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Finance Act 2019

2019 CHAPTER 1

An Act to grant certain duties, to alter other duties, and to amend the law relating to the national debt and the public revenue, and to make further provision in connection with finance. [12th February 2019]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

DIRECT TAXES

Charge to tax

1 Income tax charge for tax year 2019-20

Income tax is charged for the tax year 2019-20.

2 Corporation tax charge for financial year 2020

Corporation tax is charged for the financial year 2020.

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Income tax rates, allowances and limits

3 Main rates of income tax for tax year 2019-20

For the tax year 2019-20 the main rates of income tax are as follows—

(a) the basic rate is 20%;
(b) the higher rate is 40%;
(c) the additional rate is 45%.

4 Default and savings rates of income tax for tax year 2019-20

(1) For the tax year 2019-20 the default rates of income tax are as follows—

(a) the default basic rate is 20%;
(b) the default higher rate is 40%;
(c) the default additional rate is 45%.

(2) For the tax year 2019-20 the savings rates of income tax are as follows—

(a) the savings basic rate is 20%;
(b) the savings higher rate is 40%;
(c) the savings additional rate is 45%.

5 Basic rate limit and personal allowance

(1) For the tax years 2019-20 and 2020-21, the amount specified in section 10(5) of ITA 2007 (basic rate limit) is “£37,500”.

(2) For the tax years 2019-20 and 2020-21, the amount specified in section 35(1) of ITA 2007 (personal allowance) is “£12,500”.

(3) In consequence of the amendment made by subsection (2), omit section 4 of F(No.2)A 2015 (which has effect only if the personal allowance is less than £12,500).

(4) Omit the following (which relate to the link between the personal allowance and the national minimum wage)—

(a) sections 57(8), 57A and 1014(5)(b)(iia) of ITA 2007, and
(b) section 3 of F(No.2)A 2015.

(5) In consequence of the provision made by this section—

(a) section 21 of ITA 2007 (indexation of basic rate limit and starting rate limit for savings) does not apply in relation to the basic rate limit, and
(b) section 57 of ITA 2007 (indexation of allowances) does not apply in relation to the amount specified in section 35(1) of that Act,

for the tax years 2019-20 and 2020-21.

6 Starting rate limit for savings for tax year 2019-20

Section 21 of ITA 2007 (indexation) does not apply in relation to the starting rate limit for savings for the tax year 2019-20 (so that the starting rate limit for savings remains at £5,000 for that tax year).

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Employment and social security income

7 Optional remuneration arrangements: arrangements for cars and vans

(1) ITEPA 2003 is amended as follows.

(2) In section 120A (optional remuneration arrangements: benefit of a car)—

(a) in subsection (3)(b), for the words from "the amount" to "year is" substitute " the total foregone amount in connection with the car for the tax year is ", and

(b) after subsection (3) insert—

"(4) In this section, and in section 121A, the total foregone amount in connection with the car for a tax year is the total of—

(a) the amount foregone (see section 69B) with respect to the benefit of the car for that year, and

(b) the amount foregone (see section 69B) with respect to each other benefit that—

(i) is connected with the car,

(ii) is provided in that year for the employee, or a member of the employee's household, pursuant to optional remuneration arrangements, and

(iii) is neither the provision of a driver nor the provision of fuel."

(3) In section 121A (optional remuneration arrangements: method of calculating relevant amount)—

(a) in subsection (1), for step 1 substitute— " *Step 1* Take the total foregone amount in connection with the car for the tax year (see section 120A(4)). ", and

(b) in subsection (2)—

(i) for " "amount foregone" under" substitute " "total foregone amount" for the purposes of ", and

(ii) for "the benefit of the car" substitute " a benefit mentioned in section 120A(4)(a) or (b) ".

(4) In section 132A (capital contributions by employee: optional remuneration arrangements)—

(a) for subsection (3) substitute—

"(3) The amount of the deduction allowed in any tax year is found by—

(a) first multiplying the capped amount by the appropriate percentage, and

(b) then multiplying the result by the availability factor.", and

(b) after subsection (4) insert—

"(4A) For the purposes of subsection (3), "the availability factor" is given by the formula—

$$\frac{Y - U}{Y}$$

where—

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Y is the number of days in the tax year, and

U is the number of days in the tax year on which the car is unavailable.

(4B) For the purposes of subsection (4A), the car is unavailable on any day if the day—

(a) falls before the first day on which the car is available to the employee,

(b) falls after the last day on which the car is available to the employee, or

(c) falls within a period of 30 days or more throughout which the car is not available to the employee."

(5) In section 154A (optional remuneration arrangements: benefit of a van)—

(a) in subsection (2)(b), for the words from "the amount" to "section 69B)" substitute " the total foregone amount in connection with the van ",

(b) in subsection (3), for step 1 substitute— " *Step 1* Take the total foregone amount in connection with the van for the tax year. ",

(c) in subsection (7), for "the benefit of the van" substitute " a benefit mentioned in subsection (8)(a) or (b) ", and

(d) after subsection (7) insert—

"(8) In this section the total foregone amount in connection with the van for a tax year is the total of—

(a) the amount foregone (see section 69B) with respect to the benefit of the van for that year, and

(b) the amount foregone (see section 69B) with respect to each other benefit that—

(i) is connected with the van,

(ii) is provided in that year for the employee, or a member of the employee's household, pursuant to optional remuneration arrangements, and

(iii) is neither the provision of a driver nor the provision of fuel."

(6) In section 239 (exemptions for payments and benefits relating to taxable cars, vans and exempt HGVs), in subsection (3)—

(a) after "by virtue of" insert " section 120A (optional remuneration arrangements: benefit of a car), ", and

(b) before "or section 160" insert " , section 154A (optional remuneration arrangements: benefit of a van) ".

(7) The amendments made by this section have effect for the tax year 2019-20 and subsequent tax years.

8 Exemption for benefit in form of vehicle-battery charging at workplace

(1) In Chapter 3 of Part 4 of ITEPA 2003 (employment income: travel-related exemptions), after section 237 insert—

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"**237A Vehicle-battery charging**

(1) No liability to income tax arises in respect of the provision, at or near an employee's workplace, of facilities for charging a battery of a vehicle used by the employee (including a vehicle used by the employee as a passenger).

(2) Subsection (1) applies only if the facilities are made available generally to the employer's employees at that workplace.

(3) In this section—

"facilities"—

(a) includes electricity, but

(b) does not include workplace parking,

"taxable", in relation to a car or van, has the meaning given by section 239(6),

"vehicle" means a vehicle—

(a) to which Chapter 2 applies (see section 235), and

(b) which is neither a taxable car nor a taxable van, and

"workplace parking" has the meaning given by section 237(3)."

(2) The amendment made by subsection (1) has effect for the tax year 2018-19 and subsequent tax years.

9 Exemptions relating to emergency vehicles

(1) Section 248A of ITEPA 2003 (emergency vehicles) is amended in accordance with subsections (2) and (3).

(2) In subsection (1)—

(a) in paragraph (a), for "for the person's private use" substitute " mainly for use for the person's business travel ";

(b) in paragraph (b), omit "engaged in on-call".

(3) In subsection (8)—

(a) in the opening words, omit "engaged in on-call";

(b) in paragraph (a), for "it" substitute " the vehicle ";

(c) omit paragraph (b) (and the "and" before it).

(4) In section 205 of ITEPA 2003 (cost of the benefit: asset made available without transfer), after subsection (4) insert—

"(5) Where the asset is an emergency vehicle, the expense of providing fuel for it in a tax year is not an additional expense by virtue of subsection (4) so long as—

(a) the person incurring that expense incurs no expense in that tax year in the provision of fuel for the vehicle which is used for the employee's private travel ("private fuel expense"), or

(b) all private fuel expense that the person does incur in that tax year is made good by the employee on or before 6 July following the tax year.

(6) For the purposes of this section—

"emergency vehicle" has the same meaning as in section 248A;

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"fuel" includes electrical energy;

"private travel" means travelling the expenses of which, if incurred and paid by the employee, would not be deductible under Chapter 2 or 5 of Part 5."

(5) The amendments made by subsections (1) to (4) have effect for the tax year 2017-18 and subsequent tax years.

(6) For the tax year 2017-18, the tax year 2018-19 and the tax year 2019-20, sections 205 and 205A of ITEPA 2003 (taxable benefits: assets made available without transfer) have effect, where the asset mentioned in section 205(1)(a) is an emergency vehicle, with the modifications in subsections (7) and (8).

(7) Section 205(1C) has effect as if—

(a) in paragraph (a), at the beginning, there were inserted "the private use proportion of";

(b) after paragraph (b), and on a new line, there were inserted—

"The private use proportion is the proportion (by miles) of travel by the employee by the emergency vehicle in the tax year that is private travel."

(8) Section 205A(2) has effect as if paragraphs (c) and (d) were omitted.

(9) For the purposes of subsection (6), "emergency vehicle" has the same meaning as in section 248A of ITEPA 2003.

10 Exemption for expenses related to travel

(1) Section 289A of ITEPA 2003 (exemption for paid or reimbursed expenses) is amended as follows.

(2) After subsection (2) insert—

"(2A) No liability to income tax arises in respect of an amount paid or reimbursed by a person ("the payer") to an employee (whether or not an employee of the payer) for expenses in the course of qualifying travel if—

(a) the amount has been calculated and paid or reimbursed in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs,

(b) the payment or reimbursement is not provided pursuant to relevant salary sacrifice arrangements, and

(c) condition C is met."

(3) After subsection (4) insert—

"(4A) Condition C is that—

(a) the payer or another person operates a system for checking that the employee has undertaken the qualifying travel in relation to which the amount is paid or reimbursed, and

(b) neither the payer nor any other person operating the system knows or suspects, or could reasonably be expected to know or suspect, that the travel was not undertaken."

(4) In subsection (5)—

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(a) for " "Relevant" substitute "In this section "relevant", and
(b) before "in respect of" insert " for or ".

(5) After subsection (5) insert—

"(5A) In this section "qualifying travel" means travel for which a deduction from the employee's earnings would be allowed under Chapter 2 or 5 of Part 5."

(6) In subsection (6), for "this section" substitute " subsection (2) ".

(7) In subsection (7), after "subsection" insert " (2A)(a) or ".

(8) After subsection (7) insert—

"(8) Regulations made under subsection (2A)(a) may contain provision about calculating amounts that is framed by reference to rates (for expenses) published from time to time by the Commissioners for Her Majesty's Revenue and Customs."

(9) The amendments made by this section have effect for the tax year 2019-20 and subsequent tax years.

(10) For the tax year 2019-20 and subsequent tax years, the Income Tax (Approved Expenses) Regulations 2015 (S.I. 2015/1948)—
(a) have effect as if made under section 289A(2A)(a) of ITEPA 2003 (and may be revoked, or amended, accordingly), and
(b) have effect as if in regulation 2(1)—
(i) the reference to section 289A of ITEPA 2003 were to section 289A(2A)(a) of that Act,
(ii) for the words "in an approved way" there were substituted " in accordance with these regulations ", and
(iii) the words "purchased by the employee" were omitted.

11 Beneficiaries of tax-exempt employer-provided pension benefits

(1) In section 307(2) of ITEPA 2003 ("death or retirement benefit" is a benefit for employee or others on employee's retirement or death), for "or a member of the employee's family or household" substitute " , or paid or given in respect of the employee to any other individual or to a charity, ".

(2) The amendment made by subsection (1) has effect for the tax year 2019-20 and subsequent tax years.

12 Tax treatment of social security income

(1) Part 10 of ITEPA 2003 (social security income) is amended as follows.

(2) In Table A in section 660 (taxable UK benefits), at the appropriate place insert—

"Carer's allowance supplement	SS(S)A 2018	Sections 24 and 28".

(3) In section 658 (amount charged to tax), in subsection (4), after "carer's allowance," insert " carer's allowance supplement, ".

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(4) In section 661 (taxable social security income), in subsection (1), after "carer's allowance," insert " carer's allowance supplement, ".

(5) In Part 1 of Table B in section 677(1) (UK social security benefits wholly exempt from tax: benefits payable under primary legislation), insert each of the following at the appropriate place—

"Best start grant	SS(S)A 2018	Sections 24 and 32"
"Discretionary housing payment	SS(S)A 2018	Section 88"
"Discretionary support award	DSR(NI) 2016	Regulation 2"
"Funeral expense assistance	SS(S)A 2018	Sections 24 and 34"
"Flexible support fund payment	ETA 1973	Section 2"
"Payment under a council tax reduction scheme: England	LGFA 1992	Section 13A(2)"
"Young carer grant	SS(S)A 2018	Sections 24 and 28".

(6) In the heading of Part 1 of Table B in section 677(1), after "Northern Ireland welfare supplementary payments" insert " etc ".

(7) In Part 2 of Table B in section 677(1) (UK social security benefits wholly exempt from tax: benefits payable under regulations), insert each of the following at the appropriate place—

"Discretionary housing payment	CSPSSA 2000	Section 69"
"Payment under a council tax reduction scheme: Wales	LGFA 1992	Section 13A(4)".

(8) In Part 1 of Schedule 1 to ITEPA 2003 (abbreviations of Acts and instruments), insert each of the following at the appropriate place—

"LGFA 1992	Local Government Finance Act 1992"
"CSPSSA 2000	Child Support, Pensions and Social Security Act 2000"
"DSR(NI) 2016	Discretionary Support Regulations (Northern Ireland) 2016 (S.R. (N.I.) 2016 No. 270)"
"SS(S)A 2018	Social Security (Scotland) Act 2018".

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Chargeable gains: interests in UK land etc

13 Disposals by non-UK residents etc

(1) Schedule 1 substitutes a new Part 1 of TCGA 1992 which—
- (a) extends the cases in which gains accruing to persons not resident in the United Kingdom are chargeable to tax, and
- (b) abolishes the specific charge to tax on ATED-related chargeable gains.

(2) Schedule 1 also—
- (a) repeals other provisions contained in the previous version of Part 1 of TCGA 1992 or in Part 2 of that Act and restates their effect in rewritten form (whether in the new Part 1 or elsewhere),
- (b) makes provision in relation to collective investment vehicles that (directly or indirectly) hold interests in land in the United Kingdom, and
- (c) makes provision connected with the matters mentioned in subsection (1) or this subsection.

14 Disposals of UK land etc: payments on account of capital gains tax

(1) Schedule 2 makes provision for the purposes of capital gains tax requiring returns, and payments on account of that tax, to be made where there is—
- (a) any direct or indirect disposal of UK land which meets the non-residence condition (whether or not a gain accrues), or
- (b) any other direct disposal of UK land on which a residential property gain accrues.

(2) Subsection (1) is to be read as if contained in Part 1 of that Schedule.

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.

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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—

"(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—

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(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,

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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.

(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—

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(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,
(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 ".

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

Corporation tax: miscellaneous

25 Intangible fixed assets: restrictions on goodwill and certain other assets

Schedule 9 contains provision about the debits to be brought into account for corporation tax purposes in respect of goodwill and certain other assets.

26 Intangible fixed assets: exceptions to degrouping charges etc

(1) Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.

(2) In section 780 (deemed realisation etc on company leaving group) in subsection (5) (exceptions) after paragraph (a) insert—

"(aa) section 782A (company leaving group because of relevant share disposal),".

(3) After section 782 insert—

"**782A Company leaving group because of relevant share disposal**

(1) Section 780 does not apply if a company ceases to be a member of a group because of a relevant disposal of shares by another company.

(2) A disposal of shares by a company is "relevant" if—

(a) the company would not be chargeable to corporation tax in respect of any gain accruing on the disposal by reason of the exemption conferred by paragraph 1 of Schedule 7AC to TCGA 1992 (assuming the company was within the charge to corporation tax), and

(b) the disposal is not part of an arrangement under which the recipient of the shares is to dispose of any of them to another person.

(3) For the purposes of subsection (2)(a) ignore paragraph 6 of Schedule 7AC to TCGA 1992 (cases in which exemptions do not apply)."

(4) In section 785 (principal company becoming member of another group)—

(a) in subsection (2)(b) for the words from "both" to "effective 51%" substitute " a relevant ", and

(b) after subsection (2) insert—

"(2A) For the purposes of subsection (2)(b) the transferee is a "relevant subsidiary" of a member of the second group ("A") if, but for sections

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767 to 770, the transferee would be a member of another group of which A would be the principal company.

(2B) Subsection (2) does not apply if the transferee ceases to meet the qualifying condition by reason of a relevant disposal of shares by another company (within the meaning given by section 782A(2)).”

(5) The amendments made by this section have effect in relation to a company that ceases to be a member of a group or ceases to meet the condition in section 785(2)(b) of CTA 2009 (as amended by subsection (4)) on or after 7 November 2018.

(6) In its application in relation to a company that ceases to be a member of a group or ceases to meet the condition in section 785(2)(b) of CTA 2009 before 21 December 2018, section 782A of CTA 2009 has effect as if subsection (3) of that section was omitted.

27 Corporation tax relief for carried-forward losses

Schedule 10 makes provision about corporation tax relief for losses and other amounts that are carried forward.

28 Corporate interest restriction

Schedule 11 contains provision amending Part 10 of TIOPA 2010 (corporate interest restriction).

29 Debtor relationships of company where money lent to connected companies

Schedule 12 makes provision for preventing a mismatch for corporation tax purposes in a case where—

(a) a company has a debtor relationship which is dealt with in its accounts on the basis of fair value accounting, and

(b) the money it receives under that relationship is wholly or mainly used to lend money to companies that are connected with it (and, accordingly, those creditor relationships are required to be dealt with for corporation tax purposes on an amortised cost basis of accounting).

