



# Finance Act 2019

## 2019 CHAPTER 1

### PART 1

#### DIRECT TAXES

##### *International matters*

- 15 Offshore receipts in respect of intangible property**  
Schedule 3 contains provision about offshore receipts in respect of intangible property.
- 16 Avoidance involving profit fragmentation arrangements**  
Schedule 4 contains provision about profit fragmentation arrangements.
- 17 Non-UK resident companies carrying on UK property businesses etc**  
Schedule 5 contains provision for non-UK resident companies to be chargeable to corporation tax on—  
(a) profits of UK property businesses,  
(b) profits consisting of other UK property income, and  
(c) profits arising from certain loan relationships and derivative contracts.
- 18 Diverted profits tax**  
Schedule 6 contains provision about diverted profits tax.
- 19 Hybrid and other mismatches: scope of Chapter 8 and “financial instrument”**  
(1) Part 6A of TIOPA 2010 (hybrid and other mismatches) is amended as follows.  
(2) In section 259HA (circumstances in which Chapter 8 applies)—  
(a) for subsection (5) substitute—

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“(5) Condition C is that—

- (a) the payer is within the charge to corporation tax for the payment period, or
- (b) the multinational company—
  - (i) is UK resident for the payment period, and
  - (ii) under the law of the parent jurisdiction, is regarded as carrying on a business in the PE jurisdiction through a permanent establishment in that territory but, under the law of the PE jurisdiction, is not regarded as doing so.”, and

(b) in subsection (9)(a), for “company” substitute “payee”.

(3) For section 259HC (counteraction of the multinational payee deduction/non-inclusion mismatch) substitute—

**“259HC Counteraction of the multinational payee deduction/non-inclusion mismatch**

For corporation tax purposes—

- (a) if paragraph (b) of Condition C in subsection (5) of section 259HA is met, an amount equal to the multinational payee deduction/non-inclusion mismatch mentioned in subsection (6) of that section is to be treated as income arising to the multinational company in the United Kingdom (and nowhere else) for the payment period, and
- (b) in any other case, the relevant deduction that may be deducted from the payer’s income for that period is to be reduced by that amount.”

(4) In section 259N (meaning of “financial instrument”)—

- (a) in subsection (3), for paragraph (b) substitute—
  - “(b) anything of a description specified in regulations made by the Treasury.”, and
- (b) omit subsection (4).

(5) The amendments made by subsections (2)(a) and (3) have effect in relation to—

- (a) payments made on or after 1 January 2020, and
- (b) quasi-payments in relation to which the payment period begins on or after that date.

(6) For the purposes of subsection (5)(b), where a payment period begins before 1 January 2020 and ends after that date (“the straddling period”)—

- (a) so much of the straddling period as falls before that date, and so much of it as falls on or after that date, are to be treated as separate taxable periods, and
- (b) if it is necessary to apportion an amount for the straddling period to the two separate taxable periods, it is to be apportioned—
  - (i) on a time basis according to the respective length of the separate taxable periods, or
  - (ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(7) The amendment made by subsection (2)(b) is to be regarded as always having had effect.

- (8) The first regulations under section 259N(3)(b) may have effect in relation to times before they come into force, but not times before 1 January 2019.
- (9) Until those regulations come into force section 259N continues to have effect (other than for the purposes of making those regulations) as if—
  - (a) the amendments made by subsection (4) had not been made, and
  - (b) the Taxation of Regulatory Capital Securities Regulations 2013 (S.I. 2013/3209) had not been revoked by paragraph 1 of Schedule 20 to this Act.

## **20 Controlled foreign companies: finance company exemption and control**

- (1) Part 9A of TIOPA 2010 (controlled foreign companies) is amended as follows.
- (2) In section 371IA (exemptions for profits from qualifying loan relationships), in subsection (4), for the words from “the profits” to the end substitute

“so much of the profits of all its qualifying loan relationships taken together as are non-trading finance profits which—

  - (a) fall within section 371EC (capital investment from the UK), and
  - (b) do not fall within section 371EB (UK activities).”
- (3) In section 371RA (overview of Chapter 18), in subsection (2), for “Section 371RC sets” substitute “Sections 371RC and 371RG set”.
- (4) After section 371RF insert—

### **“371RG Companies in which a UK resident company has more than a 50% investment**

- (1) If a UK resident company (whether alone or together with any associated enterprises) directly or indirectly has more than a 50% investment in a non-UK resident company, the non-UK resident company is to be taken to be a CFC (if it would not otherwise be).
- (2) A person (“P”) is an “associated enterprise” in relation to a UK resident company if—
  - (a) P directly or indirectly has a 25% investment in the company (or vice versa), or
  - (b) another person directly or indirectly has a 25% investment in each of P and the company.
- (3) Section 259ND (meaning of “50% investment” and “25% investment”) applies for the purposes of determining for the purposes of this section—
  - (a) whether a person has “more than a 50% investment” in another person, and
  - (b) whether a person has a “25% investment” in another person, and, accordingly, references in section 259ND to “X%” are to be read as references to more than 50% or to 25% (as appropriate) and references in that section to “X% or more” are to be read as references to more than 50% or to 25% or more (as appropriate).”
- (5) The amendments made by this section have effect in relation to accounting periods of CFCs beginning on or after 1 January 2019.

