

SCHEDULES

SCHEDULE 16

Section 106

TAXATION OF CORONAVIRUS SUPPORT PAYMENTS

Accounting for coronavirus support payments referable to a business

- 1 (1) This paragraph applies if a person carrying on, or who carried on, a business (whether alone or in partnership) receives a coronavirus support payment that is referable to the business.
- (2) So much of the coronavirus support payment as is referable to the business is a receipt of a revenue nature for income tax or corporation tax purposes and is to be brought into account in calculating the profits of that business—
- (a) under the applicable provisions of the Income Tax Acts, or
 - (b) under the applicable provisions of the Corporation Tax Acts.
- (3) Subject to paragraph 2(5), sub-paragraph (2) does not apply to an amount of a coronavirus support payment if—
- (a) the business to which the amount is referable is no longer carried on by the recipient of the amount, and
 - (b) the amount is not referable to activities of the business undertaken at a time when it was being carried on by the recipient of the amount.
- (4) If an amount of the coronavirus support payment is referable to more than one business or business activity, the amount is to be allocated between those businesses or activities on a just and reasonable basis.
- (5) Paragraph 3 contains provision about when, in certain cases, an amount of a coronavirus support payment is, or is not, referable to a business for the purposes of this paragraph and paragraph 2.
- (6) In this Schedule “business” includes—
- (a) a trade, profession or vocation;
 - (b) a UK property business or an overseas property business;
 - (c) a business consisting wholly or partly of making investments.

Amounts not referable to activities of a business which is being carried on

- 2 (1) This paragraph applies if a person who carried on a business (whether alone or in partnership) receives a coronavirus support payment that—
- (a) is referable to the business, and
 - (b) is not wholly referable to activities of the business undertaken while the business was being carried on by the recipient of the payment.

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- (2) So much of the coronavirus support payment as is referable to the business but which is not referable to activities of the business undertaken while the business was being carried on by the recipient of the payment is to be treated as follows.
- (3) An amount referable to a trade, profession or vocation is to be treated as a post-cessation receipt for the purposes of Chapter 18 of Part 2 of ITTOIA 2005 or Chapter 15 of Part 3 of CTA 2009 (trading income: post-cessation receipts), and—
 - (a) in the application of Chapter 18 of Part 2 of ITTOIA 2005 to that amount, section 243 (extent of charge to tax) is omitted, and
 - (b) in the application of Chapter 15 of Part 3 of CTA 2009 to that amount, section 189 (extent of charge to tax) is omitted.
- (4) An amount referable to a UK property business or an overseas property business is to be treated (in either case) as a post-cessation receipt from a UK property business for the purposes of Chapter 10 of Part 3 of ITTOIA 2005 or Chapter 9 of Part 4 of CTA 2009 (property income: post-cessation receipts), and—
 - (a) in the application of Chapter 10 of Part 3 of ITTOIA 2005 to that amount, section 350 (extent of charge to tax) is omitted, and
 - (b) in the application of Chapter 9 of Part 4 of CTA 2009 to that amount, section 281 (extent of charge to tax) is omitted.
- (5) In any other case, for the purposes of paragraph 1(3)—
 - (a) the recipient of the amount is to be treated as if carrying on the business to which the amount is referable at the time of the receipt of the amount, and
 - (b) the amount is to be treated as if it were referable to activities undertaken by the business at that time.
- (6) Where the recipient of the amount has incurred expenses that—
 - (a) are referable to the amount, and
 - (b) would be deductible in calculating the profits of the business if it were being carried on at the time of receipt of the amount,
 the amount brought into account under paragraph 1(2) by virtue of sub-paragraph (5) is to be reduced by the amount of those expenses.
- (7) But sub-paragraph (6) does not apply to expenses of a person that arise directly or indirectly from the person ceasing to carry on business.