Capital allowances

30 Construction expenditure on buildings and structures

(1) The Treasury may by regulations amend CAA 2001 so as to provide for allowances under that Act to be available where—

(a) expenditure has been incurred, on or after 29 October 2018, on the construction of a building,

(b) the building is in qualifying use, and

(c) the expenditure incurred on the construction of the building, or other expenditure, is qualifying expenditure.

(2) Regulations under this section (“the regulations”) must—

(a) specify what is qualifying use;

(b) specify what is qualifying expenditure;

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(c) provide for a writing-down allowance to be available at an annual rate of 2% of the qualifying expenditure;
(d) specify the persons to whom allowances may be made;
(e) make provision about how effect is to be given to allowances.

(3) The regulations must secure that—
(a) allowances are not available for expenditure on the acquisition of land or rights in or over land;
(b) qualifying use is restricted to use for prescribed business purposes.

(4) The regulations may provide for allowances not to be available or to be restricted—
(a) in the case of a building that is wholly or partly used as a dwelling-house or for purposes that are ancillary to the purposes of a dwelling-house;
(b) in respect of a building that is used wholly or partly for holiday or overnight accommodation of a prescribed kind;
(c) in respect of a building that is only partly in qualifying use or in respect of periods when a building is not in qualifying use;
(d) in prescribed cases or circumstances.

(5) The regulations may provide that if a person incurs expenditure for the purposes of a qualifying activity before (but not more than 7 years before) the date on which the person starts to carry on that activity, the expenditure is to be treated as if it were incurred by the person on that date.

(6) The regulations may provide that if—
(a) allowances have been available to a person (A) in respect of expenditure on the construction of a building, and
(b) A sells A's interest in the building to another person (B),

allowances are available to B in respect of the residue of the qualifying expenditure.

(7) The regulations may make provision about leases, including provision for the grant of a lease to be treated in prescribed circumstances in the same way as the sale of the grantor's interest.

(8) The regulations may make—
(a) provision under which expenditure is apportioned;
(b) provision for balancing adjustments (and about how effect is to be given to them);
(c) provision for qualifying expenditure to be written off;
(d) special provision about highway undertakings;
(e) provision about additional VAT liability and additional VAT rebate (within the meaning given by section 547 of CAA 2001);
(f) anti-avoidance provision;
(g) supplementary or incidental provision;
(h) consequential provision (including provision amending enactments other than CAA 2001).

(9) The regulations may make transitional provision, including provision under which expenditure incurred on or after 29 October 2018 is treated as incurred before that date—
(a) where the expenditure is associated or connected with expenditure incurred before that date,

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(b) where the expenditure relates to a contract entered into before that date, or
(c) in other prescribed cases.

(10) Subsections (2) to (9) are not to be read as limiting subsection (1).

(11) A statutory instrument containing the regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

(12) A reference in this section to expenditure on the construction of a building includes a reference to capital expenditure—
(a) on repairs to the building, or
(b) on the renovation or conversion of the building.

(13) In this section—
"building" includes structure;
"dwelling-house" has the meaning given by the regulations;
"prescribed" means prescribed by the regulations.

31 Special rate expenditure on plant and machinery

(1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.

(2) In section 104D(1) (writing-down allowances in respect of special rate expenditure) for "8%" substitute " 6% ".

(3) Accordingly, in—
(a) section 56(2)(a),
(b) the heading of section 104D, and
(c) section 104E(1)(a),
for "8%" substitute " 6% ".

(4) The amendments made by subsections (2) and (3) have effect in relation to chargeable periods beginning on or after the relevant day.

(5) In relation to a chargeable period that begins before and ends on or after the relevant day, section 104D(1) of CAA 2001 has effect as if the reference to 8% was a reference to X%.

(6) For the purposes of subsection (5), X is—

$$\left(8 \times \frac{\text{BRD}}{\text{CP}}\right) + \left(6 \times \frac{\text{ARD}}{\text{CP}}\right)$$

where—

BRD is the number of days in the chargeable period before the relevant day,

ARD is the number of days in the chargeable period on or after the relevant day, and

CP is the number of days in the chargeable period.

(7) Where X would be a figure with more than 2 decimal places it is to be rounded up to the nearest second decimal place.

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(8) In this section "the relevant day" is—
- (a) for corporation tax purposes, 1 April 2019, and
- (b) for income tax purposes, 6 April 2019.

32 Temporary increase in annual investment allowance

(1) In relation to expenditure incurred during the period of two years beginning with 1 January 2019, section 51A of CAA 2001 (entitlement to annual investment allowance) has effect as if in subsection (5) the amount specified as the maximum allowance were £1,000,000.

(2) Schedule 13 contains provision about chargeable periods which straddle 1 January 2019 or 1 January 2021.

33 First-year allowances and first-year tax credits

(1) In Part 2 of CAA 2001 (plant and machinery allowances), the following provisions are repealed—
- (a) sections 45A to 45C (energy-saving plant or machinery),
- (b) sections 45H to 45J (environmentally beneficial plant or machinery), and
- (c) section 262A and Schedule A1 (first-year tax credits).

(2) In consequence of subsection (1)—
- (a) in TMA 1970, in the second column of the Table in section 98, in the entry relating to requirements imposed by provisions of CAA 2001, omit "45B(5) and (6)," and ", 45I(5) and (6)",
- (b) in CAA 2001—
  - (i) in section 2(3), for "262A" substitute " 262 ",
  - (ii) in section 3—
    - (a) in subsection (1), omit ", and no first-year tax credit is to be paid under Schedule A1,", and
    - (b) omit subsection (2B),
  - (iii) in the list in section 39, omit—
    - (a) the entry relating to section 45A, and
    - (b) the entry relating to section 45H,
  - (iv) in section 46—
    - (a) in the list in subsection (1), omit the entry relating to section 45A and the entry relating to section 45H, and
    - (b) omit subsections (5) and (6), and
  - (v) in the table in section 52(3), omit—
    - (a) the entry relating to expenditure qualifying under section 45A, and
    - (b) the entry relating to expenditure qualifying under section 45H, and
- (c) the following provisions are repealed—
  - (i) in FA 2001, section 65 and Schedule 17,
  - (ii) in FA 2003, paragraphs 2(c), 3, 4(1)(c) and (2) and 5 to 7 of Schedule 30,

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(iii) in FA 2006, paragraph 11 of Schedule 9,
(iv) in FA 2008, section 79 and Schedule 25,
(v) in CTA 2009, paragraph 521 of Schedule 1,
(vi) in CTA 2010, paragraph 364 of Schedule 1,
(vii) in FA 2011, paragraph 12(16) of Schedule 14,
(viii) in the Welfare Reform Act 2012—
(a) paragraph 14 of Schedule 3, and
(b) in the table in Part 1 of Schedule 4, the entry relating to CAA 2001,
(ix) in FA 2012—
(a) section 45(2) and (3), and
(b) paragraph 106 of Schedule 16,
(x) in FA 2013—
(a) section 67,
(b) section 68(2), and
(c) paragraph 6 of Schedule 18,
(xi) in FA 2014, paragraph 7 of Schedule 4,
(xii) in FA 2016, paragraph 7 of Schedule 8,
(xiii) in F(No.2)A 2017—
(a) paragraph 126 of Schedule 4, and
(b) paragraph 7 of Schedule 6, and
(xiv) in FA 2018, section 29.

(3) The following orders were made under powers contained in provisions repealed by subsection (1) and are therefore revoked—
(a) the Capital Allowances (Environmentally Beneficial Plant and Machinery) Order 2003 (S.I. 2003/2076), and
(b) any instrument amending that order.

(4) The Capital Allowances (Energy-saving Plant and Machinery) Order 2018 (S.I. 2018/268) is revoked.

(5) The amendments made by this section have effect in relation to expenditure incurred on or after—
(a) for corporation tax purposes, 1 April 2020, and
(b) for income tax purposes, 6 April 2020.

34 First-year allowance: expenditure on electric vehicle charge points

In section 45EA of CAA 2001 (expenditure on plant or machinery for electric vehicle charging point), in subsection (3) (the relevant period) for “2019”, in both places it occurs, substitute “ 2023 ”.

35 Qualifying expenditure: buildings, structures and land

(1) Chapter 3 of Part 2 of CAA 2001 (qualifying expenditure) is amended as follows.

(2) In each of sections 21 and 22 (buildings, structures, assets and works), at the end of subsection (4) insert “ (but any reference in list C in subsection (4) of that section to

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"plant" does not include anything where expenditure on its provision is excluded by this section) ".

(3) The amendments made by this section—
  (a) are treated as always having had effect, but
  (b) do not have effect in relation to claims for capital allowances made before 29 October 2018.

Leases

36 Changes to accounting standards etc

Schedule 14 contains provision relating to the taxation of leases.

Oil activities and petroleum revenue tax

37 Oil activities: transferable tax history

Schedule 15 makes provision for a company which sells an interest in an oil licence and a company which buys that interest to make a joint election for an amount of the seller's profits to be treated, in accordance with the provisions of the Schedule, as if it were an amount of the purchaser's profits.

38 Petroleum revenue tax: post-transfer decommissioning expenditure

(1) Schedule 3 to OTA 1975 (petroleum revenue tax: miscellaneous provisions) is amended in accordance with this section.

(2) After paragraph 11 insert—

11A "**Transfers of interests in oil fields: post-transfer decommissioning expenditure**

(1) This paragraph applies if—
  (a) there is, for the purposes of Schedule 17 to FA 1980, a transfer by a participator in an oil field of the whole or part of an interest in the field, and
  (b) on or after 1 November 2018, the OGA gives consent for the transfer.

(2) Paragraph 8(1) (certain subsidised expenditure to be disregarded) does not apply to any decommissioning expenditure that—
  (a) is incurred by the new participator, and
  (b) has been, or is to be, met directly or indirectly out of a payment made by the old participator.

(3) Sub-paragraph (4) applies if, at the end of the transfer period, the old participator is no longer a licensee or a participator in respect of any licensed area wholly or partly included in the oil field.

(4) Decommissioning expenditure that is incurred by the old participator, after the end of the transfer period, is to be treated for the purposes of this Act as

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having been incurred by the new participator (and paragraph 8(1) does not apply to any such expenditure).

(5) If the old participator has transferred the whole or part of another interest in the oil field to the new participator, but the condition in sub-paragraph (1)(b) was not met in respect of the transfer, references in sub-paragraphs (2) and (4) to decommissioning expenditure are references to such proportion of that expenditure as is just and reasonable.

(6) In this paragraph—

(a) "decommissioning expenditure" means—

(i) expenditure that is incurred, in relation to the oil field mentioned in sub-paragraph (1)(a), for a purpose within section 3(1)(i) or (j) (decommissioning or restoration), and

(ii) is allowable under that section;

(b) "the old participator", "the new participator" and "the transfer period" have the same meaning as in Schedule 17 to FA 1980 (see paragraph 1(3) of that Schedule).

(7) If there is, for the purposes of Schedule 17 to FA 1980, a subsequent transfer of the whole or part of an interest in the oil field mentioned in sub-paragraph (1)(a), references in this paragraph to "the old participator" include references to each participator whose interest, or part of it, in the oil field is the subject of a transfer to which this paragraph applies."

(3) In paragraph 8, at the end insert—

"(3) This paragraph is subject to paragraph 11A (transfers of interests in oil fields: post-transfer decommissioning expenditure)."

Miscellaneous reliefs

39 Entrepreneurs' relief

Schedule 16 contains provision amending Part 5 of TCGA 1992 (transfer of business assets, entrepreneurs' relief and investors' relief) in connection with entrepreneurs' relief.

40 Gift aid etc: restrictions on associated benefits

(1) In section 418 of ITA 2007 (gifts to charities by individuals: restrictions on associated benefits) in subsection (2) (the variable limit) for paragraphs (a) to (c) substitute—

"(a) in a case where the amount of the gift is £100 or less, 25% of that amount, and

(b) in a case where the amount of the gift exceeds £100, the sum of £25 and 5% of the amount of the excess."

(2) The amendment made by subsection (1) has effect in relation to gifts made on or after 6 April 2019.

(3) In section 197 of CTA 2010 (payments to charities by companies: restrictions on associated benefits) in subsection (2) (the variable limit) for paragraphs (a) to (c) substitute—

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"(a) in a case where the amount of the payment is £100 or less, 25% of that amount, and

(b) in a case where the amount of the payment exceeds £100, the sum of £25 and 5% of the amount of the excess."

(4) The amendment made by subsection (3) has effect in relation to payments made on or after 6 April 2019.

41 Charities: exemption for small trades etc

(1) In section 528 of ITA 2007 (exemption for small trades of charitable trust: condition that trading incoming resources etc do not exceed requisite limit) in subsection (6)(b) (the requisite limit)—

(a) for "£5,000" substitute £8,000", and

(b) for "£50,000" substitute " £80,000 ".

(2) The amendments made by subsection (1) have effect for the tax year 2019-20 and subsequent tax years.

(3) Section 482 of CTA 2010 (exemption for small trades of charitable company: condition that trading incoming resources etc do not exceed requisite limit) is amended as follows.

(4) In subsection (6)(b) (the requisite limit)—

(a) for "£5,000" substitute " £8,000 ", and

(b) for "£50,000" substitute " £80,000 ".

(5) In subsection (7)—

(a) for "£5,000" substitute £8,000", and

(b) for "£50,000" substitute " £80,000 ".

(6) The amendments made by subsections (3) to (5) have effect in relation to accounting periods beginning on or after 1 April 2019.

PART 2

OTHER TAXES

Stamp duty land tax

42 Relief for first-time buyers in cases of shared ownership

(1) Schedule 9 to FA 2003 (stamp duty land tax: shared ownership leases etc) is amended as follows.

(2) In paragraph 4 (shared ownership lease: election where staircasing allowed), after sub-paragraph (4) insert—

"(4A) See paragraph 15 for further provision in connection with relief for first-time buyers."

(3) After paragraph 14 insert—

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15 "**Relief for first-time buyers: shared ownership lease where election made**

Where—

(a) paragraph 4 applies, and

(b) relief is claimed under paragraph 1 of Schedule 6ZA in respect of the grant of the lease concerned,

no tax is chargeable in respect of so much of the chargeable consideration for the grant as consists of rent."

(4) After paragraph 15 (as inserted by subsection (3)) insert—

15A "**Relief for first-time buyers: shared ownership lease where no election made**

(1) This paragraph applies where—

(a) a shared ownership lease is granted, and

(b) no election is made for tax to be charged in accordance with paragraph 2 or 4.

(2) For the purpose of determining whether the second condition in paragraph 1 of Schedule 6ZA is met in respect of the grant, the chargeable consideration for the grant is to be treated as being the amount stated in the lease in accordance with paragraph 2(2)(e) or paragraph 4(2)(e)(i) or (ii).

(3) If relief is claimed in respect of the grant under paragraph 1 of Schedule 6ZA no tax is chargeable in respect of so much of the chargeable consideration for the grant as consists of rent.

(4) In this paragraph "shared ownership lease" has the same meaning as in paragraph 4A.

15B **Relief for first-time buyers: shared ownership trust where no election made**

(1) This paragraph applies where—

(a) a shared ownership trust is declared, and

(b) no election is made for tax to be charged in accordance with paragraph 9.

(2) For the purpose of determining whether the second condition in paragraph 1 of Schedule 6ZA is met in respect of the declaration, the chargeable consideration for the declaration is to be treated as being the sum specified in the trust in accordance with paragraph 7(4)(f).

(3) If relief is claimed in respect of the declaration under paragraph 1 of Schedule 6ZA no tax is chargeable in respect of any rent-equivalent payment treated by reason of paragraph 11(b) as rent."

(5) For the italic cross-heading before paragraph 16 substitute " No relief for first-time buyers for staircasing transactions etc ".

(6) In paragraph 16 (cases where first-time buyer's relief is not available)—

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(a) in sub-paragraph (1), omit paragraphs (a), (b) and (d) (but not "or" at the end of paragraph (d)), and

(b) in sub-paragraph (2), omit paragraphs (a) and (c) (but not "or" at the end of paragraph (c)).

(7) The amendments made by this section have effect in relation to—

(a) any land transaction of which the effective date is on or after 29 October 2018, and

(b) any land transaction of which the effective date is before 29 October 2018 and in respect of which a land transaction return has not been given by that date.

43 Repayment to first-time buyers in cases of shared ownership

(1) Until 29 October 2019, a claim for the repayment of tax may be made in respect of a land transaction within subsection (2) or (3).

(2) A transaction is within this subsection if the amount of tax chargeable in respect of the transaction would have been less had the amendment made by section 42(3) been in force from the effective date of the transaction.

(3) A transaction is within this subsection if first-time buyer's relief—

(a) could not have been claimed for the transaction, but

(b) could have been claimed had the amendments made by section 42(4), (5) and (6) been in force from the effective date of the transaction.

(4) Where a claim is made under this section, HMRC must repay—

(a) in a case where the transaction is within subsection (2), so much of the tax paid as exceeds the amount that would have been chargeable had the amendment made by section 42(3) been in force from the effective date of the transaction, and

(b) in a case where the transaction is within subsection (3), so much of the tax paid as exceeds the amount that would have been chargeable had the amendments made by section 42(4), (5) and (6) been in force from the effective date of the transaction and had a claim for first-time buyer's relief been made.

(5) A claim under this section must be made by amendment of the land transaction return.

