is treated as meeting a threshold condition at the relevant time if—

(a) RB or another relevant body met the threshold condition at a time ("time T") when it was controlled by a person ("C"),

(b) at time T, there was a relevant body controlled by C which carried on a business as a promoter, and

(c) RB is controlled by C at the relevant time.

(2) For the purposes of determining whether the requirements of sub-paragraph (1) are met it does not matter whether—

(a) RB existed at time T, or

(b) any relevant body (other than RB) by reason of which the requirements of sub-paragraph (1) are met exists at the relevant time."

5 In Schedule 36 (partnerships)—

(a) omit paragraph 4 (threshold conditions: actions of partners in a personal capacity) and the italic heading before it,

(b) omit paragraph 20 (definition of "managing partner") and the italic heading before it, and

(c) in paragraph 21 (power to amend definitions) omit "or 20".

Failure to comply with Part 7 of FA 2004

6 In Schedule 34 (threshold conditions), in paragraph 5 (non-compliance with Part 7 of FA 2004), for sub-paragraph (2) substitute—

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"(2) For the purposes of sub-paragraph (1), a person ("P") fails to comply with a provision mentioned in that sub-paragraph if and only if any of conditions A to C are met.

(3) Condition A is met if—

(a) the tribunal has determined that P has failed to comply with the provision concerned,

(b) the appeal period has ended, and

(c) the determination has not been overturned on appeal.

(4) Condition B is met if—

(a) the tribunal has determined for the purposes of section 118(2) of TMA 1970 that P is to be deemed not to have failed to comply with the provision concerned as P had a reasonable excuse for not doing the thing required to be done,

(b) the appeal period has ended, and

(c) the determination has not been overturned on appeal.

(5) Condition C is met if P has admitted in writing to HMRC that P has failed to comply with the provision concerned.

(6) The "appeal period" means—

(a) the period during which an appeal could be brought against the determination of the tribunal, or

(b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of."

Disciplinary action in relation to professionals etc

7 (1) In Schedule 34 (threshold conditions), paragraph 8 (disciplinary action: professionals etc) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) A person who carries on a trade or profession that is regulated by a professional body meets this condition if all of the following conditions are met—

(a) the person is found guilty of misconduct of a prescribed kind,

(b) action of a prescribed kind is taken against the person in relation to that misconduct, and

(c) a penalty of a prescribed kind is imposed on the person as a result of that misconduct."

(3) In the heading, for "*by a professional body*" substitute " *against a member of a trade or profession* ".

(4) In sub-paragraph (3), in paragraph (h), for "for" substitute " of ".

Power to amend Schedule 34

8 In Part 3 of Schedule 34 (power to amend), at the end of paragraph 14(2) insert—

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"(c) vary any of the circumstances described in paragraphs 13B to 13D in which a person is treated as meeting a threshold condition (including by amending paragraph 13A);

(d) add new circumstances in which a person will be so treated."

Commencement

9 The amendments made by paragraphs 2 to 7 have effect for the purposes of determining whether a person meets a threshold condition in a period of three years ending on or after the day on which this Act is passed.

VALID FROM 01/04/2016

SCHEDULE 20

Section 120

PENALTIES IN CONNECTION WITH OFFSHORE MATTERS AND OFFSHORE TRANSFERS

. . . . . .

SCHEDULE 21

Section 121

PENALTIES IN CONNECTION WITH OFFSHORE ASSET MOVES

Penalty linked to offshore asset moves

1 (1) A penalty is payable by a person ("P") where Conditions A, B and C are met.

(2) Condition A is that—

(a) P is liable for a penalty specified in paragraph 2 ("the original penalty"), and

(b) the original penalty is for a deliberate failure (see paragraph 3).

(3) Condition B is that there is a relevant offshore asset move (see paragraph 4) which occurs after the relevant time (see paragraph 5).

(4) Condition C is that—

(a) the main purpose, or one of the main purposes, of the relevant offshore asset move is to prevent or delay the discovery by Her Majesty's Revenue and Customs ("HMRC") of a potential loss of revenue, and

(b) the original penalty relates to an inaccuracy or failure which relates to the same potential loss of revenue.

Original penalties triggering penalties under this Schedule

2 The penalties referred to in paragraph 1(2) are—

(a) a penalty under paragraph 1 of Schedule 24 to FA 2007 (penalty for error in taxpayer's document) in relation to an inaccuracy in a document of a kind listed in the Table in paragraph 1 of that Schedule, where the tax at stake is income tax, capital gains tax or inheritance tax,

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(b) a penalty under paragraph 1 of Schedule 41 to FA 2008 (penalty for failure to notify etc) in relation to the obligation under section 7 of TMA 1970 (obligation to give notice of liability to income tax or capital gains tax), and

(c) a penalty under paragraph 6 of Schedule 55 to FA 2009 (penalty for failures to make return etc where failure continues after 12 months), where the tax at stake is income tax, capital gains tax or inheritance tax.

