

## SCHEDULES

### SCHEDULE 18

Section 53

#### VAT GROUPS: ELIGIBILITY

##### PART 1

###### ELIGIBILITY OF INDIVIDUALS AND PARTNERSHIPS

- 1 (1) Section 43A of VATA 1994 (groups: eligibility) is amended as follows.
- (2) In subsection (1), in the opening words—
- (a) for “bodies corporate” substitute “UK bodies corporate”;
  - (b) omit “each is established or has a fixed establishment in the United Kingdom and”.
- (3) Omit subsections (2) and (3).
- (4) At the end insert—
- “(4) An individual carrying on a business and one or more UK bodies corporate are eligible to be treated as members of a group if the individual—
- (a) controls the UK body corporate or all of the UK bodies corporate, and
  - (b) is established, or has a fixed establishment, in the United Kingdom in relation to the business.
- (5) Two or more relevant persons carrying on a business in partnership (“the partnership”) and one or more UK bodies corporate are eligible to be treated as members of a group if the partnership—
- (a) controls the UK body corporate or all of the UK bodies corporate, and
  - (b) is established, or has a fixed establishment, in the United Kingdom in relation to the business.
- (6) In this section—
- (a) “UK body corporate” means a body corporate which is established or has a fixed establishment in the United Kingdom;
  - (b) “relevant person” means an individual, a body corporate or a Scottish partnership.
- (7) Section 43AZA contains provision for determining for the purposes of this section whether a body corporate, individual or partnership controls a UK body corporate.”
- 2 In that Act, after section 43A insert—

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**“43AZA Section 43A: control test**

- (1) This section applies for the purposes of section 43A (and expressions used in this section have the same meaning as in that section).
- (2) A body corporate (“X”) controls a UK body corporate if—
  - (a) X is empowered by statute to control the UK body corporate’s activities, or
  - (b) X is the UK body corporate’s holding company.
- (3) An individual (“Y”) controls a UK body corporate if Y would, were Y a company, be the UK body corporate’s holding company.
- (4) Two or more relevant persons carrying on a business in partnership (“the partnership”) control a UK body corporate if the partnership would, were it a company, be the UK body corporate’s holding company.
- (5) In this section “holding company” has the meaning given by section 1159 of, and Schedule 6 to, the Companies Act 2006.”

**PART 2**

CONSEQUENTIAL AMENDMENTS

*VATA 1994*

- 3 VATA 1994 is amended as follows.
- 4 In section 18A (fiscal warehousing), in subsection (9), for “body corporate which” substitute “person who”.
- 5 (1) Section 43 (groups of companies) is amended in accordance with this paragraph.
  - (2) In subsection (1), for “bodies corporate” substitute “persons”.
  - (3) In subsection (1AA)—
    - (a) in paragraph (c)(ii), for “body which” substitute “person who”;
    - (b) in the closing words, for “body” substitute “person”.
- 6 In section 43AA (power to alter eligibility for grouping), in subsection (1), for “section 43A” substitute “sections 43A and 43AZA”.
- 7 (1) Section 43B (groups: applications) is amended in accordance with this paragraph.
  - (2) In subsection (1), for “bodies corporate, which” substitute “persons, who”.
  - (3) In subsection (2)—
    - (a) in the opening words, for “bodies corporate” substitute “persons”;
    - (b) in paragraph (a), for “body corporate, which” substitute “person, who”;
    - (c) in paragraph (b), for “body corporate” substitute “person”;
    - (d) in paragraph (d), for “bodies corporate” substitute “persons”;
  - (4) In subsection (3)—
    - (a) in the opening words, for “bodies corporate” substitute “persons”;

- (b) in paragraph (b), for “bodies” substitute “persons”;
- (5) In subsection (5)—
  - (a) in paragraph (a), for “bodies corporate” substitute “persons”;
  - (b) in paragraph (b), for “body corporate” substitute “person”.
- 8 (1) Section 43C (groups: termination of membership) is amended in accordance with this paragraph.
  - (2) In subsection (1), for “body corporate” substitute “person”.
  - (3) In subsection (3)(a) and (b) and in the closing words, for “body” substitute “person”.
  - (4) In subsection (4)(a) and (b), for “body” substitute “person”.
- 9 (1) Section 43D (groups: duplication) is amended in accordance with this paragraph.
  - (2) In subsection (1), for “body corporate” substitute “person”.
  - (3) In subsection (2), for “body which” substitute “person who”.
  - (4) In subsection (3)—
    - (a) in paragraph (b), for “bodies” substitute “persons”;
    - (b) in the closing words, for “body or bodies” substitute “person or persons”.
  - (5) In subsection (4)(b), for “body” substitute “person”.
  - (6) In subsection (5), for “body” substitute “person”.
- 10 In section 44 (supplies to groups), in subsection (1)(a) and (b), for “body corporate” substitute “person”.
- 11 In section 53 (tour operators), in subsection (2)(d), for “body corporate” substitute “person”.
- 12 In section 97 (orders, rules and regulations), in subsection (4)(ca), for “bodies” substitute “persons”.
- 13 (1) Schedule 9 (exemptions) is amended in accordance with this paragraph.
  - (2) In Group 14, in Note (13)—
    - (a) in the opening words, for “body corporate” substitute “person”;
    - (b) in paragraph (a) for “body” substitute “person”;
    - (c) in paragraph (b)—
      - (i) for “body corporate, or of any other body corporate which”, substitute “person, or of any other person who”;
      - (ii) for “body, at a time when that body” substitute “person, at a time when that person”.
    - (d) in paragraph (c), for “body corporate” substitute “person”.
  - (3) In that Group, in Note (14), for “body corporate’s” substitute “person’s”.
- 14 (1) Schedule 9A (anti-avoidance provisions: groups) is amended in accordance with this paragraph.
  - (2) In paragraph 1(2), for “body corporate” substitute “person”.
  - (3) In paragraph 2—
    - (a) in sub-paragraph (1)(a), for “body corporate” substitute “person”;