(6) Sub-paragraphs (2A) and (3) of paragraph 6 of Schedule 10 to FA 2003 do not apply in the case of an amendment of a land transaction return made for the purpose of making a claim under this section.

(7) In this section—

(a) the expressions used have the same meaning as in Part 4 of FA 2003;

(b) "first-time buyer's relief" means relief under Schedule 6ZA to FA 2003.

44 Higher rates of tax for additional dwellings etc

(1) Schedule 4ZA to FA 2003 (stamp duty land tax: higher rates for additional dwellings and dwellings purchased by companies) is amended as follows.

(2) In paragraph 2 (meaning of "higher rates transaction" etc) after sub-paragraph (4) insert—

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"(5) References in this Schedule to a major interest in a dwelling include an undivided share in a major interest in a dwelling."

(3) The amendment made by subsection (2) has effect in relation to any land transaction of which the effective date is on or after 29 October 2018.

(4) In paragraph 8(3) (period during which land transaction return may be amended to take account of subsequent disposal of main residence) for the words from "whichever" to the end substitute "the period of 12 months beginning with—
(a) the effective date of the subsequent transaction, or
(b) if later, the filing date for the return.

(5) The amendment made by subsection (4) has effect in a case where the effective date of the subsequent transaction is on or after 29 October 2018.

45 Exemption in respect of financial institutions in resolution

(1) In FA 2003, after section 66 insert—

"**66A Resolution of financial institutions**

(1) A land transaction is exempt from charge if it is effected by—
(a) an instrument listed in subsection (2), or
(b) an instrument made under an instrument listed in subsection (2).

(2) The instruments are—
(a) a property transfer instrument made in accordance with section 12(2) of the Banking Act 2009 (transfer to a bridge bank),
(b) a property transfer instrument made in accordance with section 12ZA(3) of that Act (transfer to asset management vehicle),
(c) a supplemental property transfer instrument made in accordance with section 42(2) of that Act where the original instrument was made in accordance with section 12(2), 12ZA(3) or 41A(2) of that Act,
(d) a property transfer instrument made in accordance with section 41A(2) of that Act (transfer of property subsequent to resolution instrument),
(e) a bridge bank supplemental property transfer instrument made in accordance with section 44D(2) of that Act,
(f) a property transfer order made in accordance with section 45(2) of that Act (temporary public ownership: property transfer), or
(g) a third-country instrument made in accordance with section 89H(2) or 89I(4) of that Act.

(3) References in subsection (2) to a provision of the Banking Act 2009 include references to that provision as applied by or under any other provision of that Act (including where it is applied with modifications or in a substituted form)."

(2) The amendment made by this section has effect in relation to any land transaction the effective date of which is on or after the day on which this Act is passed.

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46 Changes to periods for delivering returns and paying tax

(1) FA 2003 is amended as follows.

(2) In section 76(1) (duty to deliver land transaction return), for "30 days" substitute " 14 days ".

(3) For section 80(2) (adjustment where contingency ceases or consideration is ascertained) substitute—

"(2) If the effect of the new information is that a transaction becomes notifiable, the purchaser must make a return to HMRC within 14 days.

(2A) If the effect of the new information is that—

(a) tax is payable in respect of a transaction where none was payable before and subsection (2) does not apply, or

(b) additional tax is payable in respect of a transaction,

the purchaser must make a further return to HMRC within 30 days.

(2B) For the purposes of subsections (2) and (2A), any tax or additional tax payable is calculated according to the effective date of the transaction.

(2C) If a purchaser is required to make a return under subsection (2) or a further return under subsection (2A)—

(a) that return must contain a self-assessment of the tax chargeable in respect of the transaction on the basis of the information contained in the return, and

(b) the tax or additional tax payable must be paid not later than the filing date for that return."

(4) In section 81 (further return where relief withdrawn)—

(a) in subsection (1B)—

(i) after paragraph (c) insert—

"(ca) in the case of relief under paragraph 5CA of that Schedule (acquisition under a regulated home reversion plan), the first day in the period mentioned in paragraph 5IA(2) of that Schedule on which the purchaser holds the higher threshold interest otherwise than for the purposes of the regulated home reversion plan, unless paragraph 5IA(3)(a) and (b) applies;", and

(ii) after paragraph (d) insert—

"(da) in the case of relief under paragraph 5EA of that Schedule (acquisition by management company of flat for occupation by caretaker), the first day in the period mentioned in paragraph 5JA(2) of that Schedule on which the purchaser holds the higher threshold interest otherwise than for the purpose of making the flat available for use as caretaker accommodation;", and

(b) in subsection (2A), after "subsection (1)" insert " or (1A) ".

(5) For section 81A(1) (return or further return in consequence of later linked transaction) substitute—

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"(1) Where the effect of a transaction ("the later transaction") that is linked to an earlier transaction is that the earlier transaction becomes notifiable, the purchaser under the earlier transaction must deliver a return in respect of that transaction before the end of the period of 14 days after the effective date of the later transaction.

(1A) Where the effect of a transaction ("the later transaction") that is linked to an earlier transaction is that—

(a) tax is payable in respect of the earlier transaction where none was payable before and subsection (1) does not apply, or

(b) additional tax is payable in respect of the earlier transaction,

the purchaser under the earlier transaction must deliver a further return in respect of that transaction before the end of the period of 30 days after the effective date of the later transaction.

(1B) For the purposes of subsections (1) and (1A), any tax or additional tax payable is calculated according to the effective date of the earlier transaction.

(1C) Where a purchaser is required to deliver a return under subsection (1) or a further return under subsection (1A)—

(a) that return must include a self-assessment of the amount of tax chargeable as a result of the later transaction, and

(b) the tax or additional tax payable must be paid not later than the filing date for that return."

(6) In section 86(2) (payment of tax), before paragraph (a) insert—

"(za) any of paragraphs 5G to 5K of Schedule 4A (higher rate for certain transactions),".

(7) In section 87 (interest on unpaid tax)—

(a) after subsection (1) insert—

"(1A) But where the relevant date is determined by subsection (3)(aa), (aaa), (ab) or (c), and a return is required to be delivered before the end of the period of 14 days after that relevant date, interest is instead payable on the amount of any unpaid tax from the end of that period until the tax is paid.",

(b) in subsection (2), after "subsection (1)" insert " or (1A) ", and

(c) in subsection (3), before paragraph (a) insert—

"(za) in the case of an amount payable because relief is withdrawn under any of paragraphs 5G to 5K of Schedule 4A (higher rate for certain transactions), the date which is the relevant date for the purposes of section 81(1A);".

(8) In Schedule 17A (further provisions relating to leases)—

(a) for paragraph 3(3) substitute—

"(3) Where the effect of sub-paragraph (2) in relation to the continuation of the lease for a period (or further period) of one year after the end of a fixed term is that a transaction becomes notifiable, the purchaser must deliver a return in respect of that transaction before the end of the period of 14 days after the end of that one year period.

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(3ZA) Where the effect of sub-paragraph (2) in relation to the continuation of the lease for a period (or further period) of one year after the end of a fixed term is that—

(a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or

(b) additional tax is payable in respect of a transaction,

the purchaser must deliver a further return in respect of that transaction before the end of the period of 30 days after the end of that one year period.

(3ZB) For the purposes of sub-paragraphs (3) and (3ZA), any tax or additional tax payable is calculated according to the effective date of the transaction.

(3ZC) Where a purchaser is required to deliver a return under sub-paragraph (3) or a further return under sub-paragraph (3ZA)—

(a) that return must include a self-assessment of the amount of tax chargeable in respect of the transaction on the basis of the information contained in the return, and

(b) the tax or additional tax payable must be paid not later than the filing date for that return.”,

(b) for paragraph 4(3) substitute—

“(3) Where the effect of sub-paragraph (1) in relation to the continuation of the lease after the end of a deemed fixed term is that a transaction becomes notifiable, the purchaser must deliver a return in respect of that transaction before the end of the period of 14 days after the end of that term.

(3A) Where the effect of sub-paragraph (1) in relation to the continuation of the lease after the end of a deemed fixed term is that—

(a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or

(b) additional tax is payable in respect of a transaction,

the purchaser must deliver a further return in respect of that transaction before the end of the period of 30 days after the end of that term.

(3B) For the purposes of sub-paragraphs (3) and (3A), any tax or additional tax payable is calculated according to the effective date of the transaction.

(3C) Where a purchaser is required to deliver a return under sub-paragraph (3) or a further return under sub-paragraph (3A)—

(a) that return must include a self-assessment of the amount of tax chargeable in respect of the transaction on the basis of the information contained in the return, and

(b) the tax or additional tax payable must be paid not later than the filing date for that return.”, and

(c) for paragraph 8(3) substitute—

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"(3) If the result as regards the rent paid or payable in respect of the first five years of the term of the lease is that a transaction becomes notifiable, the purchaser must make a return to HMRC within 14 days of the date referred to in sub-paragraph (1)(a) or (b).

(3A) If the result as regards the rent paid or payable in respect of the first five years of the term of the lease is that—

(a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or

(b) additional tax is payable in respect of a transaction,

the purchaser must make a further return to HMRC within 30 days of the date referred to in sub-paragraph (1)(a) or (b).

(3B) If a purchaser is required to make a return under sub-paragraph (3) or a further return under sub-paragraph (3A)—

(a) that return must contain a self-assessment of the tax chargeable in respect of the transaction on the basis of the information contained in the return,

(b) the tax so chargeable is to be calculated by reference to the rates in force at the effective date of the transaction, and

(c) the tax or additional tax payable must be paid not later than the filing date for that return."

(9) In Schedule 61 to FA 2009 (alternative finance investment bonds)—

(a) in paragraph 7(5) (interest due on first transaction where relief is withdrawn) for "30 days" substitute " 14 days ", and

(b) in paragraph 20(3)(a) (no relief where bond-holder acquires control of underlying asset) for "30 days" substitute " 14 days ".

(10) The amendments made by this section are to be treated as having effect in relation to—

(a) any land transaction with an effective date on or after 1 March 2019, and

(b) any land transaction with an effective date before 1 March 2019 which becomes notifiable on or after 1 March 2019.

Stamp duty and SDRT

47 Stamp duty: transfers of listed securities and connected persons

(1) This section applies if—

(a) an instrument transfers listed securities to a company or a company's nominee (whether or not for consideration), and

(b) the person transferring the securities is connected with the company or is the nominee of a person connected with the company.

(2) "Listed securities" are stock or marketable securities which are regularly traded on—

(a) a regulated market,

(b) a multilateral trading facility, or

(c) a recognised foreign exchange,

and expressions used in paragraphs (a) to (c) have the same meaning as in section 80B of FA 1986 (intermediaries: supplementary).

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(3) For the purposes of the enactments relating to stamp duty—

(a) in a case where listed securities are transferred for consideration which consists of money or any stock or security, or to which section 57 of the Stamp Act 1891 applies, the amount or value of the consideration is to be treated as being equal to—

(i) the amount or value of the consideration for the transfer, or

(ii) if higher, the value of the listed securities;

(b) in any other case, the transfer of listed securities effected by the instrument is to be treated as being for an amount of consideration in money equal to the value of the listed securities.

(4) For the purposes of subsection (3)—

(a) "the enactments relating to stamp duty" means the Stamp Act 1891 and any enactment amending that Act or that is to be construed as one with that Act, and

(b) the value of listed securities is to be taken to be the price which they might reasonably be expected to fetch on a sale in the open market at the date the instrument is executed.

(5) Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this section.

(6) The Treasury may by regulations made by statutory instrument provide for this section not to apply in relation to particular cases.

(7) Regulations under subsection (6) may have effect in relation to instruments executed before the regulations come into force.

(8) A statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of the House of Commons.

(9) This section is to be construed as one with the Stamp Act 1891.

(10) This section has effect in relation to instruments executed on or after 29 October 2018.

48 SDRT: listed securities and connected persons

(1) This section applies if a person is connected with a company and—

(a) the person or the person's nominee agrees to transfer listed securities to the company or the company's nominee (whether or not for consideration), or

(b) the person or the person's nominee transfers such securities to the company or the company's nominee for consideration in money or money's worth.

(2) "Listed securities" are chargeable securities which are regularly traded on—

(a) a regulated market,

(b) a multilateral trading facility, or

(c) a recognised foreign exchange,

and expressions used in paragraphs (a) to (c) have the same meaning as in section 88B of FA 1986 (intermediaries: supplementary).

(3) For the purposes of stamp duty reserve tax chargeable under section 87 of FA 1986 (the principal charge)—

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(a) in a case where the agreement is one to transfer listed securities for consideration in money or money's worth, the amount or value of the consideration is to be treated as being equal to—
  (i) the amount or value of the consideration for the transfer, or
  (ii) if higher, the value of the listed securities at the time the agreement is made;
(b) in any other case, the agrement to transfer listed securities is to be treated as being one for an amount of consideration in money equal to the value of the listed securities at the time the agreement is made.

(4) Subsection (5) has effect for the purposes of stamp duty reserve tax chargeable under section 93 (depositary receipts) or 96 (clearance services) of FA 1986.

(5) If the amount or value of the consideration for any transfer of listed securities is less than the value of those securities at the time they are transferred, the transfer is to be treated as being for an amount of consideration in money equal to that value.

(6) For the purposes of this section, the value of listed securities at any time is the price which they might reasonably be expected to fetch on a sale in the open market at that time.

(7) Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this section.

(8) The Treasury may by regulations made by statutory instrument provide for this section not to apply in relation to particular cases.

(9) Regulations under subsection (8) may have effect in relation to transactions entered into before the regulations come into force.

(10) A statutory instrument containing regulations under subsection (8) is subject to annulment in pursuance of a resolution of the House of Commons.

(11) This section is to be construed as one with Part 4 of FA 1986.

(12) This section has effect—
(a) in relation to the charge to tax under section 87 of FA 1986 where—
  (i) the agreement to transfer securities is conditional and the condition is satisfied on or after 29 October 2018, or
  (ii) in any other case, the agreement is made on or after that date;
(b) in relation to the charge to tax under section 93 or 96 of that Act, where the transfer is on or after 29 October 2018 (whenever the arrangement was made).

49 Stamp duty: exemption in respect of financial institutions in resolution

(1) In FA 1986, after section 85 insert—

"Resolution of financial institutions

85A Resolution of financial institutions

(1) Stamp duty is not chargeable on the transfer of stock or marketable securities by—

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(a) an instrument listed in subsection (2), or

(b) an instrument made under an instrument listed in subsection (2).

(2) The instruments are—

(a) a mandatory reduction instrument made in accordance with section 6B of the Banking Act 2009 (mandatory write-down, conversion etc of capital instruments),

(b) a share transfer instrument or property transfer instrument made in accordance with section 12(2) of that Act (transfer to a bridge bank),

(c) a property transfer instrument made in accordance with section 12ZA(3) of that Act (transfer to asset management vehicle),

(d) a resolution instrument made in accordance with section 12A of that Act (bail-in),

(e) a share transfer order or share transfer instrument made in accordance with section 13(2) of that Act (share transfer),

(f) a supplemental share transfer instrument made in accordance with section 26 of that Act, where the original instrument was made in accordance with section 12(2) or 13(2) of that Act,

(g) a supplemental share transfer order made in accordance with section 27 of that Act,

(h) a property transfer instrument made in accordance with section 41A(2) of that Act (transfer of property subsequent to resolution instrument),

(i) a supplemental property transfer instrument made in accordance with section 42(2) of that Act where the original instrument was made in accordance with section 12(2), 12ZA(3) or 41A(2) of that Act,

(j) a bridge bank supplemental property transfer instrument made in accordance with section 44D(2) of that Act,

(k) a property transfer order made in accordance with section 45(2) of that Act,

(l) a supplemental resolution instrument made in accordance with section 48U(2) of that Act,

(m) an onward transfer resolution instrument made in accordance with section 48V of that Act in the circumstances set out in subsection (3),

(n) an order under section 85 of that Act (temporary public ownership: building societies), or

(o) a third-country instrument made in accordance with section 89H(2) or 89I(4) of that Act.

(3) The circumstances referred to in subsection (2)(m) are that the transfer—

(a) is to a person within section 67(6), (7) or (8) or section 70(6), (7) or (8) of this Act (depositary receipt issuers, clearance services), and

(b) is made by way of compensation to a creditor of the financial institution in respect of which the original instrument (within the meaning of section 48V of the Banking Act 2009) was made.

(4) References in this section to a provision of the Banking Act 2009 include references to that provision as applied by or under any other provision of that Act (including where it is applied with modifications or in a substituted form).”

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(2) The amendment made by this section has effect in relation to instruments—
  (a) within section 85A(2) of FA 1986, or
  (b) made under an instrument within section 85A(2) of FA 1986,

which are executed on or after the day on which this Act is passed.

50 Stamp duty and SDRT: exemptions in respect of share incentive plans

(1) In section 95 of FA 2001 (exemptions in relation to approved share incentive plans)—
  (a) in subsections (1) and (2), and in the heading, omit "approved", and
  (b) in subsection (3), for "an approved share incentive plan" substitute " a Schedule 2 SIP ".

(2) The amendments made by subsection (1) are to be treated as having effect from 6 April 2014.

Value added tax

51 Duty of customers to account for tax on supplies

In section 55A of VATA 1994 (customers to account for tax on certain supplies of goods or services), after subsection (9) insert—

"(9A) An order made under subsection (9) may modify the application of subsection (3) in relation to any description of goods or services specified in the order."

52 Treatment of vouchers

Schedule 17 makes provision about the VAT treatment of vouchers.

