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## SCHEDULES

### SCHEDULE 3

#### BANKING COMPANIES: SURCHARGE

##### PART 3

##### COMMENCEMENT

###### *Surcharge*

- 14 (1) The amendments made by paragraphs 1 and 4 to 6 of this Schedule have effect for accounting periods beginning on or after the commencement date.
- (2) Where a company has an accounting period beginning before the commencement date and ending on or after that date (“the straddling period”), sub-paragraphs (3) to (10) apply.
- (3) For the purposes of determining whether the surcharge is chargeable on the company for the straddling period and, if so, in what amount—
- (a) so much of the straddling period as falls before the commencement date, and so much of that period as falls on or after that date, are to be treated as separate accounting periods, and
  - (b) where it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned—
    - (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.
- (4) Accordingly, the surcharge chargeable on the company for the straddling period (if any) is equal to the surcharge that would be chargeable on the company, in accordance with sub-paragraph (3), for the separate accounting period beginning with the commencement date.
- (5) Sub-paragraphs (6) to (8) apply where—
- (a) the surcharge is chargeable on the company for the straddling period, and
  - (b) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of the company for the straddling period, were treated as becoming due and payable before the commencement date (“pre-commencement instalments”).
- (6) The surcharge chargeable on the company for the straddling period is to be ignored for the purposes of determining the amount of any pre-commencement instalment.
- (7) The first instalment, in respect of the total liability of the company for the straddling period, which under the Instalment Payment Regulations is treated as becoming due

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and payable on or after the commencement date is to be increased by the adjustment amount.

- (8) “The adjustment amount” is the difference between—
- (a) the aggregate amount of the pre-commencement instalments determined in accordance with sub-paragraph (6), and
  - (b) the aggregate amount of those instalments determined ignoring sub-paragraph (6) (and so taking into account the surcharge chargeable on the company for the straddling period).
- (9) 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 sub-paragraphs (5) to (8) (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 sub-paragraphs (5) to (8).
- (10) 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 of that Act is to be read as including a reference to sub-paragraphs (5) to (9).
- (11) For the purposes of sections 269DF to 269DI of CTA 2010, if a nominated company has an accounting period beginning before and ending on or after the commencement date, so much of that period as falls before that date, and so much of that period as falls on or after that date, are to be treated as separate accounting periods.
- (12) For the purposes of section 269DN of CTA 2010, it does not matter whether arrangements of the kind mentioned in subsection (1) of that section are entered into before or after this Act is passed.
- (13) In this paragraph “the surcharge” means a sum chargeable under section 269DA of CTA 2010 as if it were an amount of corporation tax.
- 15 The amendment made by paragraph 3 has effect for accounting periods ending on or after the commencement date.

#### *CFCs*

- 16 (1) The amendments made by paragraphs 7 to 10 of this Schedule (and the amendment made by paragraph 1 of this Schedule, so far as it relates to those amendments) have effect for accounting periods of CFCs beginning on or after the commencement date.
- (2) Sub-paragraph (3) applies where a CFC has an accounting period beginning before the commencement date and ending on or after that date (“the straddling period”).
- (3) For the purposes of calculating the sum charged on any chargeable company at step 5 of section 371BC(1) of TIOPA 2010 in relation to the straddling period—
- (a) so much of the straddling period as falls before the commencement date, and so much of that period as falls on or after that date, are to be treated as separate accounting periods, and
  - (b) where it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned—

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- (i) on a time basis according to the respective lengths of the separate accounting periods, or
  - (ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.
- (4) The sum charged on each chargeable company at step 5 in section 371BC(1) of TIOPA 2010 is the aggregate of the sums that would be charged on that company by taking that step, in accordance with sub-paragraph (3), in relation to each of the separate accounting periods.
- (5) Sub-paragraphs (6) to (8) apply where—
  - (a) an amount is charged on a company at step 5 in section 371BC(1) of TIOPA 2010 as if were an amount of corporation tax for a relevant corporation tax accounting period,
  - (b) that relevant corporation tax accounting period begins before, but ends on or after, the commencement date, and
  - (c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of the company for the relevant corporation tax accounting period, were treated as becoming due and payable before the commencement date (“pre-commencement instalments”).
- (6) The amendments made by paragraphs 7 to 10 of this Schedule are to be ignored for the purposes of determining the amount of any pre-commencement instalment.
- (7) The first instalment, in respect of the total liability of the company for the relevant corporation tax accounting period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after the commencement date is to be increased by the adjustment amount.
- (8) “The adjustment amount” is the difference (if any) between—
  - (a) the aggregate amount of the pre-commencement instalments determined in accordance with sub-paragraph (6), and
  - (b) the aggregate amount of those instalments determined ignoring sub-paragraph (6) (and so taking into account any amount charged on the company at step 5 in section 371BC(1) of TIOPA 2010 for the relevant corporation tax accounting period as a result of the amendments made by paragraphs 7 to 10 of this Schedule).
- (9) 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 sub-paragraphs (5) to (8) (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 sub-paragraphs (5) to (8).
- (10) 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 of that Act is to be read as including a reference to sub-paragraphs (5) to (9).
- (11) For the purposes of section 371BI of TIOPA 2010, it does not matter whether arrangements of the kind mentioned in subsection (3) of that section are entered into before or after this Act is passed.

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(12) In this paragraph—

“accounting period”, “CFC” and “chargeable company” have the same meaning as in Part 9A of TIOPA 2010 (see section 371VA of that Act);

“relevant corporation tax accounting period” has the meaning given by section 371BC(3) of that Act.

*Diverted profits tax*

- 17 (1) The amendments made by paragraphs 11 to 13 of this Schedule have effect in relation to accounting periods beginning on or after the commencement date.
- (2) For the purposes of sub-paragraph (1), if an accounting period of a company begins before, and ends on or after, the commencement date (“the straddling period”)—
- (a) 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 to be treated as separate accounting periods, and
  - (b) where it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned on a just and reasonable basis.
- (3) Subsections (1) to (5) of section 113 of FA 2015 (meaning of “accounting period”) have effect for the purposes of this paragraph as they have effect for the purposes of Part 3 of that Act.

*Interpretation*

18 In this Part of this Schedule—

“the commencement date” means 1 January 2016;

“the Instalment Payment Regulations” means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175);

and references to the total liability of a company for an accounting period are to be read in accordance with regulation 2(3) of the Instalment Payment Regulations.

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