"Deliberate failure"

3 The original penalty is for a "deliberate failure" if—

(a) in the case of a penalty within paragraph 2(a), the inaccuracy to which it relates was deliberate on P's part (whether or not concealed);

(b) in the case of a penalty within paragraph 2(b), the failure by P was deliberate (whether or not concealed);

(c) in the case of a penalty within paragraph 2(c), the withholding of the information, resulting from the failure to make the return, is deliberate (whether or not concealed).

"Relevant offshore asset move"

4 (1) There is a "relevant offshore asset move" if, at a time when P is the beneficial owner of an asset ("the qualifying time")—

(a) the asset ceases to be situated or held in a specified territory and becomes situated or held in a non-specified territory,

(b) the person who holds the asset ceases to be resident in a specified territory and becomes resident in a non-specified territory, or

(c) there is a change in the arrangements for the ownership of the asset,

and P remains the beneficial owner of the asset, or any part of it, immediately after the qualifying time.

(2) Whether a territory is a "specified territory" or "non-specified territory" is to be determined, for the purposes of sub-paragraph (1), as at the qualifying time.

(3) Where—

(a) an asset of which P is the beneficial owner ("the original asset") is disposed of, and

(b) all or part of any proceeds from the sale of the asset are (directly or indirectly) reinvested in another asset of which P is also the beneficial owner ("the new asset"),

the original asset and the new asset are to be treated as the same asset for the purposes of determining whether there is a relevant offshore asset move.

(4) "Asset" has the meaning given in section 21(1) of TCGA 1992, but also includes sterling.

(5) "Specified territory" means a territory specified in regulations made by the Treasury by statutory instrument; and references to "non-specified territory" are to be construed accordingly.

(6) Regulations under sub-paragraph (5) are subject to annulment in pursuance of a resolution of the House of Commons.

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"Relevant time"

5 (1) "The relevant time" has the meaning given by this paragraph.

(2) Where the original penalty is under Schedule 24 to FA 2007, the relevant time is—

(a) if the tax at stake as a result of the inaccuracy is income tax or capital gains tax, the beginning of the tax year to which the document containing the inaccuracy relates, and

(b) if the tax at stake as a result of the inaccuracy is inheritance tax, the time when liability to the tax first arises.

(3) Where the original penalty is for a failure to comply with an obligation specified in the table in paragraph 1 of Schedule 41 of FA 2008, the relevant time is the beginning of the tax year to which that obligation relates.

(4) Where the original penalty is for a failure to make a return or deliver a document specified in the table in paragraph 1 of Schedule 55 to FA 2009, the relevant time is—

(a) if the tax at stake is income tax or capital gains tax, the beginning of the tax year to which the return or document relates, and

(b) if the tax at stake is inheritance tax, the time when liability to the tax first arises.

Amount of the penalty

6 (1) The penalty payable under paragraph 1(1) is 50% of the amount of the original penalty payable by P.

(2) The penalty payable under paragraph 1(1) is not a penalty determined by reference to a liability to tax (despite the fact that the original penalty by reference to which it is calculated may be such a penalty).

Assessment

7 (1) Where a person becomes liable for a penalty under paragraph 1(1), HMRC must—

(a) assess the penalty,

(b) notify the person, and

(c) state in the notice the tax period in respect of which the penalty is assessed.

(2) A penalty under paragraph 1(1) must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

(3) An assessment—

(a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for by this Schedule),

(b) may be enforced as if it were an assessment to tax, and

(c) may be combined with an assessment to tax.

(4) An assessment of a penalty under paragraph 1(1) must be made within the same period as that allowed for the assessment of the original penalty.

(5) If, after an assessment of a penalty is made under this paragraph, HMRC amends the assessment, or makes a supplementary assessment, in respect of the original penalty, it must also at the same time amend the assessment, or make a supplementary

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assessment, in respect of the penalty under paragraph 1(1) to ensure that it is based on the correct amount of the original penalty.

(6) In this paragraph—

(a) a reference to an assessment to tax, in relation to inheritance tax, is to a determination, and

(b) "tax period" means a tax year, accounting period or other period in respect of which tax is charged.

Appeal

8 (1) A person may appeal against a decision of HMRC that a penalty is payable by the person.

(2) An appeal under this paragraph is to be treated in the same way as an appeal against an assessment to, or determination of, the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).

(3) Sub-paragraph (2) does not apply in respect of a matter expressly provided for by this Schedule.

(4) On an appeal under this paragraph, the tribunal may affirm or cancel HMRC's decision.

Commencement and transitionals

9 (1) This Schedule has effect in relation to relevant offshore asset moves occurring after the day on which this Act is passed.

(2) For the purposes of this Schedule, it does not matter if liability for the original penalty first arose on or before that day, unless the case is one to which sub-paragraph (3) applies.

(3) The original penalty is to be ignored if P's liability for it for arose before the day on which this Act is passed and before that day—

(a) if the original penalty was under Schedule 24 to FA 2007, any tax which was unpaid as a result of the inaccuracy has been assessed or determined;

(b) if the original penalty was under Schedule 41 to FA 2008 or Schedule 55 to FA 2009, the failure to which it related was remedied and any tax which was unpaid as a result of the failure has been assessed or determined.

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