53 Groups: eligibility

(1) Schedule 18 contains provision about the eligibility of individuals and partnerships to be treated as members of a group for the purposes of value added tax.

(2) That Schedule comes into force on such day as the Treasury may by regulations made by statutory instrument appoint.

Alcohol

54 Rates of duty on cider, wine and made-wine

(1) ALDA 1979 is amended as follows.

(2) In section 62(1A) (rates of duty on cider) in paragraph (a) (rate of duty on sparkling cider of a strength exceeding 5.5%), for "£279.46" substitute " £288.10 ".

(3) For Part 1 of the table in Schedule 1 substitute—

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"WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22%

Description of wine or made-wine	***Rates of duty per hectolitre £***
Wine or made-wine of a strength not exceeding 4%	91.68
Wine or made-wine of a strength exceeding 4% but not exceeding 5.5%	126.08
Wine or made-wine of a strength exceeding 5.5% but not exceeding 15% and not being sparkling	297.57
Sparkling wine or sparkling made-wine of a strength exceeding 5.5% but less than 8.5%	288.10
Sparkling wine or sparkling made-wine of a strength of at least 8.5% but not exceeding 15%	381.15
Wine or made-wine of a strength exceeding 15% but not exceeding 22%	396.72"

(4) The amendments made by this section are treated as having come into force on 1 February 2019.

55 Excise duty on mid-strength cider

(1) ALDA 1979 is amended as follows.

(2) In section 62(1A) (rates of excise duty on cider)—
- (a) omit the "and" at the end of paragraph (b), and
- (b) after paragraph (b) insert—

"(ba) £50.71 per hectolitre in the case of cider of a strength of not less than 6.9 per cent but not exceeding 7.5 per cent which is not sparkling cider; and".

(3) In section 62B (cider labelled as strong cider)—
- (a) in the heading, after "strong cider" insert " or mid-strength cider ",
- (b) in subsection (1)—
  - (i) in the opening words, after "standard cider" insert " or mid-strength cider ",
  - (ii) for paragraph (a) substitute—

    "(a) is in a container which is up-labelled as a container of strong cider, or",
  - (iii) in paragraph (b), for "an up-labelled container" substitute " a container which is up-labelled as a container of strong cider, ", and
  - (iv) in the words after paragraph (b), after "standard cider" insert " or mid-strength cider ",
- (c) after subsection (1), insert—

"(1A) For the purposes of this Act, any liquor which would apart from this section be standard cider and which—

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(a) is in a container which is up-labelled as a container of mid-strength cider, or

(b) has, at any time after 31 January 2019 when it was in the United Kingdom, been in a container which is up-labelled as a container of mid-strength cider,

shall be deemed to be mid-strength cider, and not standard cider.",

(d) for subsection (2) substitute—

"(2) Accordingly, references in this Act to making cider include references to—

(a) putting standard or mid-strength cider in a container which is up-labelled as a container of strong cider;

(b) causing a container in which there is standard or mid-strength cider to be up-labelled as a container of strong cider;

(c) putting standard cider in a container which is up-labelled as a container of mid-strength cider; or

(d) causing a container in which there is standard cider to be up-labelled as a container of mid-strength cider.",

(e) in subsection (4)—

(i) in paragraph (a), for "not exceeding 7.5 per cent" substitute " of less than 6.9 per cent ",

(ii) omit the "and" at the end of that paragraph, and

(iii) after paragraph (a), insert—

"(aa) "mid-strength cider" means cider which is not sparkling and is of a strength of not less than 6.9 per cent but not exceeding 7.5 per cent; and",

(f) in subsection (5), in the opening words, after "up-labelled" insert " as a container of strong cider ", and

(g) after subsection (6), insert—

"(7) For the purposes of this section a container is up-labelled as a container of mid-strength cider if there is anything on—

(a) the container itself,

(b) a label or leaflet attached to or used with the container, or

(c) any packaging used for or in association with the container,

which states or tends to suggest that the strength of any liquor in that container falls within the mid-strength cider strength range.

(8) For the purposes of subsection (7), a strength falls within the mid-strength cider strength range if it is not less than 6.9 per cent but does not exceed 7.5 per cent.

(9) Where liquor is no longer in a container which is an up-labelled container, and it falls within subsection (1)(b) and within subsection (1A)(b), then it is deemed to be cider of the strength range stated or suggested by the labelling for the up-labelled container in which it was first contained.

(10) For the purposes of subsection (9)—

(a) an "up-labelled container" means—

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(i) a container which is up-labelled as a container of strong cider as mentioned in subsection (1)(b), or

(ii) a container which is up-labelled as a container of mid-strength cider as mentioned in subsection (1A)(b), and

(b) references to the labelling for any container are references to anything on—

(i) the container itself,

(ii) a label or leaflet attached to or used with the container, or

(iii) any packaging used for or in association with the container."

(4) The amendments made by this section are to be treated as having come into force on 1 February 2019.

Tobacco

56 Rates

(1) TPDA 1979 is amended as follows.

(2) For the table in Schedule 1 substitute—

"TABLE

1 Cigarettes	An amount equal to the higher of— (a) 16.5% of the retail price plus £228.29 per thousand cigarettes, or (b) £293.95 per thousand cigarettes.
2 Cigars	£284.76 per kilogram
3 Hand-rolling tobacco	£234.65 per kilogram
4 Other smoking tobacco and chewing tobacco	£125.20 per kilogram"

(3) The amendment made by this section is treated as having come into force at 6pm on 29 October 2018.

57 Tobacco for heating

(1) TPDA 1979 is amended as follows.

(2) In section 1 (tobacco products), in subsection (1)—

(a) in paragraph (d), omit the final "and";

(b) after paragraph (e) insert "and

(f) tobacco for heating,".

(3) In that section, in subsection (3), for "and chewing tobacco" substitute " , chewing tobacco and tobacco for heating ".

(4) In the table in Schedule 1 (as substituted by section 56), at the end insert—

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"5. Tobacco for heating	£234.65 per kilogram".

(5) The Commissioners for Her Majesty's Revenue and Customs may by regulations made by statutory instrument make consequential, supplementary, incidental or transitional provision in relation to the provision made by subsections (2) to (4) (including provision amending any enactment).

(6) A statutory instrument containing regulations under subsection (5) is subject to annulment in pursuance of a resolution of the House of Commons.

(7) The amendments made by subsections (2) and (4) come into force on such day as the Treasury may by regulations made by statutory instrument appoint.

Vehicle duties

58 VED: rates for light passenger vehicles, light goods vehicles, motorcycles etc

(1) Schedule 1 to VERA 1994 (annual rates of vehicle excise duty) is amended as follows.

(2) In paragraph 1 (general rate)—
  (a) in sub-paragraph (2) (vehicle not covered elsewhere in Schedule with engine cylinder capacity exceeding 1,549cc), for "£255" substitute " £265 ", and
  (b) in sub-paragraph (2A) (vehicle not covered elsewhere in Schedule with engine cylinder capacity not exceeding 1,549cc), for "£155" substitute " £160 ".

(3) In paragraph 1B (graduated rates for light passenger vehicles registered before 1 April 2017)—
  (a) for the Table substitute—

"CO_2 emissions figure		Rate	
(1)	***(2)***	***(3)***	***(4)***
Exceeding	***Not exceeding***	***Reduced rate***	***Standard rate***
g/km	***g/km***	***£***	***£***
100	110	10	20
110	120	20	30
120	130	115	125
130	140	135	145
140	150	150	160
150	165	190	200
165	175	225	235
175	185	250	260
185	200	290	300
200	225	315	325
225	255	545	555

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255		560	570”;

(b) in the sentence immediately following the Table, for paragraphs (a) and (b) substitute—

“(a) in column (3), in the last two rows, “315” were substituted for “545” and “ 560 ”, and

(b) in column (4), in the last two rows, “325” were substituted for “555” and “ 570 ”.”

(4) In paragraph 1GC (graduated rates for first licence for light passenger vehicles registered on or after 1 April 2017)—

(a) for Table 1 (vehicles other than higher rate diesel vehicles) substitute—

“CO_2 emissions figure		*Rate*	
(1)	***(2)***	***(3)***	***(4)***
Exceeding	***Not exceeding***	***Reduced rate***	***Standard rate***
g/km	***g/km***	***£***	***£***
0	50	0	10
50	75	15	25
75	90	100	110
90	100	120	130
100	110	140	150
110	130	160	170
130	150	200	210
150	170	520	530
170	190	845	855
190	225	1270	1280
225	255	1805	1815
255		2125	2135”, and

(b) for Table 2 (higher rate diesel vehicles) substitute—

“CO_2 emissions figure		*Rate*
(1)	***(2)***	***(3)***
Exceeding	***Not exceeding***	***Rate***
g/km	***g/km***	***£***
0	50	25
50	75	110
75	90	130
90	100	150
100	110	170

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110	130	210
130	150	530
150	170	855
170	190	1280
190	225	1815
225	255	2135
255		2135”.

(5) In paragraph 1GD (rates for any other licence for light passenger vehicles registered on or after 1 April 2017), in sub-paragraph (1)—
  (a) in paragraph (a) (the reduced rate) for “£130” substitute “ £135 ”, and
  (b) in paragraph (b) (the standard rate) for “£140” substitute “ £145 ”.

(6) In paragraph 1GE (rates for light passenger vehicles registered on or after 1 April 2017 with a price exceeding £40,000), in sub-paragraph (4) for “£310” substitute “ £320 ”.

(7) In paragraph 1J (rates for light goods vehicles), in paragraph (a) for “£250” substitute “ £260 ”.

(8) In paragraph 2(1) (rates for motorcycles)—
  (a) in paragraph (a) for “£19” substitute “ £20 ”,
  (b) in paragraph (b) for “£42” substitute “ £43 ”,
  (c) in paragraph (c) for “£64” substitute “ £66 ”, and
  (d) in paragraph (d) for “£88” substitute “ £91 ”.

(9) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2019.

59 VED: taxis capable of zero emissions

(1) Part 1AA of Schedule 1 to VERA 1994 (annual rates of duty: light passenger vehicles first registered on or after 1 April 2017) is amended as follows.

(2) In paragraph 1GE (higher rates for vehicles with price above £40,000), after sub-paragraph (4) insert—

  “(5) Sub-paragraphs (2) and (4) do not apply to a vehicle if when it is first registered, whether that is under this Act or under the law of a country or territory outside the United Kingdom, it is a taxi capable of zero emissions (see paragraph 1GG).”

(3) After paragraph 1GF insert—

1GG “**Meaning of “taxi capable of zero emissions”**

  (1) The Secretary of State may by regulations make provision about the meaning of “taxi capable of zero emissions” in paragraph 1GE.

  (2) In the following provisions of this paragraph “regulations” means regulations under sub-paragraph (1).

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(3) Regulations may (in particular) make provision of any one or more of the following kinds—

(a) that a vehicle is a taxi capable of zero emissions if the vehicle is of a description specified in regulations;

(b) that a vehicle is at any particular time a taxi capable of zero emissions if the vehicle is of a model specified at that time in a list maintained by the Secretary of State;

(c) that a vehicle is a taxi capable of zero emissions if conditions specified in regulations are met.

(4) Where regulations make provision of the kind mentioned in sub-paragraph (3)(b)—

(a) regulations may (in particular) provide that a model of vehicle may be specified in the list only if it appears to the Secretary of State that vehicles of that model are of a description specified in regulations;

(b) regulations must provide for publication of the list;

(c) regulations may allow a model of vehicle to be included in the list with backdated effect.

(5) A description of a kind mentioned in sub-paragraph (3)(a) or (4)(a) may be framed (in particular) by reference to a scheme, or an instrument or other document, as it has effect from time to time.

(6) Regulations made before 1 April 2020 that do not increase the amount of vehicle excise duty for which any person is liable may have effect in relation to vehicle licences taken out at times before the regulations come into force (including times before the regulations are made).”

(4) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2019.

(5) The new paragraph 1GE(5) has effect, in the case of a vehicle first registered in the two years beginning with 1 April 2017, as if the reference to when the vehicle is first registered were to the start of the first period beginning on or after 1 April 2019 for which a vehicle licence for the vehicle is taken out.

60 HGV road user levy

(1) The HGV Road User Levy Act 2013 is amended in accordance with subsections (2) to (6).

(2) In section 5(5) (payment of levy for UK heavy goods vehicles) for “in Schedule 1” substitute “ or Table 1A in Schedule 1 (depending on which of those Tables applies to the vehicle) ”.

(3) In section 6(4) (payment of levy for non-UK heavy goods vehicles) for “in Schedule 1” substitute “ or Table 1A in Schedule 1 (depending on which of those Tables applies to the vehicle) ”.

(4) In section 7 (rebate of levy), after subsection (2) insert—

“(2A) A rebate entitlement also arises where—

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(a) HGV road user levy has been paid in respect of a vehicle at the rate applicable to a vehicle that does not meet Euro 6 emissions standards, and

(b) the vehicle becomes a vehicle that meets those standards."

(5) In section 19 (interpretation)—

(a) in subsection (3)—

(i) in paragraph (b), for "under section 7" substitute " as a result of an entitlement arising under section 7(2) ", and

(ii) after paragraph (b) insert—

"(c) where a person receives a rebate of levy in respect of a vehicle as a result of an entitlement arising under section 7(2A), the person is treated as not having paid levy in respect of the vehicle for the period starting with the first day of the month after the month in which the application for a rebate was made and ending with the end of the levy period.", and

(b) after subsection (3), insert—

"(4) For the purposes of subsection (3)(c), a month starts on the day of the month on which the levy period started."

(6) In Schedule 1 (rates of HGV road user levy)—

(a) for paragraph 1 substitute—

"1

(1) Table 1 applies to a heavy goods vehicle that meets Euro 6 emissions standards.

(2) Table 1A applies to a heavy goods vehicle that does not meet Euro 6 emissions standards.

(3) Tables 1 and 1A set out the rates of levy for each of the Bands given by Tables 2 to 5 and by paragraph 4.";

(b) in paragraph 5, after paragraph (b) insert—

"(c) a heavy goods vehicle meets Euro 6 emissions standards if it complies with the emission limits set out in Annex 1 of Regulation (EC) No. 595/2009 of the European Parliament and of the Council of 18th June 2009 on type approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to repair and maintenance information.";

(c) for Table 1 substitute—

"TABLE 1: VEHICLES MEETING EURO 6
EMISSIONS STANDARDS - RATES FOR EACH BAND

Band	***Daily rate***	***Weekly rate***	***Monthly rate***	***Half-yearly rate***	***Yearly rate***
A	£1.53	£3.83	£7.65	£45.90	£76.50
B	£1.89	£4.73	£9.45	£56.70	£94.50

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C	£4.32	£10.80	£21.60	£129.60	£216.00
D	£6.30	£15.75	£31.50	£189.00	£315.00
E	£9.00	£28.80	£57.60	£345.60	£576.00
F	£9.00	£36.45	£72.90	£437.40	£729.00
G	£9.00	£45.00	£90.00	£540.00	£900.00
B(T)	£2.43	£6.08	£12.15	£72.90	£121.50
C(T)	£5.58	£13.95	£27.90	£167.40	£279.00
D(T)	£8.10	£20.25	£40.50	£243.00	£405.00
E(T)	£9.00	£37.35	£74.70	£448.20	£747.00

TABLE 1A: VEHICLES NOT MEETING EURO 6 EMISSIONS STANDARDS - RATES FOR EACH BAND

Band	***Daily rate***	***Weekly rate***	***Monthly rate***	***Half-yearly rate***	***Yearly rate***
A	£2.04	£5.10	£10.20	£61.20	£102.00
B	£2.52	£6.30	£12.60	£75.60	£126.00
C	£5.76	£14.40	£28.80	£172.80	£288.00
D	£8.40	£21.00	£42.00	£252.00	£420.00
E	£10.00	£38.40	£76.80	£460.80	£768.00
F	£10.00	£48.60	£97.20	£583.20	£972.00
G	£10.00	£60.00	£120.00	£720.00	£1,200.00
B(T)	£3.24	£8.10	£16.20	£97.20	£162.00
C(T)	£7.44	£18.60	£37.20	£223.20	£372.00
D(T)	£10.00	£27.00	£54.00	£324.00	£540.00
E(T)	£10.00	£49.80	£99.60	£597.60	£996.00”

(7) The HGV Road User Levy (Rate for Prescribed Vehicles) Regulations 2018 (S.I. 2018/417) are revoked.

(8) In section 19 of VERA 1994 (rebates)—

(a) in subsection (3), after paragraph (g) insert—

“(h) a relevant application for a vehicle licence for the vehicle has been received by the Secretary of State.”,

(b) after subsection (3ZA) insert—

“(3ZB) An application for a vehicle licence is a relevant application for the purposes of subsection (3)(h) if—

(a) there is an unexpired licence for the vehicle in respect of which the application is made,

(b) when the unexpired licence was taken out, the vehicle was chargeable to HGV road user levy under section 5 of the HGV

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Road User Levy Act 2013 at a rate applicable to a vehicle that does not meet Euro 6 emissions standards, and

(c) the vehicle now meets those standards, and an application for a rebate of HGV road user levy has been made under section 7 of that Act as a result of an entitlement arising under subsection (2A) of that section.”,

(c) in subsection (7), after “rebate conditions” insert “ (other than the condition in subsection (3)(h)) ”, and

(d) after subsection (7) insert—

“(7A) Where the rebate condition in subsection (3)(h) is satisfied in relation to a licence, the licence ceases to be in force immediately before the first day of the period for which the relevant person is treated as not having paid levy in respect of the vehicle as a result of section 19(3)(c) of the HGV Road User Levy Act 2013.”