Amounts referable to businesses in certain cases

- 3 (1) An amount of a coronavirus support payment made under an employment-related scheme—
 - (a) is referable to the business of the person entitled to the payment as an employer (even if the person is not for other purposes the employer of the employees to whom the payment relates), and
 - (b) is not referable to any other business (and no deduction for any expenses in respect of the same employment costs which are the subject of the payment is allowed in calculating the profits of any other business or in calculating the liability of any other person to tax charged under section 242 or 349 of ITTOIA 2005 or section 188 or 280 of CTA 2009 (post-cessation receipts)).
- (2) A coronavirus support payment made under the self-employment income support scheme is referable to the business of the individual to whom the payment relates.

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- (3) Where an amount of a coronavirus support payment made under the self-employment income support scheme is brought into account under paragraph 1(2), the whole of the amount is to be treated as a receipt of a revenue nature of the tax year 2020-21 (irrespective of its treatment for accounting purposes).
- (4) But sub-paragraph (3) does not apply to an amount of a coronavirus support payment made under the self-employment income support scheme in respect of a partner of a firm where the amount is distributed amongst the partners (rather than being retained by the partner).
- (5) An amount of a coronavirus support payment made under the self-employment income support scheme in respect of a partner of a firm that is retained by the partner (rather than being distributed amongst the partners) is not to be treated as a receipt of the firm.
- (6) Accordingly—
 - (a) the receipt is not to be included in the calculation of the firm’s profits for the purposes of determining the share of profits or losses for each partner of the firm (see sections 849 to 850E of ITTOIA 2005 and sections 1259 to 1265 of CTA 2009), and
 - (b) the receipt is then to be added to the partner’s share.

Exemptions, reliefs and deductions

- 4 (1) An amount of a coronavirus support payment that relates only to mutual activities of a business that carries on a mutual trade is to be treated as if it were income arising from those activities (and accordingly the amount is not taxable).
- (2) A coronavirus support payment is to be ignored when carrying out the calculation—
 - (a) in section 528(1) of ITA 2007 (incoming resources limit for charitable exemptions);
 - (b) in section 482(1) of CTA 2010 (incoming resources limit for charitable companies);
 - (c) in section 661CA(1) of CTA 2010 (income condition for community amateur sports clubs).
- (3) A coronavirus support payment made under an employment-related scheme is to be ignored when carrying out the calculation—
 - (a) in section 662(2) of CTA 2010 (exemption from corporation tax for UK trading income of community amateur sports clubs);
 - (b) in section 663(2) of that Act (exemption from corporation tax for UK property income of community amateur sports clubs).
- (4) No relief under Chapter 1 of Part 6A of ITTOIA 2005 (trading allowance) is given to an individual on an amount of a coronavirus support payment made under the self-employment income support scheme brought into account under paragraph 1(2) as profits of that tax year.
- (5) For the purposes of that Part, such an amount is to be ignored when calculating the individual’s “relevant income” for that tax year under Chapter 1 of that Part.
- (6) Neither section 57 of ITTOIA 2005 nor section 61 of CTA 2009 (deductions for pre-trading expenses) (including as they apply by virtue of sections 272 and 272ZA of ITTOIA 2005 and section 210 of CTA 2009) apply to employment costs where

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an amount of a coronavirus support payment made under an employment-related scheme relates to those costs.

Charge where employment costs deductible by another

- 5 (1) Income tax is charged on an amount of a coronavirus support payment made under an employment-related scheme if conditions A and B are met.
- (2) Condition A is that the amount is neither brought into account under paragraph 1(2) in calculating the profits of a business carried on by the person entitled to the payment as an employer nor treated, by virtue of paragraph 2(3) or (4), as a post-cessation receipt arising from the carrying on of such a business.
- (3) Condition B is that expenses incurred by another person in respect of the same employment costs which are the subject of the coronavirus support payment and to which the amount relates are deductible—
- (a) in calculating the profits of a business carried on by that other person (for income or corporation tax purposes), or
 - (b) in calculating the liability of that other person to tax charged under section 242 or 349 of ITTOIA 2005 or section 188 or 280 of CTA 2009 (post-cessation receipts).
- (4) Tax is charged under sub-paragraph (1) on the whole of the amount to which that sub-paragraph applies.
- (5) The person liable for tax charged under sub-paragraph (1) is the person entitled to the coronavirus support payment as an employer.
- (6) Section 3(1) of CTA 2009 (exclusion of charge to income tax) does not apply to an amount of a coronavirus support payment that is charged under this paragraph.

