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SCHEDULES

SCHEDULE 12

PILLAR TWO

PART 2

MULTINATIONAL TOP-UP TAX

Qualifying domestic top-up tax safe harbour

41 (1) After Schedule 16 insert—

“SCHEDULE 16A

Section 260

MULTINATIONAL TOP-UP TAX: SAFE HARBOURS

PART 1

QUALIFYING DOMESTIC TOP-UP TAX SAFE HARBOUR

CHAPTER 1

QUALIFYING DOMESTIC TOP-UP TAX SAFE HARBOUR ELECTION

Election for qualifying domestic top-up tax safe harbour

- 1 (1) The filing member of a multinational group may make a qualifying domestic top-up tax safe harbour election for an accounting period in respect of a territory.
- (2) The effect of the election is that all of the standard members of the group located in the territory are to be treated as not having top-up amounts or additional top-up amounts for the purpose of determining the liability of any member of the group to multinational top-up tax.
- (3) An election may only be made for an accounting period if—
- a qualifying domestic top-up tax applies in that territory for that period,
 - that tax is accredited for the purposes of the election (see [paragraph 2](#)), and
 - none of the disqualifying conditions in [paragraph 3](#) apply for that period.

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(4) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this paragraph.

Accredited qualifying domestic top-up tax

2 A qualifying domestic top-up tax is accredited for the purposes of an election under [paragraph 1](#) if that tax is specified as such in regulations made by the Treasury.

Disqualifying conditions

3 (1) Conditions A to D are disqualifying conditions for the purposes of [paragraph 1\(3\)\(c\)](#) in relation to a multinational group and a territory.

(2) Condition A is that—

- (a) the ultimate parent is located in the territory,
- (b) the ultimate parent is a flow-through entity, and
- (c) the qualifying domestic top-up tax applying in the territory—
 - (i) does not generally impose a charge on the ultimate parent as a result of it being a flow-through entity, and
 - (ii) does not include provision for a charge to be imposed on the ultimate parent in circumstances where there would otherwise be an amount of tax that was not charged to any member of the group in that territory.

(3) Condition B is that—

- (a) a responsible member of the group is located in the territory,
- (b) the member is not the ultimate parent of the group,
- (c) the member is a flow-through entity, and
- (d) the qualifying domestic top-up tax applying in the territory—
 - (i) does not generally impose a charge on the member as a result of it being a flow-through entity, and
 - (ii) does not include provision for a charge to be imposed on the member in circumstances where there would otherwise be an amount of tax that was not charged to any member of the group in that territory.

(4) Condition C is that—

- (a) the qualifying domestic top-up tax applying in the territory provides that it does not apply to a multinational group in the initial phase of the group's international expansion,
- (b) that provision is not limited in application to circumstances where the members of a multinational group in the territory are not subject to Pillar Two rules, and
- (c) that provision applies to the group.

(5) Condition D is that the enforceability of an amount of qualifying domestic top-up tax accruing to a standard member of the group is in question.

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- (6) Subsections (3), (4) and (6) of section 256A (qualifying domestic top-up tax treated as not accruing where contested) apply for the purpose of determining whether the enforceability of an amount of qualifying domestic top-up tax is in question.

CHAPTER 2

APPLICATION TO NON-STANDARD MEMBERS OF A MULTINATIONAL GROUP

Application in the case of joint venture group

- 4 (1) For the purpose of applying Chapter 1 of this Part of this Schedule to a joint venture group (see section 227 which applies this Schedule generally, with modifications, to joint venture groups), that Chapter has effect as if in paragraph 3—
- (a) in sub-paragraph (1), for “Conditions A to D” there were substituted “Conditions A to E”,
 - (b) after sub-paragraph (6), there were inserted—
“ (7) Condition E is that the qualifying domestic top-up tax applying in the territory—
 - (a) does not generally impose a charge on members of the group that are members of a joint venture group, and
 - (b) does not include provision for a charge to be imposed on such members in circumstances where there would otherwise be an amount of tax that was not charged to any member of the group in that territory.”
- (2) For that purpose ignore section 227(1)(a) (reference to ultimate parent treated as reference to joint venture parent).
- (3) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of joint venture members of a joint venture group in a territory.

Application in the case of investment entities

- 5 (1) Chapter 1 of this Part of this Schedule to applies to investment entities and has effect for that purpose as if—
- (a) references to standard members of a multinational group were to members of the group that are investment entities, and
 - (b) in paragraph 3—
 - (i) in sub-paragraph (1), for “Conditions A to D” there were substituted “Conditions A to E”,
 - (ii) after sub-paragraph (6), there were inserted—
“ (7) Condition E is that the qualifying domestic top-up tax applying in the territory—
 - (a) does not generally impose a charge on members of the group that are investment entities, and

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(b) does not include provision for a charge to be imposed on such members in circumstances where there would otherwise be an amount of tax that was not charged to any member of the group in that territory.”

(2) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of members of the group that are investment entities.

Application in the case of minority owned members

6 (1) Chapter 1 of this Part of this Schedule to applies to minority owned members of a multinational group and has effect for that purpose as if references to standard members of a multinational group were to members of the group that are minority owned members.

(2) Accordingly, the filing member of a multinational group may make a separate qualifying domestic top-up tax safe harbour election in respect of minority owned members of the group.”

(2) In section 227 (application of Part to joint venture groups), in subsection (1), in the words before paragraph (a), for “Schedule 16” substitute “Schedules 16 and 16A”.

(3) For section 260 (transitional provision) substitute—

“260 Transitional provision and safe harbours

(1) Schedule 16 contains transitional provision and provision about a general transitional safe harbour.

(2) Schedule 16A contains provision about other safe harbours.”

(4) In Schedule 15 (elections), in paragraph 2(1), after paragraph (k) (as inserted by [paragraph 40\(2\)](#) of this Schedule) insert—

“(l) paragraph 1 of Schedule 16A.”

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 9 para. 132(1) Sch. 9 para. 132 renumbered as Sch. 9 para. 132(1) by [S.I. 2024/356 reg. 4\(23\)\(a\)](#)
- Sch. 9 para. 125(1)(c) and word inserted by [S.I. 2024/356 reg. 4\(3\)\(b\)](#)
- Sch. 9 para. 125(3A) inserted by [S.I. 2024/356 reg. 4\(6\)](#)
- Sch. 9 para. 126(1)(c) inserted by [S.I. 2024/356 reg. 4\(9\)\(c\)](#)
- Sch. 9 para. 126(3A) inserted by [S.I. 2024/356 reg. 4\(10\)](#)
- Sch. 9 para. 127A and cross-heading inserted by [S.I. 2024/356 reg. 4\(12\)](#)
- Sch. 9 para. 128(6)(a)(zi) inserted by [S.I. 2024/356 reg. 4\(13\)](#)
- Sch. 9 para. 129(1)(c)(d) inserted by [S.I. 2024/356 reg. 4\(15\)\(b\)](#)
- Sch. 9 para. 129(2)(c) and word inserted by [S.I. 2024/356 reg. 4\(16\)\(b\)](#)
- Sch. 9 para. 130A and cross-heading inserted by [S.I. 2024/356 reg. 4\(21\)](#)
- Sch. 9 para. 132(2)-(5) inserted by [S.I. 2024/356 reg. 4\(23\)\(c\)](#)
- Sch. 9 para. 132A and cross-heading inserted by [S.I. 2024/356 reg. 4\(24\)](#)
- Sch. 9 para. 132(1) words inserted by [S.I. 2024/356 reg. 4\(23\)\(b\)](#)