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- (6) For the purposes of subsection (5), if a CFC has an accounting period beginning before, and ending on or after, that date (“the straddling period”)—
- (a) so much of the straddling period as falls before that date, and so much of it as falls on or after that date, are treated as separate accounting periods, and
  - (b) if it is necessary to apportion an amount for the straddling period to the two separate periods, it is to be apportioned—
    - (i) on a time basis according to the respective length of the separate periods, or
    - (ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.
- (7) In this section “CFC” has the same meaning as in Part 9A of TIOPA 2010.

## 21 Permanent establishments: preparatory or auxiliary activities

- (1) Section 1143 of CTA 2010 (permanent establishments: preparatory or auxiliary activities) is amended as follows.
- (2) In subsection (2), at the end insert “and are not part of a fragmented business operation”.
- (3) After subsection (2) insert—
- “(2A) Activities are “part of a fragmented business operation” if—
- (a) they are carried on (whether at the same place or at different places in the same territory) by the company or a person closely related to the company,
  - (b) they constitute complementary functions that are part of a cohesive business operation, and
  - (c) subsection (2B) applies.
- (2B) This subsection applies if—
- (a) the overall activity resulting from the combination of the functions mentioned in subsection (2A)(b) is not activity that is only of a preparatory or auxiliary character, or
  - (b) the company or a person closely related to the company has a permanent establishment in the territory by reason of carrying on any of those functions.
- (2C) A person who is not a company is to be treated for the purposes of subsection (2B)(b) as having a permanent establishment in a territory if, were the person a company, the person would have a permanent establishment in the territory.
- (2D) For the purposes of this section, one person (“A”) is closely related to another person (“B”) if—
- (a) A is able to secure that B acts in accordance with A’s wishes (or vice versa),
  - (b) B can reasonably be expected to act, or typically acts, in accordance with A’s wishes (or vice versa),
  - (c) a third person is able to secure that A and B act in accordance with the third person’s wishes,

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- (d) A and B can reasonably be expected to act, or typically act, in accordance with a third person's wishes, or
  - (e) the 50% investment condition is met in relation to A and B.
- (2E) The 50% investment condition is met in relation to A and B if—
- (a) A has a 50% investment in B (or vice versa), or
  - (b) a third person has a 50% investment in each of A and B,
- and section 259ND of TIOPA 2010 (meaning of “50% investment”) applies for the purposes of determining whether a person has a “50% investment”.
- (4) In subsection (3), for “For this purpose” substitute “In this section”.
- (5) The amendments made by this section have effect in relation to accounting periods beginning on or after 1 January 2019.
- (6) For the purposes of subsection (5), if a company has an accounting period beginning before, and ending on or after, that date (“the straddling period”)—
- (a) so much of the straddling period as falls before that date, and so much of it as falls on or after that date, are treated as separate accounting periods, and
  - (b) if it is necessary to apportion an amount for the straddling period to the two separate periods, it is to be apportioned—
    - (i) on a time basis according to the respective length of the separate periods, or
    - (ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.

## **22 Payment of CGT exit charges**

Schedule 7 contains provision about CGT exit charge payment plans.

## **23 Corporation tax exit charges**

Schedule 8—

- (a) amends provisions concerning CT exit charge payment plans,
- (b) repeals certain provisions that enable the postponement of exit charges, and
- (c) contains amendments concerning the treatment of assets that are the subject of EU exit charges.

## **24 Group relief etc: meaning of “UK related” company**

- (1) In section 134 of CTA 2010 (group relief: meaning of “UK related” company) in paragraph (b) for the words from “carrying on” to the end substitute “within the charge to corporation tax”.
- (2) In section 188CJ of CTA 2010 (group relief for carried-forward losses: meaning of “UK related” company) in paragraph (b) for the words from “carrying on” to the end substitute “within the charge to corporation tax”.
- (3) The amendments made by this section have effect for the purpose of determining whether a company is a UK related company at any time on or after 5 July 2016.
- (4) In its application in relation to a claim for group relief or group relief for carried-forward losses made in reliance on this section, paragraph 74 of Schedule 18 to FA

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1998 (time limit for claims) has effect as if the list of dates in sub-paragraph (1) of that paragraph included 31 December 2019.