Charge where no business carried on

- 6 (1) Tax is charged on an amount of a coronavirus support payment, other than a payment made under an employment-related scheme or the self-employment income support scheme, if—
- (a) the amount is neither brought into account under paragraph 1(2) in calculating the profits of a business nor treated as a post-cessation receipt by virtue of paragraph 2(3) or (4), and
 - (b) at the time the coronavirus support payment was received, the recipient did not carry on a business whose profits are charged to tax and to which the payment could be referable.
- (2) In this paragraph “tax” means—
- (a) corporation tax, in the case of a company that (apart from this paragraph) is chargeable to corporation tax, or to any amount chargeable as if it was corporation tax, or
 - (b) income tax, in any other case.
- (3) Tax is charged under sub-paragraph (1) on the whole of the amount to which that sub-paragraph applies.
- (4) The person liable for tax charged under sub-paragraph (1) is the recipient of that amount.

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- (5) Where income tax is charged under sub-paragraph (1), sections 527 and 528 of ITA 2007 (exemption and income condition for charitable trusts) have effect as if sub-paragraph (1) were a provision to which section 1016 of that Act applies.
- (6) Where corporation tax is charged under sub-paragraph (1), sections 481 and 482 of CTA 2010 (exemption and income condition for charitable companies) have effect as if sub-paragraph (1) were a provision to which section 1173 of that Act applies.

Modification of the Tax Acts

- 7 The Treasury may by regulations modify the application of any provision of the Tax Acts that affects (or that otherwise would affect) the treatment of—
- (a) receipts brought into account under paragraph 1(2),
 - (b) amounts treated as post-cessation receipts under paragraph 2(3) or (4), or
 - (c) amounts charged under paragraph 5(1) or 6(1).

Charge if person not entitled to coronavirus support payment

- 8 (1) A recipient of an amount of a coronavirus support payment is liable to income tax under this paragraph if the recipient is not entitled to the amount in accordance with the scheme under which the payment was made.
- (2) But sub-paragraph (1) does not apply to an amount of a coronavirus support payment made under a coronavirus business support grant scheme or the coronavirus statutory sick pay rebate scheme.
- (3) For the purposes of this Schedule, references to a person not being entitled to an amount include, in the case of an amount of a coronavirus support payment made under the coronavirus job retention scheme, a case where the person ceases to be entitled to retain the amount after it was received—
- (a) because of a change in circumstances, or
 - (b) because the person has not, within a reasonable period, used the amount to pay the costs which it was intended to reimburse.
- (4) Income tax becomes chargeable under this paragraph—
- (a) in a case where the person was entitled to an amount of a coronavirus support payment paid under the coronavirus job retention scheme but subsequently ceases to be entitled to retain it, at the time the person ceases to be entitled to retain the amount, or
 - (b) in any other case, at the time the coronavirus support payment is received.
- (5) The amount of income tax chargeable under this paragraph is the amount equal to so much of the coronavirus support payment—
- (a) as the recipient is not entitled to, and
 - (b) as has not been repaid to the person who made the coronavirus support payment.
- (6) Where income tax which is chargeable under this paragraph is the subject of an assessment (whether under paragraph 9 or otherwise)—
- (a) paragraphs 1 to 6 do not apply to the amount of the coronavirus support payment that is the subject of the assessment,