(9) The amendments and revocation made by subsections (1) to (7) are to be treated as having effect in relation to HGV road user levy that—

(a) becomes due on or after 1 February 2019, and

(b) is paid on or after that date.

(10) The amendments made by subsection (8) are to be treated as having effect in relation to licences taken out on or after 1 February 2019.

Air passenger duty

61 Rates of duty from 1 April 2020

(1) In section 30 of FA 1994 (air passenger duty: rates), in subsection (4A) (long haul rates of duty)—

(a) in paragraph (a) for “£78” substitute “ £80 ”, and

(b) in paragraph (b) for “£172” substitute “ £176 ”.

(2) Those amendments have effect in relation to the carriage of passengers beginning on or after 1 April 2020.

Gaming

62 Remote gaming duty: rate

(1) In section 155(3) of FA 2014 (rate of remote gaming duty) for “15%” substitute “ 21% ”.

(2) That amendment has effect in relation to accounting periods beginning on or after 1 April 2019.

(3) The amount of remote gaming duty charged in respect of an accounting period that begins before and ends on or after 1 April 2019 is the sum of—

(a) the amount of that duty that would have been charged in respect of the accounting period had it consisted only of those days within the period that fell before that date, and

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(b) the amount of that duty that would have been charged in respect of the accounting period had it consisted only of those days within the period that fell on or after that date and had the amendment made by subsection (1) had effect in relation to it.

63 Gaming duty

Schedule 19 contains provision about gaming duty.

Environmental taxes

64 Climate change levy: exemption for mineralogical and metallurgical processes

(1) Paragraph 12A of Schedule 6 to FA 2000 (exemption: mineralogical and metallurgical processes) is amended as follows.

(2) In sub-paragraph (1)—
(a) omit “to a person”, and
(b) omit “by the person”.

(3) In sub-paragraph (2), for the words from “has the same meaning” to the end substitute “ means a process falling within Division 23 of NACE Rev 2. ”

(4) In sub-paragraph (4), the words after paragraph (c) become sub-paragraph (4A).

(5) In that sub-paragraph, for “sub-paragraph” substitute “ paragraph ”.

65 Landfill tax rates

(1) Section 42 of FA 1996 (amount of landfill tax) is amended as follows.

(2) In subsection (1)(a) (standard rate), for “£88.95” substitute “ £91.35 ”.

(3) In subsection (2) (reduced rate for certain disposals), in the words after paragraph (b)—
(a) for “£88.95” substitute “ £91.35 ”, and
(b) for “£2.80” substitute “ £2.90 ”.

(4) The amendments made by this section have effect in relation to disposals made (or treated as made) on or after 1 April 2019.

Inheritance tax

66 Residence nil-rate band

(1) IHTA 1984 is amended as follows.

(2) In section 8FA(2)(b) and (5) (conditions for entitlement to downsizing addition), for “VT”, in each place it occurs, substitute “ the value transferred by the transfer of value under section 4 on the person's death ”.

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(3) In section 8FE(9) (calculation of downsizing addition in section 8FA cases), in Step 2, for "VT" substitute " the value transferred by the transfer of value under section 4 on the person's death ".

(4) In section 8E(1) (which, in relation to the person mentioned in section 8D(1), refers to the transfer of value under section 4), after "section 4" insert " on the person's death ".

(5) In section 8J(6) (meaning of "inherited": property disposed of before death by gift subject to a reservation), for the words after "by way of" substitute "gift—

(a) subsections (2) to (5) do not apply, and

(b) B inherits the property if the property originally comprised in the gift became comprised in B's estate on the making of the disposal."

(6) The amendments made by this section apply for the purpose of calculating the amount of the charge to inheritance tax under section 4 of IHTA 1984 on a person's death if the person dies after 29 October 2018.

Soft drinks industry levy

67 Application of penalty provisions

(1) In Schedule 10 to F(No.3)A 2010 (which prospectively amends Schedule 55 to FA 2009 (penalties for failure to make returns etc)) in paragraph 7, in the inserted paragraph 13A(1), after "7B" insert " , 13A ".

(2) The amendments to Schedule 55 to FA 2009 made by Schedule 10 to F(No.3)A 2010 (including the amendment made by subsection (1)) are taken to have come into force for the purposes of soft drinks industry levy on the day on which this section comes into force.

(3) In Schedule 11 to F(No.3)A 2010 (which prospectively amends Schedule 56 to FA 2009 (penalties for failure to make payments)) in paragraph 5(3), in the substituted text of paragraph 3(1)(a) of Schedule 56 to FA 2009, for "11" substitute " 11ZA ".

68 Isle of Man

(1) In section 1(1) of the Isle of Man Act 1979 (common duties), at the end insert—

"(f) soft drinks industry levy chargeable under the law of the United Kingdom or the Isle of Man."

(2) Part 2 of FA 2017 (soft drinks industry levy) is amended in accordance with subsections (3) and (4).

(3) After section 58 insert—

"**58A Isle of Man: import and export of chargeable soft drinks**

(1) Subsections (2) and (3) apply if—

(a) chargeable soft drinks are imported into the United Kingdom from the Isle of Man, and

(b) a charge to soft drinks industry levy (the "corresponding charge") arises in relation to the soft drinks under the law of the Isle of Man.

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(2) If the corresponding charge arises at a rate equal to, or greater than, the UK rate, the soft drinks are not to be treated as being imported into the United Kingdom for the purposes of section 33 (chargeable events: imported soft drinks).

(3) If the corresponding charge arises at a rate lower than the UK rate, the amount of soft drinks industry levy charged under this Part in relation to the soft drinks is to be reduced by an amount equal to the corresponding charge.

(4) In this section "the UK rate", in relation to chargeable soft drinks, is the rate of soft drinks industry levy that would (apart from this section) be chargeable in relation to the soft drinks under this Part.

(5) For the purposes of section 39(1)(a) (tax credits: exported soft drinks) or regulations made under that provision, chargeable soft drinks are not to be treated as being exported from the United Kingdom if the soft drinks are exported to the Isle of Man."

(4) At the end of section 33, insert—

"(10) This section is subject to section 58A (Isle of Man: import and export of chargeable soft drinks)."

(5) In section 39, after subsection (5) insert—

"(5A) This section is subject to section 58A (Isle of Man: import and export of chargeable soft drinks)."

(6) This section comes into force on 1 April 2019.

PROSPECTIVE

PART 3

CARBON EMISSIONS TAX

Introductory

69 Carbon emissions tax

(1) A tax called "carbon emissions tax" is to be charged in accordance with this Part.

(2) The Commissioners are responsible for the collection and management of carbon emissions tax.

Charge to tax

70 Charge to carbon emissions tax

(1) Carbon emissions tax is charged, in relation to a regulated installation, if the amount of reported carbon emissions for a reporting period exceeds the emissions allowance for the period.

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(2) The amount of "taxable carbon emissions" in relation to the installation for the reporting period is the amount of the excess.

(3) Carbon emissions tax is charged on taxable carbon emissions at the rate of £16 per tonne of carbon dioxide equivalent.

71 "Reported carbon emissions"

(1) The amount of "reported carbon emissions" in relation to an installation for a reporting period is the total amount of emissions from the installation, in tonnes of carbon dioxide equivalent, that is stated—
  (a) in the emissions determination (or, if there is more than one, the latest emissions determination) for the period, or
  (b) if there is no such determination, in the emissions report for the period.

(2) In subsection (1), "emissions determination" means the regulator's estimate of the total amount of emissions from the installation for the period, determined in accordance with—
  (a) article 70 of the Monitoring and Reporting Regulation, or
  (b) regulation 44 of the Emissions Regulations.

72 "Emissions report" and "reporting period"

(1) In this Part, "emissions report" means a report of emissions that is submitted to the regulator for the purpose of complying with—
  (a) the monitoring and reporting requirements or, in the case of an excluded installation, the monitoring and reporting conditions, or
  (b) a requirement of a notice of surrender or of a revocation notice.

(2) "Reporting period", in relation to a regulated installation, means—
  (a) a scheme year, or
  (b) such shorter period for which an emissions report for the installation is required by a notice of surrender or a revocation notice.

73 "Emissions allowance"

The "emissions allowance", in relation to an installation for a reporting period, is the amount of emissions, in tonnes of carbon dioxide equivalent, specified by or under, or determined in accordance with, regulations made by the Commissioners under this section.

74 Liability to pay carbon emissions tax

(1) Carbon emissions tax in relation to an installation is payable by the person who, at the end of the reporting date, holds the permit for the installation.

(2) The "reporting date", in relation to a reporting period, means the day on which the emissions report for that period is required to be submitted to the regulator under the Emissions Regulations.

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Administration etc.

75 Power to make further provision about carbon emissions tax

(1) The Commissioners may by regulations—

(a) make provision about the assessment, payment, collection and recovery of carbon emissions tax, including provision about the recovery of overpayments;

(b) require persons to keep, for purposes connected with carbon emissions tax, records of specified matters, and to preserve those records for a specified period;

(c) make provision for the review of, and a right of appeal against, specified decisions of HMRC in connection with carbon emissions tax;

(d) make provision about the enforcement of carbon emissions tax;

(e) permit or require the sharing of information between HMRC, authorities and regulators for purposes in connection with carbon emissions tax;

(f) make provision about the form, manner and content of any notice, application or other communication with HMRC in connection with carbon emissions tax (including provision about communications in electronic form);

(g) make provision in relation to cases where an individual liable for carbon emissions tax dies or becomes incapacitated, or where a person (whether or not an individual) is subject to an insolvency procedure.

(2) The Commissioners may by regulations make provision for purposes in connection with carbon emissions tax—

(a) about the submission of emissions reports to a regulator;

(b) about emissions determinations, including provision permitting or requiring a regulator to make an emissions determination in specified circumstances;

(c) specifying conditions to be included in a permit granted by a regulator;

(d) for the review of, and a right of appeal against, specified decisions of a regulator;

(e) about the performance of a function of a regulator;

(f) about the form, manner and content of any notice, application or other communication with a regulator (including provision about communications in electronic form).

(3) Regulations under this section may, in particular—

(a) make provision that is equivalent to, or applies with or without modification, any provision of an enactment relating to tax;

(b) amend the Monitoring and Reporting Regulation or the Verification Regulation.

76 Consequential provision

(1) In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions), in subsection (1), after “petroleum revenue tax” insert “ , carbon emissions tax, ”.

(2) In regulation 52 of the Emissions Regulations (penalty for carrying out a regulated activity without a permit), after paragraph (2) insert—

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"(2A) In paragraph (2), the reference to "costs" includes a reference to carbon emissions tax."

(3) Section 4(1) of the European Union (Withdrawal) Act 2018 does not apply, for the purposes of carbon emissions tax, in relation to any rights, powers, liabilities, obligations, restrictions, remedies and procedures so far as they arise under—

(a) Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty, or

(b) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity.

(4) The Commissioners may by regulations make such provision as they consider appropriate in consequence of this Part.

(5) Regulations under subsection (4) may amend, repeal or revoke any enactment (whenever passed or made).

General

77 Interpretation

(1) In this Part—

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"emissions allowance" has the meaning given by section 73;

"emissions determination" has the meaning given by section 71;

"the Emissions Regulations" means the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038);

"emissions report" has the meaning given by section 72;

"enactment" includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

"HMRC" means Her Majesty's Revenue and Customs;

"installation" has the meaning given by regulation 3 of the Emissions Regulations (and references to an installation include references to an offshore installation, as defined in those Regulations);

"the Monitoring and Reporting Regulation" means Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council (as amended from time to time);

"operator" has the meaning given by regulation 3 of the Emissions Regulations (as read with Schedule 1 to those Regulations);

"reporting period" has the meaning given by section 72 (subject to section 79(4));

"specified" means specified in regulations under this Part;

"the Verification Regulation" means Commission Regulation (EU) No 600/2012 of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (as amended from time to time).

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(2) In this Part, the following terms have the meaning given by regulation 3 of the Emissions Regulations—

"authority",
"emissions",
"excluded installation",
"monitoring and reporting conditions",
"monitoring and reporting requirements",
"notice of surrender",
"permit",
"regulator",
"revocation notice",
"scheme year", and
"tonne of carbon dioxide equivalent".

(3) An "installation" is a "regulated installation" for a reporting period if, at any time during the period, the operator holds a permit for the installation.

(4) References in this Part to the Verification Regulation or the Monitoring and Reporting Regulation include references to any EU regulation which replaces either of them and forms part of the law of the United Kingdom as a result of section 3 of the European Union (Withdrawal) Act 2018 (and accordingly the reference in section 71(2)(a) to article 70 of the Monitoring and Reporting Regulation includes a reference to the corresponding provision in any such replacement of that Regulation).

78 Regulations

(1) Regulations under section 73, 75 or 76 may—

(a) make provision conferring functions or discretions on an authority, a regulator or any other person;
(b) impose charges as a means of recovering costs incurred by a person in exercising a function conferred under the regulations;
(c) make provision by reference to matters determined or published by HMRC, the Secretary of State, an authority or a regulator (whether before or after the regulations are made);
(d) make different provision for different purposes;
(e) include incidental, consequential, supplementary, transitional or transitory provision.

(2) Regulations under this Part are to be made by statutory instrument.

(3) A statutory instrument containing regulations under section 76(4) that makes provision amending or repealing any provision of an Act of Parliament may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

(4) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.

(5) But subsection (4) does not apply to a statutory instrument containing only regulations under section 79 (commencement).

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79 Commencement and transitional provision

(1) This Part comes into force on such day as the Commissioners may by regulations appoint.

(2) Regulations under subsection (1) may—
  (a) appoint different days for different purposes;
  (b) include transitional or transitory provision.

(3) Section 72(2) (reporting period) is subject to subsection (4).

(4) For the purposes of the application of this Part in relation to the scheme year 2019, the "reporting period", in relation to a regulated installation, means—
  (a) the period beginning with 1 April 2019 and ending with 31 December 2019, or
  (b) such shorter period beginning on or after 1 April 2019 for which an emissions report is required by a notice of surrender or a revocation notice.

(5) For the purposes of the scheme year 2019, the provisions of the Emissions Regulations, the Monitoring and Reporting Regulation and the Verification Regulation apply, and anything done under those provisions has effect—
  (a) as if, for the purposes of reporting or determining emissions from an installation, references to a period corresponding to a scheme year were references to the reporting period for 2019 (and accordingly as if references to a period beginning with 1 January were references to a period beginning with 1 April 2019), and
  (b) with such other modifications as are necessary for the purposes of the charge to carbon emissions tax for a reporting period beginning in 2019.

PART 4

ADMINISTRATION AND ENFORCEMENT

Time limits for assessments etc

80 Offshore matters or transfers: income tax and capital gains tax

(1) TMA 1970 is amended as follows.

(2) After section 36 insert—

"**36A Loss of tax involving offshore matter or offshore transfer**

(1) This section applies in a case involving a loss of income tax or capital gains tax, where—
  (a) the lost tax involves an offshore matter, or
  (b) the lost tax involves an offshore transfer which makes the lost tax significantly harder to identify.

(2) An assessment on a person ("the taxpayer") may be made at any time not more than 12 years after the end of the year of assessment to which the lost tax relates.

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This is subject to section 36(1A) above and any other provision of the Taxes Acts allowing a longer period.

(3) Lost income tax or capital gains tax "involves an offshore matter" if it is charged on or by reference to—

(a) income arising from a source in a territory outside the United Kingdom,

(b) assets situated or held in a territory outside the United Kingdom,

(c) income or assets received in a territory outside the United Kingdom,

(d) activities carried on wholly or mainly in a territory outside the United Kingdom, or

(e) anything having effect as if it were income, assets or activities of a kind described above.

(4) Lost income tax or capital gains tax "involves an offshore transfer" if—

(a) it does not involve an offshore matter, and

(b) the income or the proceeds of the disposal on or by reference to which it is charged, or any part of the income or proceeds, is transferred to a territory outside the United Kingdom before the relevant date.

(5) In subsection (4)—

"relevant date" means—

(a) in a case where the taxpayer (or a person acting on the taxpayer's behalf) delivered a return under the Taxes Acts to HMRC for the year of assessment to which the lost tax relates and in which information relating to the lost tax was required to be provided, the date on which the return was delivered, and

(b) in any other case, 31 January in the year of assessment after that to which the lost tax relates;

references to income or proceeds transferred include references to assets derived from or representing the income or proceeds.

(6) Where lost tax involves an offshore transfer, the cases in which the transfer makes the lost tax significantly harder to identify include any case where, because of the transfer—

(a) HMRC was significantly less likely to become aware of the lost tax, or

(b) HMRC was likely to become aware of the lost tax only at a significantly later time.

(7) But an assessment may not be made under subsection (2) if—

(a) before the time limit that would otherwise apply for making the assessment, HMRC received relevant overseas information on the basis of which HMRC could reasonably have been expected to become aware of the lost tax, and

(b) it was reasonable to expect the assessment to be made before that time limit.

(8) In subsection (7)(a) "relevant overseas information" means information which is provided to HMRC by an authority in a territory outside the United Kingdom under—

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(a) any provision of EU law relating to any tax, or

(b) an agreement to which the United Kingdom and that territory are parties, with or without other parties.

(9) An assessment may also not be made under subsection (2) to the extent that liability to the lost tax arises as a result of an adjustment under Part 4 of TIOPA 2010 (transfer pricing adjustments).