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- (b) in sub-paragraph (2), for “body corporate’s” substitute “person’s”.
- (4) In paragraph 3—
- (a) in sub-paragraph (1)(a) and (b), for “body corporate” substitute “person”;
  - (b) in sub-paragraph (3), for “body corporate” (in both places) substitute “person”;
  - (c) in sub-paragraph (5), for “body corporate which” substitute “person who”.
- (5) In paragraph 5—
- (a) in sub-paragraph (1)(b)—
    - (i) for “body corporate which” substitute “person who”;
    - (ii) for “that person” substitute “the person mentioned in paragraph (a)”;
  - (b) in sub-paragraph (2)—
    - (i) for “body corporate (“the relevant body”)” substitute “person (“the relevant person”)”;
    - (ii) for “that body or to any body corporate which” substitute “that person or to any person who”;
    - (iii) for “the relevant body” substitute “the relevant person”.
- (6) In paragraph 6—
- (a) in sub-paragraph (7)(b), for “body corporate that” substitute “person who”;
  - (b) in sub-paragraph (11)(b)—
    - (i) for “body corporate which” substitute “person who”;
    - (ii) for “that person” substitute “the person mentioned in paragraph (a)”;
  - (c) in sub-paragraph (11)(c), for “body corporate which” substitute “person who”.
- 15 (1) Schedule 10 (buildings and land) is amended in accordance with this paragraph.
- (2) In paragraph 3—
- (a) in sub-paragraph (1), for “body corporate” substitute “person”;
  - (b) in sub-paragraph (2)—
    - (i) in the opening words (in both places) and paragraph (c), for “body corporate” substitute “person”;
    - (ii) in paragraph (c), for “that body” substitute “that person”;
  - (c) in sub-paragraph (3), for “body corporate” substitute “person (“P”)”;
  - (d) in sub-paragraph (4)—
    - (i) in the opening words, for “The body corporate” substitute “P”;
    - (ii) in paragraphs (a), (aa), (b) and (c), for “the body corporate” substitute “P”;
  - (e) in sub-paragraph (5)—
    - (i) in the opening words, for “The body corporate” substitute “P” and for “the body corporate” substitute “P”;
    - (ii) in the closing words, for “the body corporate” substitute “P”.
- (3) In paragraph 4—
- (a) in sub-paragraph (1), for “body corporate which” substitute “person (“P”) who”;
  - (b) in sub-paragraph (2), for “the body corporate, it” substitute “P, P”;
  - (c) in sub-paragraph (3)(b), for “the body corporate” substitute “P”;

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- (d) in sub-paragraph (3)(c)—
    - (i) for “the body corporate” substitute “P”;
    - (ii) for “it” substitute “P”;
  - (e) in sub-paragraph (4)(b)—
    - (i) for “the body corporate” substitute “P”;
    - (ii) for “it” substitute “P”;
  - (f) in sub-paragraph (5), in the opening words—
    - (i) for “the body corporate” substitute “P”;
    - (ii) for “it” substitute “P”;
  - (g) in sub-paragraph (6)(a)—
    - (i) for “the body corporate” substitute “P”;
    - (ii) for “its” substitute “P’s”;
  - (h) in sub-paragraph (6)(b), for “the body corporate” substitute “P”;
  - (i) in sub-paragraph (7), for “the body corporate” substitute “P”.
- (4) In paragraph 21—
- (a) in sub-paragraph (1)(b)—
    - (i) for “body corporate” substitute “person”;
    - (ii) for “the body” substitute “the person”;
  - (b) in sub-paragraph (3)(a), for “body corporate which” substitute “person who”;
  - (c) in sub-paragraph (9)(b), for “body corporate which” substitute “person who”;
  - (d) in sub-paragraph (11)(b), for “body corporate which” substitute “person who”;
  - (e) in sub-paragraph (12), in the definition of “relevant group member”—
    - (i) after “any person” insert “(“P”);
    - (ii) for “body corporate which” substitute “person who”;
    - (iii) for “that person” substitute “P”.
- (5) In paragraph 35(3), for “body corporate” substitute “person”.