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- (b) that amount is not, for the purposes of Step 1 of the calculation in section 23 of ITA 2007 (calculation of income tax liability), to be treated as an amount of income on which the taxpayer is charged to income tax (but see paragraph 10 which makes further provision about the application of that section), and
 - (c) that amount is not to be treated as income of a company for the purposes of section 3 of CTA 2009 (and accordingly the exclusion of the application of the provisions of the Income Tax Acts to the income of certain companies does not apply to the receipt of an amount charged under this paragraph).
- (7) No loss, deficit, expense or allowance may be taken into account in calculating, or may be deducted from or set off against, any amount of income tax charged under this paragraph.
- (8) In calculating profits or losses for the purposes of corporation tax, no deduction is allowed in respect of the payment of income tax charged under this paragraph.
- (9) For the purposes of this paragraph and paragraphs 9(4) and 14, a firm is not to be regarded as receiving an amount of a coronavirus support payment made under the self-employment income support scheme in respect of a partner of that firm that is retained by the partner (rather than being distributed amongst the partners).

Assessments of income tax chargeable under paragraph 8

- 9 (1) If an officer of Revenue and Customs considers (whether on the basis of information or documents obtained by virtue of the exercise of powers under Schedule 36 to FA 2008 or otherwise) that a person has received an amount of a coronavirus support payment to which the person is not entitled, the officer may make an assessment in the amount which ought in the officer's opinion to be charged under paragraph 8.
- (2) An assessment under sub-paragraph (1) may be made at any time, but this is subject to sections 34 and 36 of TMA 1970.
- (3) Parts 4 to 6 of TMA 1970 contain other provisions that are relevant to an assessment under sub-paragraph (1) (for example, section 31 makes provision about appeals and section 59B(6) makes provision about the time to pay income tax payable by virtue of an assessment).
- (4) Where income tax is chargeable under paragraph 8 in relation to an amount of a coronavirus support payment received by a firm—
- (a) an assessment (under sub-paragraph (1) or otherwise) may be made on any of the partners in respect of the total amount of tax that is chargeable,
 - (b) each of the partners is jointly and severally liable for the tax so assessed, and
 - (c) if the total amount of tax that is chargeable is included in a return under section 8 of TMA 1970 made by one of the partners, the other partners are not required to include the tax in returns made by them under that section.

Calculation of income tax liability

- 10 (1) Section 23 of ITA 2007 (calculation of income tax liability) applies in relation to a person liable to income tax charged under paragraph 8 as if that paragraph were included in the lists of provisions in subsections (1) and (2) of section 30 of that Act (amounts of tax added at step 7).

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- (2) For the purposes of paragraph 7(2) of Schedule 41 to FA 2008, a relevant obligation relating to income tax charged under paragraph 8 of this Schedule relates to a tax year if the income tax became chargeable in that tax year.
- (3) But this paragraph does not apply to a company to which paragraph 11 (companies chargeable to corporation tax) applies.

Calculation of tax liability: companies chargeable to corporation tax

- 11 (1) This paragraph applies where a person liable to income tax charged under paragraph 8 is a company that is chargeable to corporation tax, or to any amount chargeable as if it was corporation tax, in relation to a period within which the income tax became chargeable.
- (2) Part 5A of TMA 1970 (payment of tax) applies in relation to that company as if—
 - (a) the reference to “corporation tax” in subsection (1) of section 59D (general rule as to when corporation tax is due and payable) included income tax charged under paragraph 8 of this Schedule;
 - (b) an amount of income tax charged under paragraph 8 of this Schedule were an amount within subsection (6) of section 59F (arrangements for paying tax on behalf of group members);
 - (c) any reference in section 59G (managed payment plans) to “corporation tax” included income tax charged under paragraph 8 of this Schedule.
 - (3) Part 9 of that Act (interest on overdue tax) applies in relation to that company as if—
 - (a) the references in section 86 (interest on overdue income tax and capital gains tax) to “income tax” did not include income tax charged under paragraph 8 of this Schedule;
 - (b) in subsection (1) of section 87A (interest on overdue corporation tax) the reference to “corporation tax” included income tax charged under paragraph 8 of this Schedule.
 - (4) Schedule 18 to FA 1998 (company tax returns etc.) applies in relation to that company as if—
 - (a) any reference in that Schedule to “tax”, other than the references in paragraph 2 of that Schedule (duty to give notice of chargeability), included income tax charged under paragraph 8 of this Schedule, and
 - (b) in paragraph 8(1) of that Schedule (calculation of tax payable), at the end there were inserted—