(10) In this section "assets" has the meaning given in section 21(1) of the 1992 Act, but also includes sterling.

(11) Section 36(2) to (3A) applies for the purposes of this section (as if references to section 36(1) or (1A) were to subsection (1) of this section).""

(3) In section 37A (effect of assessment where allowances transferred), after "or (1A)" insert " or 36A ".

(4) In section 40 (personal representatives), in subsection (1), for "or 36" substitute " , 36 or 36A ".

(5) The amendments made by this section have effect—

(a) in relation to assessments on a person relating to the 2013-14 year of assessment and subsequent years of assessment, where the loss of tax is brought about carelessly by that person or by a person acting on that person's behalf, and

(b) in any other case, in relation to assessments relating to the 2015-16 year of assessment and subsequent years of assessment.

81 Offshore matters or transfers: inheritance tax

(1) IHTA 1984 is amended as follows.

(2) In section 240 (underpayments), in subsection (3), at the end insert " and to section 240B (underpayments involving offshore matter etc). "

(3) After section 240A insert—

"**240B Underpayments involving offshore matters etc**

(1) This section applies in a case within section 240(2) which involves a loss of tax in relation to a chargeable transfer, where—

(a) the lost tax involves an offshore matter, or

(b) the lost tax involves an offshore transfer which makes the lost tax significantly harder to identify.

(2) Proceedings for the recovery of the lost tax may be brought at any time not more than 12 years after the later of the dates in section 240(2)(a) and (b).

(3) Lost tax "involves an offshore matter" if it is charged on or by reference to property which is situated or held in a territory outside the United Kingdom at, or immediately after, the time of the chargeable transfer.

(4) Lost tax "involves an offshore transfer" if—

(a) it does not involve an offshore matter, and

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(b) the property is transferred to a territory outside the United Kingdom at a relevant time.

(5) In subsection (4)(b) "relevant time" means a time after the chargeable transfer but before—

(a) the date on which an account under section 216 is delivered to HMRC in relation to the chargeable transfer, or

(b) any later date on which an account under section 217 is so delivered.

(6) Where lost tax involves an offshore transfer, the cases in which the transfer makes the lost tax significantly harder to identify include any case where, because of the transfer—

(a) HMRC was significantly less likely to become aware of the lost tax, or

(b) HMRC was likely to become aware of the lost tax only at a significantly later time.

(7) But proceedings may not be brought under this section if—

(a) before the last date on which the proceedings could otherwise be brought, HMRC received relevant overseas information on the basis of which HMRC could reasonably have been expected to become aware of the lost tax, and

(b) it was reasonable to expect the proceedings to be brought before that date.

(8) In subsection (7)(a) "relevant overseas information" means information which is provided to HMRC by an authority in a territory outside the United Kingdom under—

(a) any provision of EU law relating to any tax, or

(b) an agreement to which the United Kingdom and that territory are parties, with or without other parties.

(9) This section is subject to any provision of this Act which allows for a longer period for the bringing of proceedings."

(4) The amendments made by this section have effect—

(a) in a case involving loss of tax brought about carelessly by a person liable for the tax (or a person acting on behalf of such a person), in relation to chargeable transfers taking place on or after 1 April 2013, and

(b) in any other case, in relation to chargeable transfers taking place on or after 1 April 2015.

(5) Section 240(8) of IHTA 1984 applies to the reference to "person liable for the tax" in subsection (4)(a).

Security deposits

82 Construction industry scheme and corporation tax etc

(1) In Chapter 3 of Part 3 of FA 2004 (construction industry scheme)—

(a) in the italic heading before section 69, after "returns" insert " , security ";

(b) after section 70 insert—

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"**70A Security for payments to HMRC**

(1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of amounts that a person is or may be liable to pay to the Commissioners under this Chapter.

(2) Regulations under this section must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.

(3) Regulations under this section must provide for a right of appeal against—
  (a) decisions to require security to be given;
  (b) decisions as to the amount, terms or duration of any security required.

(4) A person commits an offence if—
  (a) the person fails to comply with a requirement to give security that is imposed by regulations under this section, and
  (b) the failure continues for such period as is prescribed.

(5) A person who commits an offence under subsection (4) is liable on summary conviction—
  (a) in England and Wales, to a fine;
  (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(6) In this section—
  "prescribed" means prescribed in regulations under this section;
  "security" includes further security."

(2) In Schedule 18 to FA 1998 (company tax returns, assessments and related matters), after paragraph 88 insert—

88A (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of tax that a company is or may be liable to pay.

(2) Regulations under this paragraph must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.

(3) Regulations under this paragraph must provide for a right of appeal against—
  (a) decisions to require security to be given;
  (b) decisions as to the amount, terms or duration of any security required.

(4) A person commits an offence if—

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(a) the person fails to comply with a requirement to give security that is imposed by regulations under this paragraph, and
(b) the failure continues for such period as is prescribed.

(5) A person who commits an offence under sub-paragraph (4) is liable on summary conviction—
(a) in England and Wales, to a fine;
(b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(6) In this paragraph—
"prescribed" means prescribed in regulations under this paragraph;
"security" includes further security."

(3) In section 684(4A) of ITEPA 2003 (failure to comply with requirement under PAYE regulations to give security), for "on summary conviction to a fine not exceeding level 5 on the standard scale" substitute

"on summary conviction—
(a) in England and Wales, to a fine;
(b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale".

International agreements

83 Resolution of double taxation disputes

In Chapter 2 of Part 2 of TIOPA 2010 (double taxation relief: miscellaneous provisions) after section 128 insert—

"International dispute-resolution instruments and agreements

128A Power by regulations to give effect to international obligations etc

(1) The Treasury may make regulations for, or in connection with, giving effect to or enabling effect to be given to—
(a) Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union ("the Directive");
(b) any instrument modifying or supplementing the Directive;
(c) any international agreements or arrangements that deal with—
(i) matters dealt with by the Directive,
(ii) matters that are similar to any of those dealt with by the Directive, or
(iii) any other matters that relate to or are connected with the resolution of disputes in relation to double taxation arrangements.

(2) The provision that may be made by regulations under this section includes (in particular)—

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(a) provision as to the effect of any arrangements that the Commissioners for Her Majesty's Revenue and Customs may make with authorities of territories outside the United Kingdom;
(b) provision conferring or imposing functions, rights or obligations, or authorising the conferral or imposition of functions, rights or obligations, on a person (including a commission, tribunal or court);
(c) provision under which the Commissioners or other persons may exercise discretions;
(d) provision about procedure in relation to the resolution of disputes;
(e) provision about costs, expenses and fees;
(f) provision imposing penalties or creating criminal offences;
(g) provision about appeals;
(h) provision about the form and manner in which, or time within which, things are to be done;
(i) provision supplementing section 128B.

(3) The regulations may—
(a) make provision having effect in relation to periods before the regulations come into force;
(b) make provision by reference to an instrument or document as it has effect from time to time;
(c) make provision about things done, or to be done, in territories outside the United Kingdom;
(d) make different provision for different purposes;
(e) make consequential, incidental, supplemental, transitional, transitory or saving provision;
(f) make provision amending, repealing, revoking or disapplying, or modifying the effect of, any enactment (whenever passed or made).

(4) The regulations may not create a criminal offence punishable on indictment with imprisonment for more than two years.

(5) Regulations under this section containing anything that amends or repeals a provision of primary legislation may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the House of Commons. In this subsection "primary legislation" means—
(a) an Act,
(b) an Act of the Scottish Parliament,
(c) a Measure or Act of the National Assembly for Wales, or
(d) Northern Ireland legislation.

(6) In subsections (2) and (3) and sections 128B and 128C, a reference to a commission, tribunal, court or other person includes a reference to a commission, tribunal, court or other person in a territory outside the United Kingdom.

128B Giving effect to requirements under section 128A regulations

(1) Subsection (2) applies if anything in regulations under section 128A requires the Commissioners for Her Majesty's Revenue and Customs to give effect to an agreement, decision or opinion made or given by—

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(a) the Commissioners (or their authorised representative),
(b) the competent authority of a territory outside the United Kingdom, or
(c) any commission, tribunal, court or other person.

(2) The Commissioners are to give effect to the agreement, decision or opinion despite anything in any enactment, and any such adjustment as is appropriate in consequence may be made.

(3) An adjustment under subsection (2) may be made by way of discharge or repayment of tax, the allowance of credit against tax payable in the United Kingdom, the making of an assessment or otherwise.

128C Disclosure under international obligations etc

(1) The obligation as to secrecy imposed by any enactment does not prevent—
(a) the Commissioners for Her Majesty's Revenue and Customs,
(b) a person who is or was an authorised Revenue and Customs official,
(c) a person who is or was a member of a committee or other body established by the Commissioners for Her Majesty's Revenue and Customs (or jointly by the Commissioners and an authority of a territory outside the United Kingdom), or
(d) a person specified, or of a description specified, in regulations made by the Treasury,

from disclosing information required to be disclosed under a relevant instrument or agreement in pursuance of a request made by any person.

(2) In this section—

"relevant instrument or agreement" means an instrument, agreement or arrangement referred to, or of a kind referred to, in section 128A(1);

"Revenue and Customs official" means—
(a) a Commissioner for Her Majesty's Revenue and Customs;
(b) an officer of Revenue and Customs;
(c) a person acting on behalf of the Commissioners for Her Majesty's Revenue and Customs;
(d) a person acting on behalf of an officer of Revenue and Customs."

84 International tax enforcement: disclosable arrangements

(1) The Treasury may, for the purpose of securing compliance with an obligation of the government of the United Kingdom under an international tax provision, make regulations requiring persons who participate in arrangements of a description specified in the regulations to disclose information about those arrangements.

(2) Regulations under this section may—
(a) require information to be disclosed in such form and manner, and at such intervals, as may be specified in the regulations;
(b) require persons to disclose information about arrangements that they participated in before (as well as after) the coming into force of this section;
(c) provide for the imposition of penalties in respect of a contravention of, or non-compliance with, a requirement of the regulations, including provision about appeals in relation to the imposition of a penalty;

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(d) make different provision for different purposes.

(3) For the purposes of subsections (1) and (2)—

"arrangements" includes any scheme, transaction or series of transactions;

"participate", in relation to arrangements, includes being involved in, or facilitating, the arrangements in any way (for example, by receiving any benefit from them or by designing, marketing or providing services in connection with them, or arranging for others to do so);

"international tax provision" means any provision of—

(a) any arrangements specified in an Order in Council made under section 173 of FA 2006 (international tax enforcement arrangements), or

(b) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, as amended from time to time.

(4) Regulations under this section may make consequential, supplementary, incidental, transitional or saving provision (and may do so by amending, repealing or revoking an enactment whenever passed or made).

(5) Regulations under this section are to be made by statutory instrument.

(6) A statutory instrument containing regulations under this section which amend or repeal an enactment contained in an Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the House of Commons.

(7) A statutory instrument containing any other regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(8) No regulations may be made under this section unless the Chancellor of the Exchequer has laid before the House of Commons a report on how the powers in this section are to be exercised in each of the scenarios in subsection (9).

(9) The scenarios to be considered in the report under subsection (8) are—

(a) if either—

(i) a negotiated withdrawal agreement, or

(ii) a framework for the future relationship with the European Union,

has not been ratified under section 13 of the European Union (Withdrawal) Act 2018 at the time of the United Kingdom ceasing to be a member of the European Union, and

(b) if both—

(i) a negotiated withdrawal agreement, and

(ii) a framework for the future relationship with the European Union,

have been ratified under section 13 of the European Union (Withdrawal) Act 2018 at the time of the United Kingdom ceasing to be a member of the European Union.

Payment of unlawful advance corporation tax

85 Interest in respect of unlawful ACT

(1) This section applies where—

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(a) on any date before 12 December 2012, a person started proceedings against the Commissioners in the High Court or the Court of Session,
(b) the proceedings include a claim arising out of a relevant payment, and
(c) the claim has not been settled, discontinued or finally determined.

(2) "Relevant payment" means a payment of unlawful ACT that—
(a) was made by the person on or after 1 January 1996 or in the period of 6 years ending immediately before the date the proceedings were started, and
(b) was set off or repaid (wholly or in part) before the proceedings were started.

(3) The person is entitled to an order requiring the Commissioners to pay to the person—
(a) an amount ("the principal amount") equal to the amount of interest that would have accrued if simple interest had accrued on the relevant payment at the appropriate rate for the period beginning with the date the payment was made and ending with—
(i) the date as regards which the unlawful ACT was set off, or
(ii) the date the unlawful ACT was repaid, and
(b) simple interest at the appropriate rate on the principal amount for the period beginning with the day after the date mentioned in paragraph (a)(i) or (ii) and ending with the date the principal amount is paid.

(4) "The appropriate rate" is, in relation to any day, the rate specified in the following table in respect of that day.

Period	***Rate per year (%)***
1 October 1993 to 31 March 1997	8
1 April 1997 to 5 January 1999	6
6 January 1999 to 5 March 1999	5
6 March 1999 to 5 February 2000	4
6 February 2000 to 5 May 2001	5
6 May 2001 to 5 November 2001	4
6 November 2001 to 5 August 2003	3
6 August 2003 to 5 December 2003	2
6 December 2003 to 5 September 2004	3
6 September 2004 to 5 September 2005	4
6 September 2005 to 5 September 2006	3
6 September 2006 to 5 August 2007	4
6 August 2007 to 5 January 2008	5
6 January 2008 to 5 November 2008	4
6 November 2008 to 5 December 2008	3
6 December 2008 to 5 January 2009	2
6 January 2009 to 26 January 2009	1
27 January 2009 to 29 October 2018	0.5

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30 October 2018 onwards	0.5 or such other rate as the Treasury may by regulations specify in respect of a period specified in the regulations

(5) Where the unlawful ACT was repaid, any amount of interest or repayment supplement paid by the Commissioners on the making of the repayment is to be deducted from the principal amount (and subsection (3)(b) has effect accordingly).

(6) Where part of the unlawful ACT has been set off or repaid at one time, and part of it has been set off or repaid at another time or has not been set off or repaid, for the purposes of this section treat each part as a separate payment.

(7) In this section—

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs (or, in relation to any time before the commencement of section 5 of the Commissioners for Revenue and Customs Act 2005, the Commissioners of Inland Revenue);

"set off or repaid": references to a payment of unlawful ACT being set off or repaid are—

(a) to it being set against a liability to corporation tax of any person, or

(b) to it being repaid by the Commissioners;

"settled" means settled by agreement;

"unlawful ACT" means advance corporation tax that was unlawfully levied.

(8) The Treasury may by regulations substitute for the date for the time being specified in subsection (1)(a) such later date as they consider appropriate.

(9) Regulations under this section are to be made by statutory instrument.

(10) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

86 Section 85: supplementary

(1) This section supplements section 85.

(2) Nothing in section 85 limits the remedies that a court may award in respect of the claim.

(3) However—

(a) a person is not entitled to an order under section 85 in respect of a relevant payment if the person has obtained any other relevant remedy in respect of the relevant payment, and

(b) a person who has obtained an order under section 85 in respect of a relevant payment is not entitled to any other relevant remedy in respect of the relevant payment.

(4) In subsection (3) "relevant remedy" means a remedy for the loss of use of the amount of the relevant payment during the period mentioned in section 85(3)(a) (or during some similar period).

(5) Any interest or repayment supplement paid by the Commissioners on the making of—

(a) a repayment of a relevant payment, or

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(b) a repayment of corporation tax occurring as a result of a relevant payment,

is not regarded as a relevant remedy in respect of the relevant payment.

(6) Where the right to bring a claim arising out of a payment of unlawful ACT has been transferred from the person who made the payment ("the payor") to another person ("the successor")—

(a) in section 85(1) the reference to "a person" is to the payor or the successor;

(b) in section 85(2) the reference to "the person" is to the payor;

(c) in section 85(3) the reference to "the person" is to the successor.

(7) Any amount paid by the Commissioners to a person on a day by virtue of section 85 is to be brought into account when calculating, for tax purposes, the profits (or income) of the person for any period which includes that day.

Voluntary returns

87 Voluntary returns

(1) In Part 2 of TMA 1970 (returns of income and gains), after section 12C insert—

"Voluntary returns

12D Returns made otherwise than pursuant to a notice

(1) This section applies where—

(a) a person delivers a purported return ("the relevant return") under section 8, 8A or 12AA ("the relevant section") for a year of assessment or other period ("the relevant period"),

(b) no notice under the relevant section has been given to the person in respect of the relevant period, and

(c) HMRC treats the relevant return as a return made and delivered in pursuance of such a notice.

(2) For the purposes of the Taxes Acts—

(a) treat a relevant notice as having been given to the person on the day the relevant return was delivered, and

(b) treat the relevant return as having been made and delivered in pursuance of that notice (and, accordingly, treat it as if it were a return under the relevant section).

(3) "Relevant notice" means—

(a) in relation to section 8 or 8A, a notice under that section in respect of the relevant period;

(b) in relation to section 12AA, a notice under section 12AA(3) requiring the person to deliver a return in respect of the relevant period, on or before the day the relevant return was delivered (or, if later, the earliest day that could be specified under section 12AA).

(4) In subsection (1)(a) "purported return" means anything that—

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(a) is in a form, and is delivered in a way, that a corresponding return could have been made and delivered had a relevant notice been given, and

(b) purports to be a return under the relevant section.

