

*Status: Point in time view as at 22/02/2024.*

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## SCHEDULES

### SCHEDULE 12

#### PILLAR TWO

#### PART 2

#### MULTINATIONAL TOP-UP TAX

##### *Transparent entities etc*

- 14 (1) Section 168 (underlying profits of transparent and reverse hybrid entities) is amended in accordance with [sub-paragraphs \(2\) to \(8\)](#).
- (2) In subsection (2), in paragraph (b), after territory insert “as a result of being tax resident in that territory”.
- (3) In subsection (3), after “entity” insert “or individual”.
- (4) In subsection (6), in paragraph (a), after “is” insert “an entity that is”
- (5) For subsection (9) substitute—
- “(9) Where underlying profits of M—
- (a) are allocated to an individual or an entity that is not a member of the group of which M is a member, or
- (b) would be allocated to such an individual or entity if M were regarded as tax transparent in the territory in which the individual or entity is located,
- those profits are to be excluded from the adjusted profits of M.”
- (6) In subsection (10), after “entity” insert “or an individual”.
- (7) In subsection (11), in the words before paragraph (a), for “is located” substitute “was created, R is not tax resident in any territory”.
- (8) After that subsection insert—
- “(12) For the purposes of applying this section in relation to a multinational group whose ultimate parent is a flow-through entity, the ultimate parent is to be treated as if it were not regarded as tax transparent in the territory in which it is located.”
- (9) In section 170 (adjustments for ultimate parent that is a flow-through entity)—
- (a) in subsection (2), for “an ownership interest (direct or indirect)” substitute “a direct ownership interest”, and
- (b) after that subsection insert—

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“(2A) Where profits are allocated to the ultimate parent as a result of section 168 (underlying profits of transparent and reverse hybrid entities), those profits are to be regarded, for the purposes of this section, as profits to which holders of ownership interests in the ultimate parent are entitled (to each in proportion to the proportion of those profits to which they would have been entitled had those profits actually accrued to the ultimate parent).”

(10) In section 238 (tax transparency of entities)—

- (a) for “if” substitute “to the extent that”, and
- (b) for “and”, in both places it occurs, substitute “or”.

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