“Sixth step

Add any amount of income tax chargeable under paragraph 8 of Schedule 16 to the Finance Act 2020.”
 - (5) But the modifications of that Schedule are to be ignored for the purposes of the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175).
 - (6) Schedule 41 to FA 2008 applies in relation to that company as if—
 - (a) the references to “income tax” in paragraph 7(2) did not include income tax charged under paragraph 8 of this Schedule;
 - (b) the reference to “corporation tax” in paragraph 7(3) included income tax charged under paragraph 8 of this Schedule;

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(but see paragraph 13(5) of this Schedule which has the effect that paragraph 7 of that Schedule does not apply in certain circumstances).

- (7) For the purposes of paragraph 7(3) of Schedule 41 to FA 2008 (as modified by sub-paragraph (6)), a relevant obligation relating to income tax charged under paragraph 8 of this Schedule relates to an accounting period if the income tax became chargeable in that period.

Notification of liability under paragraph 8

- 12 (1) Section 7 of TMA 1970 (notice of liability to income tax and capital gains tax) applies in relation to income tax chargeable under paragraph 8 as provided for in sub-paragraphs (2) to (5).
- (2) Subsection (1) has effect as if paragraph (b) (and the “and” before it) were omitted.
- (3) Subsection (1) has effect as if the reference to “the notification period” were to the period commencing on the day on which the income tax became chargeable and ending on the later of—
- (a) the 90th day after the day on which this Act is passed, or
 - (b) the 90th day after the day on which the income tax became chargeable.
- (4) Subsection (3)(c) has effect as if after “child benefit charge” there were inserted “or to income tax under paragraph 8 of Schedule 16 to the Finance Act 2020”.
- (5) In relation to income tax chargeable under paragraph 8 in relation to an amount of a coronavirus support payment received by a firm, the duty in subsection (1) (as it has effect by virtue of sub-paragraphs (2) and (3)) is taken to have been complied with by each of the partners if one of the partners has complied with it.
- (6) The reference in section 36(1A)(b) of TMA 1970 (20 year period for assessment in a case involving a loss of income tax) to a failure to comply with an obligation under section 7 of that Act is not to be taken as including a failure arising by virtue of the modification of that section by this paragraph, unless the failure is one to which paragraph 13 applies.

Penalty for failure to notify: knowledge of non-entitlement to payment

- 13 (1) This paragraph applies to a failure of a person to notify, under section 7 of TMA 1970 (as modified by paragraph 12), a liability to income tax chargeable under paragraph 8 where the person knew, at the time the income tax first became chargeable, that the person was not entitled to the amount of the coronavirus support payment in relation to which the tax is chargeable.
- (2) Schedule 41 to FA 2008 (failure to notify) applies to a failure described in sub-paragraph (1) as follows.
- (3) The failure is to be treated as deliberate and concealed.
- (4) Accordingly, paragraph 6 of that Schedule has effect as if the references to a penalty for “a deliberate but not concealed failure” or for “any other case” were omitted.
- (5) For the purposes of that Schedule (except in a case falling within paragraph 14 of this Schedule), the “potential lost revenue” is to be treated as being the amount of income tax which would have been assessable on the person at the end of the last day of the notification period (see paragraph 12(3)).