(5) Nothing in this section affects sections 34 to 36 or any other provisions of the Taxes Acts specifying a period for the making or delivering of any assessment (including self-assessment) to income tax or capital gains tax."

(2) In Schedule 18 to FA 1998 (company tax returns etc) at the end of Part 2 insert—

20A (1) This paragraph applies where—

(a) a company delivers a purported return ("the relevant return") for a period ("the relevant period"),

(b) no notice under paragraph 3 has been given to the company in respect of the relevant period, and

(c) Her Majesty's Revenue and Customs treats the relevant return as a return made and delivered in pursuance of such a notice.

(2) For the purposes of the Taxes Acts—

(a) treat a relevant notice as having been given to the company on the day the relevant return was delivered, and

(b) treat the relevant return as having been made and delivered in pursuance of that notice (and, accordingly, treat it as if it were a company tax return under paragraph 3).

(3) "Relevant notice" means a notice under paragraph 3 requiring the company to deliver a return for the relevant period.

(4) In sub-paragraph (1)(a) "purported return" means anything that—

(a) is in a form, and is delivered in a way, that a corresponding return could have been made and delivered had a relevant notice been given, and

(b) purports to be a company tax return.

(5) Nothing in this paragraph affects paragraph 46 or any other provisions of the Taxes Acts specifying a time limit for the making of an assessment."

(3) The amendments made by this section are treated as always having been in force.

(4) However, those amendments do not apply in relation to a purported return delivered by a person if, before 29 October 2018—

(a) the person made an appeal under the Taxes Acts, or a claim for judicial review, and

(b) the ground (or one of the grounds) for the making of the appeal or claim was that the purported return was not a return under section 8, 8A or 12AA of TMA 1970 or paragraph 3 of Schedule 18 to FA 1998 because no relevant notice was given.

(5) The Treasury may by regulations—

(a) make such amendments of relevant tax legislation as they consider appropriate in consequence of subsection (1) or (2);

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(b) make such amendments of section 12D of TMA 1970 (inserted by subsection (1) of this section) as they consider appropriate in connection with the coming into force of section 61 of, and Schedule 14 to, F(No.2)A 2017 (digital reporting and record keeping for income tax etc).

(6) In subsection (5)(a) "relevant tax legislation" means—
(a) TMA 1970,
(b) Schedule 18 to FA 1998, or
(c) any other enactment relating to income tax, corporation tax or capital gains tax.

(7) Regulations under this section are to be made by statutory instrument.

(8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

Interest

88 Interest under section 178 of FA 1989 and section 101 of FA 2009

(1) Where, before the day on which this Act is passed—
(a) regulations under subsection (1) of section 178 of FA 1989 provide for a rate of interest for the purposes of an enactment to which that section applies, but
(b) no order was made under subsection (7) of that section appointing a day for that enactment,

the rate has effect for any period of time beginning on or after the day on which the regulations came into force even though no such order was made.

(2) In section 178 of FA 1989 (setting of rates of interest)—
(a) in subsection (2), omit paragraph (u);
(b) in subsection (3)(f), after "provide that" insert " rates or ";
(c) omit subsection (7) (but this repeal does not affect any order already made under that subsection).

(3) In Schedule 35 to FA 2014 (promoters of tax avoidance schemes), in paragraph 11 (interest on penalties)—
(a) in sub-paragraph (1), for the words from "at the rate" to the end substitute " in accordance with section 101 of FA 2009 ";
(b) omit sub-paragraph (2).

(4) In the Taxes (Interest Rate) Regulations 1989 (S.I. 1989/1297)—
(a) in regulation 3(1), after paragraph (e) insert—
"(f) section 14(4) of the Ports Act 1991 (for any period of time beginning on or after the day on which the Finance Act 2019 is passed), and
(g) paragraph 8 of Schedule 1 to the Employment Act 2002 (for any period of time beginning on or after the day on which the Finance Act 2019 is passed),";
(b) after regulation 5 insert—

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"5A **Applicable rate of interest for diverted profits tax**

For the purposes of section 79 of the Finance Act 2015, the rate applicable under section 178 of the Finance Act 1989 is—

(a) 3% per annum for the period beginning with 1 October 2015 and ending with 5 April 2017, and

(b) 2.5% per annum thereafter."

(5) Regulations under section 178(1) of FA 1989 may revoke or amend the provision made in the Taxes (Interest Rate) Regulations 1989 by subsection (4).

(6) Section 101 of FA 2009 is to be regarded as having come into force on 6 May 2014 for the purposes of—

(a) penalties under paragraphs 6B to 6D of Schedule 55 to FA 2009, in the case of returns falling within item 4 in the Table in paragraph 1 of that Schedule (real time information for PAYE);

(b) penalties under paragraphs 5 to 8 of Schedule 56 to FA 2009, in the case of payments of tax falling within item 2 or 4 of the Table in paragraph 1 of that Schedule (PAYE and CIS amounts);

(c) a penalty under section 208 or 226 of FA 2014 (penalties relating to follower notices, accelerated payment notices and partner payment notices), where the penalty relates to income tax payable under PAYE regulations.

PART 5

MISCELLANEOUS AND FINAL

Regulatory capital securities

89 Regulatory capital securities and hybrid capital instruments

Schedule 20—

(a) makes provision revoking the previous rules that applied in relation to regulatory capital securities, and

(b) makes new provision in relation to hybrid capital instruments.

EU withdrawal

90 Minor amendments in consequence of EU withdrawal

(1) The Treasury may by regulations make such provision as they consider appropriate—

(a) for the purpose of maintaining the effect of any relevant tax legislation on the withdrawal of the United Kingdom from the EU (and, accordingly, on the United Kingdom ceasing to be an EEA state);

(b) for the purposes of any relevant tax, in connection with any provision made by regulations under section 8 of the European Union (Withdrawal) Act 2018 (power to remedy deficiencies);

(c) in connection with any reference in relevant tax legislation to euros;

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(d) amending paragraph 2(4) of Schedule 5 to FA 1997 (indirect taxes: overpayments etc) for the purposes of removing the reference to EU legislation;

(e) amending section 173 of FA 2006 (international tax enforcement) to permit the disclosure of information to the Commissioners by other public authorities and by the Commissioners (subject to conditions about its use) to persons outside the United Kingdom.

(2) The regulations may—

(a) amend any enactment;

(b) contain incidental, transitional or saving provision;

(c) make different provision for different purposes.

(3) Where—

(a) regulations under this section are made after exit day, and

(b) a provision of the regulations is made by virtue of any of paragraphs (a) to (d) of subsection (1),

the regulations may provide that the provision has effect from exit day.

(4) Regulations under this section are to be made by statutory instrument.

(5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

(6) In this section—

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"enactment" includes an enactment comprised in subordinate legislation;

"relevant tax" means any tax (including stamp duty) except—

(a) value added tax,

(b) any duty of customs, or

(c) any excise duty under the Alcoholic Liquor Duties Act 1979, the Hydrocarbon Oil Duties Act 1979 or the Tobacco Products Duty Act 1979;

"relevant tax legislation" means any enactment relating to a relevant tax.

(7) The provisions of this section only come into force if—

(a) a negotiated withdrawal agreement and a framework for the future relationship have been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown for the purposes of section 13(1)(b) of the European Union (Withdrawal) Act 2018, or

(b) the Prime Minister has notified the President of the European Council, in accordance with Article 50(3) of the Treaty on European Union, of the United Kingdom's request to extend the period in which the Treaties shall still apply to the United Kingdom, or

(c) leaving the European Union without a withdrawal agreement and a framework for the future relationship has been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown.

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Preparatory expenditure

91 Emissions reduction trading scheme: preparatory expenditure

(1) The Secretary of State may incur expenditure in preparing for the introduction of a scheme for charges to be imposed for the allocation of emissions allowances.

(2) In subsection (1), "emissions allowance" means an allowance under paragraph 5 of Schedule 2 to the Climate Change Act 2008 relating to a trading scheme dealt with under Part 1 of that Schedule (schemes limiting activities relating to emissions of greenhouse gas).

Reviews

92 Impact analyses of the anti-avoidance provisions of this Act

(1) The Chancellor of the Exchequer must review the impact of—
- (a) section 15 and Schedule 3,
- (b) section 16 and Schedule 4,
- (c) sections 19 and 20,
- (d) section 22 and Schedule 7,
- (e) section 23 and Schedule 8,
- (f) sections 47 and 48, and
- (g) section 84,

of this Act in accordance with this section and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) A review under this section must consider the impact of those provisions on—
- (a) child poverty,
- (b) households at different levels of income,
- (c) people with protected characteristics (within the meaning of the Equality Act 2010), and
- (d) different parts of the United Kingdom and different regions of England.

(3) In this section—

"parts of the United Kingdom" means—
- (a) England,
- (b) Scotland,
- (c) Wales, and
- (d) Northern Ireland;

"regions of England" has the same meaning as that used by the Office for National Statistics.

93 Review of effectiveness of provisions on tax avoidance

(1) The Chancellor of the Exchequer must review the effectiveness of the provisions of this Act relating to tax avoidance and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) In this section, "the provisions of this Act relating to tax avoidance" means—

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(a) section 15 and Schedule 3,
(b) section 16 and Schedule 4,
(c) sections 19 and 20,
(d) section 22 and Schedule 7,
(e) section 23 and Schedule 8,
(f) sections 47 and 48,
(g) section 84.

(3) A review under this section must consider in particular—
(a) the effects of those provisions in reducing tax avoidance and evasion,
(b) the effect of those provisions in inducing new tax avoidance measures unanticipated by the Act, and
(c) estimates of the efficacy of the provisions in reducing the tax gap in each tax year from 2018-19 to 2028-29.

94 Review of public health effects of gaming provisions

(1) The Chancellor of the Exchequer must review the public health effects of the provisions of section 62 of and Schedule 19 to this Act and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) A review under this section must consider—
(a) the effects of those provisions in reducing the negative public health effects of gambling, and
(b) the implications for the public finances of the public health effects of—
(i) those provisions,
(ii) the operation of the law relating to remote gaming duty and gaming duty if those provisions were not given effect.

95 Review of changes made by sections 80 and 81

(1) The Chancellor of the Exchequer must review the effects of the changes made by sections 80 and 81 to TMA 1970 and IHTA 1984, and lay a report on that review before the House of Commons not later than 30 March 2019.

(2) The review under this section must include a comparison of the time limit on proceedings for the recovery of lost tax that involves an offshore matter with other time limits on proceedings for the recovery of lost tax, including, but not limited to, those provided for by Schedules 11 and 12 to the F(No. 2)A 2017.

(3) The review under this section must also consider the extent to which provisions equivalent to section 36A(7)(b) of TMA 1970 (relating to reasonable expectations) apply to the application of other time limits.

Other

96 Interpretation

In this Act the following abbreviations are references to the following Acts.

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ALDA 1979	Alcoholic Liquor Duties Act 1979
CAA 2001	Capital Allowances Act 2001
CTA 2009	Corporation Tax Act 2009
CTA 2010	Corporation Tax Act 2010
FA, followed by a year	Finance Act of that year
F(No.2)A, followed by a year	Finance (No.2) Act of that year
F(No.3)A, followed by a year	Finance (No.3) Act of that year
IHTA 1984	Inheritance Tax Act 1984
ITA 2007	Income Tax Act 2007
ITEPA 2003	Income Tax (Earnings and Pensions) Act 2003
ITTOIA 2005	Income Tax (Trading and Other Income) Act 2005
OTA 1975	Oil Taxation Act 1975
TCGA 1992	Taxation of Chargeable Gains Act 1992
TIOPA 2010	Taxation (International and Other Provisions) Act 2010
TMA 1970	Taxes Management Act 1970
TPDA 1979	Tobacco Products Duty Act 1979
VATA 1994	Value Added Tax Act 1994
VERA 1994	Vehicle Excise and Registration Act 1994

97 Short title

This Act may be cited as the Finance Act 2019.

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SCHEDULES

SCHEDULE 1

Section 13

CHARGEABLE GAINS ACCRUING TO NON-RESIDENTS ETC

PART 1

EXTENDING CASES IN WHICH NON-RESIDENTS ARE CHARGED TO TAX ETC

1 TCGA 1992 is amended as follows.

2 For the sections contained in Part 1 substitute—

"PART 1

CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

CHAPTER 1

CAPITAL GAINS TAX

Charge to capital gains tax

1 Capital gains tax

1 1 Capital gains tax

(1) Capital gains tax is charged for a tax year on chargeable gains accruing in the year to a person on the disposal of assets.

(2) As a result of section 4 of CTA 2009, capital gains tax is not charged on gains accruing to a company, but corporation tax is chargeable instead in accordance with—
  (a) section 2 of CTA 2009,
  (b) Chapter 2 of this Part, and
  (c) other relevant provisions of the Corporation Tax Acts.

(3) Capital gains tax is charged on the total amount of chargeable gains accruing to a person in a tax year after deducting—
  (a) any allowable losses accruing to the person in the tax year, and
  (b) so far as not previously deducted under this subsection, any allowable losses accruing to the person in any previous tax year.

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Territorial scope of charge

1A Territorial scope

1A 1A Territorial scope

(1) A person who is UK resident for a tax year is chargeable to capital gains tax on chargeable gains accruing to the person in the tax year on the disposal of assets wherever situated.

(2) In the case of individuals who are UK resident for a tax year, see also—
- (a) Schedule 1 (foreign gains accruing to individuals to whom the remittance basis applies),
- (b) section 1G (cases where the tax year is a split year),
- (c) sections 1M and 1N (temporary periods of non-residence),
- (d) Chapter 3 (gains of non-UK resident close companies attributed to individuals), and
- (e) sections 86, 87, 87K, 87L and 89(2) (gains of non-UK resident trustees attributed to individuals).

(3) A person who is not UK resident for a tax year is chargeable to capital gains tax on chargeable gains accruing to the person in the tax year on the disposal of—
- (a) assets situated in the United Kingdom that have a relevant connection to the person's UK branch or agency and are disposed of at a time when the person has that branch or agency (see section 1B),
- (b) assets not within paragraph (a) that are interests in UK land (see section 1C), and
- (c) assets (wherever situated) not within paragraph (a) or (b) that derive at least 75% of their value from UK land where the person has a substantial indirect interest in that land (see section 1D and Schedule 1A).

(4) For the purposes of this Chapter a person is "UK resident" for a tax year if the person is resident in the United Kingdom during any part of the tax year.

(5) For the relevant residence rules—
- (a) in the case of individuals, see Schedule 45 to the Finance Act 2013 (which provides that individuals meeting the applicable tests for a tax year are taken to be resident for the whole of the year),
- (b) in the case of the personal representatives of deceased individuals, see section 62(3), and
- (c) in the case of trustees of settlements, see section 69.

1B Non-UK residents: UK branch or agency

1B 1B Non-UK residents: UK branch or agency

(1) For the purposes of section 1A(3)(a) a person has a UK branch or agency at any time if, at that time, the person carries on a trade, profession or vocation in the United Kingdom through a branch or agency there.

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(2) For the purposes of section 1A(3)(a) an asset has a relevant connection to a person's UK branch or agency if—
  (a) it is, or was, used in or for the purposes of the trade, profession or vocation at or before the time of the disposal,
  (b) it is, or was, used or held for the purposes of the branch or agency at or before that time, or
  (c) it is acquired for use by or for the purposes of the branch or agency.

(3) Section 1A(3)(a) does not apply to a person who, as a result of Part 2 of TIOPA 2010 (double taxation arrangements), is exempt from income tax for the tax year in respect of the profits or gains of the branch or agency.

(4) In the case of a profession or vocation carried on by a person, an asset does not have a relevant connection to the person's UK branch or agency if—
  (a) the asset was only used in or for the purposes of the profession or vocation before 14 March 1989, or
  (b) the asset was only used or held for the purposes of the branch or agency before that date.

(5) In this Act, unless the context otherwise requires, "branch or agency"—
  (a) means any factorship, agency, receivership, branch or management, but
  (b) does not include any person within any of the exemptions under sections 835G to 835K of ITA 2007 (persons who are not UK representatives).

1C Non-UK residents: disposing of an "interest in UK land"

1C 1C Non-UK residents: disposing of an "interest in UK land"

(1) For the purposes of section 1A(3)(b) an "interest in UK land" means—
  (a) an estate, interest, right or power in or over land in the United Kingdom, or
  (b) the benefit of an obligation, restriction or condition affecting the value of an estate, interest, right or power in or over land in the United Kingdom,

other than an excluded interest.

(2) The following interests are "excluded interests"—
  (a) any interest or right held for securing the payment of money or the performance of any other obligation,
  (b) a licence to use or occupy land,
  (c) in England and Wales or Northern Ireland, a tenancy at will or an advowson, franchise or manor, and
  (d) such other descriptions of interest or right in relation to land in the United Kingdom as may be specified in regulations made by the Treasury.

(3) An interest or right is not within subsection (2)(a) if it is—
  (a) a rentcharge, or

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(b) in Scotland, a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000.

(4) The grant of an option by a person binding the person to dispose of an interest in UK land is (so far as it would not otherwise be the case) regarded as a disposal of an interest in UK land by the person for the purposes of section 1A(3)(b).

(5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).

(6) In this section—

"franchise" means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and

"land" includes—

(a) buildings and structures, and

(b) land under the sea or otherwise covered by water.

1D Non-UK residents: assets deriving 75% of value from UK land etc

1D 1D Non-UK residents: assets deriving 75% of value from UK land etc

(1) For the purposes of section 1A(3)(c) the following questions are determined in accordance with the provision made by Schedule 1A—

(a) whether the asset being disposed of derives at least 75% of its value from UK land, and

(b) whether the person making the disposal has a substantial indirect interest in the UK land at the time of the disposal.