Penalties: partnerships

- 14 (1) This paragraph applies to a failure to notify, under section 7 of TMA 1970 (as modified by paragraph 12), a liability to income tax chargeable under paragraph 8 by a partner of a firm that received the amount of the coronavirus support payment in relation to which the tax is chargeable.
- (2) For the purposes of paragraph 13(1) of this Schedule, each partner is taken to know anything that any of the other partners knows.
- (3) Where a partner would be liable to a penalty under Schedule 41 to FA 2008 (whether in a case falling within paragraph 13 or otherwise), the partner is instead jointly and severally liable with the other partners to a single penalty under that Schedule for the failures by each of them to notify.
- (4) In a case not falling within paragraph 13, if the failure of at least one of the partners—
- (a) was deliberate and concealed, the single penalty is to be treated as a penalty for a deliberate and concealed failure;
 - (b) was deliberate but not concealed, the single penalty is to be treated as a penalty for a deliberate but not concealed failure.
- (5) For the purposes of Schedule 41 to FA 2008, the “potential lost revenue” is to be treated as being the amount of income tax which would have been assessable on any one of the partners (see paragraph 9(4)(a))—
- (a) in a case falling within paragraph 13, at the end of the last day of the notification period, or
 - (b) in any other case, at the end of 31 January following the tax year in which the amount of coronavirus support payment was received by the firm.
- (6) Paragraph 22 of that Schedule (limited liability partnerships: members’ liability) does not apply.

Liability of officers of insolvent companies

- 15 (1) This paragraph—
- (a) provides for an individual to be jointly and severally liable to the Commissioners for Her Majesty’s Revenue and Customs for a liability of a company to income tax charged under paragraph 8, where a notice under sub-paragraph (2) is given to the individual, and
 - (b) applies paragraphs 10 to 15 and 17 of Schedule 13 (joint liability notices: tax avoidance, tax evasion and repeated insolvency and non-payment) to such a notice.
- (2) An officer of Revenue and Customs may give a notice under this sub-paragraph to an individual if it appears to the officer that conditions A to D are met.
- (3) Condition A is that—
- (a) the company is subject to an insolvency procedure, or
 - (b) there is a serious possibility of the company becoming subject to an insolvency procedure.
- (4) Condition B is that the company is liable to income tax under paragraph 8.
- (5) Condition C is that the individual was responsible for the management of the company at the time the income tax first became chargeable and the individual knew

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(at that time) that the company was not entitled to the amount of the coronavirus support payment in relation to which the tax is chargeable.

- (6) Condition D is that there is a serious possibility that some or all of the income tax liability will not be paid.
- (7) For the purposes of sub-paragraph (5) the individual is responsible for the management of a company if the individual—
- (a) is a director or shadow director of the company, or
 - (b) is concerned (whether directly or indirectly) in, or takes part in, the management of the company.
- (8) A notice under sub-paragraph (2) must—
- (a) specify the company to which the notice relates;
 - (b) set out the reasons for which it appears to the officer that conditions A to D are met;
 - (c) specify the amount of the income tax liability;
 - (d) state the effect of the notice;
 - (e) offer the individual a review of the decision to give the notice and explain the effect of paragraph 11 of Schedule 13 (right of review);
 - (f) explain the effect of paragraph 13 of that Schedule (right of appeal).
- (9) An individual who is given a notice under sub-paragraph (2) is jointly and severally liable with the company (and with any other individual who is given such a notice) to the amount of the income tax liability specified under sub-paragraph (8)(c).

For provision under which the amount so specified may be varied, see—

- (a) paragraph 10 of Schedule 13 (modification etc),
 - (b) paragraphs 11 and 12 of that Schedule (review), and
 - (c) paragraphs 13 and 14 of that Schedule (appeal).
- (10) Paragraphs 10 to 15 and 17 of Schedule 13 apply to a notice under sub-paragraph (2) as they apply to a joint liability notice (see paragraph 1(2) of that Schedule) as if—
- (a) the references in those paragraphs to “relevant conditions” were to conditions A to D in this paragraph;
 - (b) sub-paragraphs (3) and (4) of paragraph 10 were omitted (and references to sub-paragraph (3) in that paragraph were omitted);
 - (c) in paragraph 10(6)(a), after “or (9)” there were inserted “or paragraph 15(8)(c) of Schedule 16”;
 - (d) in paragraph 12(6)(b) after “5(9)” there were inserted “or paragraph 15(8)(c) of Schedule 16”.
- (11) Expressions used in this paragraph and in Schedule 13 have the same meaning in this paragraph as they have in that Schedule (subject to the modification made by sub-paragraph (10)(a)).