(2) The provision made by Schedule 1A is not to be taken as affecting the meaning of "substantial" in other contexts.

Deduction of allowable losses

1E Losses deductible only when within scope of tax etc

1E 1E Losses deductible only when within scope of tax etc

(1) A loss is not an allowable loss if it accrues in a tax year at a time when, had a gain accrued instead, the gain would not have been chargeable to capital gains tax under this Act for the tax year (and see also sections 16(2) and 16A).

(2) In addition, the only allowable losses that qualify for deduction from chargeable gains under section 1A(3) (non-UK residents) are those accruing to the person on disposals of assets within that subsection.

(3) An allowable loss counts for the purposes of subsection (2) even if it accrues in a tax year in which the person was UK resident.

(4) No allowable losses may be deducted from chargeable gains treated as accruing to an individual as a result of section 87, 87K, 87L or 89(2) (read, where appropriate, with section 1M).

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(5) If—

(a) amounts (or elements of amounts) treated as accruing to an individual as a result of section 86 relate to different settlements, and

(b) the deduction of allowable losses does not reduce the amounts or elements to nil,

the deduction applicable to each amount is the proportion that the amount concerned bears to the total of the amounts.

(6) The deduction of allowable losses also has effect subject to Schedule 1 (UK resident individuals not domiciled in UK).

(7) For the only case in which an allowable loss accruing in a tax year may be carried back to an earlier tax year, see section 62 (death).

1F Allowable losses to be used in most beneficial way etc

1F 1F Allowable losses to be used in most beneficial way etc

(1) Allowable losses may (subject to express provision to the contrary) be deducted from gains in whichever way is most beneficial to a person chargeable to capital gains tax.

(2) Accordingly, an allowable loss may be deducted from a chargeable gain irrespective of the rate of tax at which the gain would otherwise have been charged.

(3) Allowable losses that are deducted from gains may not be deducted any further than is necessary to eliminate the gains.

(4) No part of an allowable loss may be relieved under this Act more than once.

(5) So far as an amount has been relieved under the Income Tax Acts, it may not be further relieved under this Act.

UK resident individuals with split tax years

1G Gains accruing to UK resident individuals in split years

1G 1G Gains accruing to UK resident individuals in split years

(1) If, as respects any individual, a tax year is a split year, sections 1A(1) and 1E have effect subject to the modifications made by this section.

(2) Gains accruing to the individual in the overseas part of the tax year are chargeable to capital gains tax only if they accrue on the disposal of assets within section 1A(3).

(3) Losses are deductible from gains accruing to the individual in the overseas part of the tax year on the disposal of assets within section 1A(3)(b) or (c) only if the losses accrue to the individual on the disposal of—

(a) assets that are within section 1A(3)(b) or (c), or

(b) assets that would be within section 1A(3)(b) or (c) if they did not have a relevant connection to the individual's UK branch or agency.

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(4) But losses accruing in the overseas part of the tax year on disposals of assets within section 1A(3)(b) or (c) are (so far as not deducted as mentioned in subsection (3)) deductible from gains accruing in the UK part of the tax year.

Rates of CGT

1H The main rates of CGT

1H 1H The main rates of CGT

(1) This section makes provision about the rates at which capital gains tax is charged but has effect subject to—
  (a) section 169N (entrepreneurs' relief: rate of 10%), and
  (b) section 169VC (investors' relief: rate of 10%).

(2) Chargeable gains accruing in a tax year to an individual that are—
  (a) residential property gains (see Schedule 1B), or
  (b) carried interest gains (see subsections (9) to (11)),
  are charged to capital gains tax at a rate of 18% or 28%.

(3) Other chargeable gains accruing in a tax year to an individual are charged to capital gains tax at a rate of 10% or 20%.

(4) The question as to which of the rates applies to the gains concerned is determined by section 1I (income taxed at higher rates or gains exceeding unused basic rate band).

(5) Chargeable gains accruing in a tax year to the personal representatives of a deceased individual that are—
  (a) residential property gains, or
  (b) carried interest gains,
  are charged to capital gains tax at a rate of 28%.

(6) Other chargeable gains accruing in a tax year to the personal representatives of a deceased individual are charged to capital gains tax at a rate of 20%.

(7) Residential property gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 28%.

(8) Other chargeable gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 20%.

(9) For the purposes of this section chargeable gains are "carried interest gains" if they accrue to an individual ("X")—
  (a) under section 103KA(2) or (3) (investment management services), or
  (b) as a result of carried interest arising to X under arrangements not involving a partnership under which X performs investment management services directly or indirectly in respect of an investment scheme.

(10) A gain is not a carried interest gain under subsection (9)(b) if the carried interest constitutes a co-investment repayment or return.

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(11) Expressions used in subsection (9) or (10) have the same meaning as they have in Chapter 5 of Part 3.

1I Income taxed at higher rates or gains exceeding unused basic rate band

1I 1I Income taxed at higher rates or gains exceeding unused basic rate band

(1) If any of an individual's income for a tax year is chargeable to income tax at a higher income tax rate, gains accruing to the individual in the tax year are charged—
  (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  (b) at the rate of 20% (if they are other kinds of gains).

(2) If—
  (a) none of an individual's income for a tax year is chargeable to income tax at a higher income tax rate, but
  (b) the individual is chargeable to capital gains tax for the tax year on an amount that exceeds the unused part of the individual's basic rate band,

  the excess ("the higher rate excess") is charged at the rate of 28%(so far as comprising residential property gains or carried interest gains) or at the rate of 20% (so far as comprising other kinds of gains).

(3) The remainder of this section sets out special rules which apply depending on the nature of the gains within subsection (2)(b).

(4) If—
  (a) the gains consist of or include gains ("entrepreneur or investor gains") chargeable at the rate of 10% under section 169N(3) or 169VC(2), and
  (b) the total amount of the entrepreneur or investor gains exceeds the unused part of the individual's basic rate band,

  that unused part is used fully against those gains.

(5) The effect of so doing is that other gains comprised in the higher rate excess are then charged—
  (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  (b) at the rate of 20% (if they are other kinds of gains).

(6) If the total amount of the entrepreneur or investor gains does not exceed the unused part of the individual's basic rate band—
  (a) so much of that unused part as is equal to that total amount is used against those gains, and
  (b) accordingly, the higher rate excess consists only of gains other than entrepreneur or investor gains.

(7) The individual may allocate so much of the unused part of the individual's basic rate band as then remains to—
  (a) any residential property gains or carried interest gains, or

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(b) any other gains.

(8) The effect of the allocation is that the gains to which the allocation is made are charged—

(a) at the rate of 18%(if they are residential property gains or carried interest gains), or

(b) at the rate of 10% (if they are other kinds of gains).

(9) Any gains to which no allocation is made are charged—

(a) at the rate of 28%(if they are residential property gains or carried interest gains), or

(b) at the rate of 20% (if they are other kinds of gains).

1J Section 1I: definitions and other supplementary provision

1J 1J Section 1I: definitions and other supplementary provision

(1) For the purposes of section 1I—

a "higher income tax rate" means—

(a) the higher rate or the default higher rate,

(b) the savings higher rate, or

(c) the dividend upper rate, and

"the unused part of the individual's basic rate band" means the amount by which the basic rate limit exceeds the individual's Step 3 income.

(2) If an individual is entitled to relief for a tax year under section 539 of ITTOIA 2005 (contracts for life insurance) by reference to the amount of a deficiency, the individual's Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of the deficiency.

(3) If, as a result of section 669(1) and (2) of ITTOIA 2005 (inheritance tax on accrued income), there is a reduction in the residuary income of an estate for a tax year that reduces an individual's income by any amount, the individual's Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of that reduction in the individual's income.

(4) If an individual has life insurance gains for a tax year, the individual's Step 3 income for the tax year is treated for the purposes of this section as if the amount of those gains were limited to—

(a) the annual equivalent within the meaning of section 536(1) of ITTOIA 2005, or

(b) the total annual equivalent within the meaning of section 537 of that Act,

as the case may be.

(5) If—

(a) an individual has life insurance gains for a tax year,

(b) relief is given under section 535 of ITTOIA 2005 for the tax year, and

(c) the calculation under section 536(1) or 537 of that Act for the tax year does not involve the higher rate,

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the individual is treated for the purposes of section 1I as if none of the individual's income were chargeable to income tax at the higher rate, the default higher rate or the dividend upper rate.

(6) In the application of section 1I in the case of any individual it is to be assumed that the individual is not a Scottish or Welsh taxpayer.

(7) In this section—

"the individual's Step 3 income" means so much of the individual's total income for the tax year as is left after taking Step 3 under section 23 of ITA 2007 (income tax liability calculation), and

"life insurance gains", in relation to an individual, means the amount or amounts treated as the individual's income as a result of section 465 of ITTOIA 2005 (gains from contracts for life insurance).

(8) Expressions used in this section which have a meaning when used in the Income Tax Acts have the same meaning in this section.

Annual exempt amount

1K Annual exempt amount

1K 1K Annual exempt amount

(1) If an individual is (or, apart from this section, would be) chargeable to capital gains tax for a tax year on chargeable gains, the annual exempt amount for the year is to be deducted from those gains (but no further than necessary to eliminate them).

(2) The annual exempt amount for a tax year is £12,000.

(3) The annual exempt amount may not be deducted from chargeable gains to which paragraph 2 of Schedule 1 applies (foreign gains of non-UK domiciled individuals accruing in one year and remitted in later year).

(4) The deduction of the annual exempt amount—

(a) is made after the deduction of allowable losses accruing in the tax year, but

(b) is made before the deduction of allowable losses accruing in a previous tax year or, if section 62 applies, in a subsequent tax year.

(5) The annual exempt amount may be deducted from gains in whatever way is most beneficial to a person chargeable to capital gains tax (irrespective of the rate of tax at which the gains would otherwise have been charged).

(6) An individual is not entitled to an annual exempt amount for a tax year if section 809B of ITA 2007 (claim for remittance basis) applies to the individual for the year.

(7) For the tax year in which an individual dies and for the next two tax years, this section applies to the individual's personal representatives as if references to the individual were to those personal representatives.

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(8) This section applies in relation to trustees in accordance with the provision made by Schedule 1C.

1L Increasing annual exempt amount to reflect increases in CPI

1L 1L Increasing annual exempt amount to reflect increases in CPI

(1) If the consumer prices index for the September before the start of a tax year is higher than it was for the previous September—
   (a) the annual exempt amount is increased by the same percentage as the rise in that index (rounded up to the nearest £100), and
   (b) section 1K(2) has effect for the tax year (and subsequent tax years) as if it referred to the increased amount.

(2) If, as a result of this section, the annual exempt amount for a tax year increases, the Treasury must before the start of the tax year make an order showing the increased amount.

Temporary periods of non-residence

1M Temporary non-residents

1M 1M Temporary non-residents

(1) If, in the case of the disposal of an asset by an individual who is temporarily non-resident—
   (a) a gain or loss accrues to the individual in the temporary period of non-residence, and
   (b) the asset is not excluded from this subsection by section 1N (certain assets acquired in that period),

   the gain or loss is treated instead as accruing to the individual in the period of return.

(2) If—
   (a) a gain is, as a result of subsection (1), treated as accruing to an individual in a tax year for which the remittance basis applies to the individual,
   (b) the tax year consists of or includes the period of return, and
   (c) the gain was remitted to the United Kingdom in the temporary period of non-residence,

   the gain is treated instead as remitted to the United Kingdom in the period of return.

(3) If—
   (a) an individual is temporarily non-resident, and
   (b) a gain would, as a result of section 86, have accrued to the individual in a tax year falling wholly or partly in the temporary period of non-residence if the individual had been resident in the United Kingdom for that year,

   the gain is treated instead as accruing to the individual in the period of return (but see also section 86A).

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(4) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.

(5) Nothing in this section is to affect a gain or loss which, apart from this section, would be chargeable to capital gains tax or would be an allowable loss.

(6) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance)—

"the period of return"

"temporarily non-resident"

"the temporary period of non-residence".

(7) In this section the reference to "the remittance basis" applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.

1N Section 1M(1): assets acquired in temporary period of non-residence

1N 1N Section 1M(1): assets acquired in temporary period of non-residence

(1) An asset is excluded from section 1M(1) if—

(a) it was acquired by the individual in the temporary period of non-residence,

(b) the acquisition was otherwise than by means of a disqualifying no gain/no loss disposal,

(c) there is no reduction in the consideration for the acquisition under section 23(4)(b) or (5)(b), 152(1)(b), 153(1)(b), 162(3)(b) or 247(2)(b) or (3)(b) by reference to a UK resident disposal, and

(d) the asset is not an interest created by or arising under a settlement.

(2) This exclusion does not apply in the case of an asset ("the new asset") if—

(a) on a disposal of the new asset a gain or loss is treated as a result of 116(10) or (11), 134 or 154(2) or (4) as accruing (ignoring section 1M),

(b) the gain or loss is calculated by reference to another asset ("the old asset"), and

(c) the new asset is one that meets the conditions for exclusion but the old asset does not.

(3) For the purposes of this section "a UK resident disposal" means a disposal by a person ("P") of an asset which was acquired by P at a time when—

(a) P was resident in the United Kingdom, and

(b) P was not Treaty non-resident.

(4) For the purposes of this section "a disqualifying no gain/no loss disposal" means a UK resident disposal to which section 58, 73 or 258(4) applies.

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Interpretation

1O Definitions used in Chapter

1O 1O Definitions used in Chapter

In this Chapter any reference to a person who is, or is not, "UK resident" is to be read in accordance with section 1A(4).

CHAPTER 2

CORPORATION TAX ON CHARGEABLE GAINS

Corporation tax on chargeable gains: the general scheme

2 Corporation tax on chargeable gains

2 2 Corporation tax on chargeable gains

(1) As a result of section 2(1) and (2) of CTA 2009, corporation tax is charged on chargeable gains accruing to a company on the disposal of assets.

(2) The charge to corporation tax on chargeable gains has effect in accordance with this Act and all other relevant provisions of the Corporation Tax Acts.

2A Company's total profits to include chargeable gains

2A 2A Company's total profits to include chargeable gains

(1) The amount of chargeable gains to be included in a company's total profits for an accounting period is the total amount of chargeable gains accruing to the company in the period after deducting—
   (a) any allowable losses accruing to the company in the period, and
   (b) so far as not previously deducted under this subsection, any allowable losses previously accruing to the company while it was within the charge to corporation tax.

(2) For the purposes of corporation tax on gains "allowable loss" does not include a loss accruing to a company if, had a gain accrued, the company would not have been chargeable to corporation tax on the gain.

Territorial scope

2B Territorial scope of charge to corporation tax on chargeable gains

2B 2B Territorial scope of charge to corporation tax on chargeable gains

(1) A company which is resident in the United Kingdom in an accounting period is chargeable to corporation tax on chargeable gains accruing to the company in the period on the disposal of assets wherever situated.

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(2) This is subject to Chapter 3A of Part 2 of CTA 2009 (exemption from charge in respect of profits of foreign permanent establishments).

(3) A company which is not resident in the United Kingdom is chargeable to corporation tax on chargeable gains that—
  (a) accrue to the company on the disposal of assets situated in the United Kingdom that have a relevant connection to the company's UK permanent establishment (see section 2C),
  (b) accrue at a time when it has that permanent establishment, and
  (c) are, in accordance with sections 20 to 32 of CTA 2009, attributable to that permanent establishment.

(4) In addition, a company which is not resident in the United Kingdom is chargeable to corporation tax on chargeable gains accruing to the company on the disposal of assets not within subsection (3) that are—
  (a) interests in UK land, or
  (b) assets (wherever situated) not within paragraph (a) that derive at least 75% of their value from UK land where the company has a substantial indirect interest in that land.

(5) Section 1C applies for the purposes of subsection (4)(a) as it applies for the purposes of section 1A(3)(b) (disposing of interests in UK land).

(6) The reference in subsection (4)(b) to assets deriving at least 75% of their value from UK land where the company has a substantial indirect interest in that land is to be read in accordance with Schedule 1A.

2C Non-UK resident company with UK permanent establishment

2C 2C Non-UK resident company with UK permanent establishment

(1) For the purposes of section 2B(3) a company has a UK permanent establishment at any time if, at that time, the company carries on a trade in the United Kingdom through a permanent establishment there.

(2) For the purposes of section 2B(3) an asset has a relevant connection to a company's UK permanent establishment if—
  (a) it is, or was, used in or for the purposes of the trade at or before the time of the disposal,
  (b) it is, or was, used or held for the purposes of the permanent establishment at or before that time, or
  (c) it is acquired for use by or for the purposes of the permanent establishment.

(3) Section 2B(3) does not apply to a company which, as a result of Part 2 of TIOPA 2010 (double taxation arrangements), is exempt from corporation tax for the accounting period in respect of the profits of the permanent establishment.

(4) In the case of the long-term business of an overseas life insurance company, subsection (2) has effect as if for paragraph (b) there were substituted—

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"(b) it is, or was, used or held for the purposes of the permanent establishment at or before that time (irrespective of where it is situated at that time),".

(5) In this section references to a trade include an office and references to carrying on a trade include holding an office.

Application of CGT principles etc

2D Application of CGT principles in calculating gains and losses

2D 2D Application of CGT principles in calculating gains and losses

(1) The total amount of chargeable gains to be included in a company's total profits for an accounting period is calculated for corporation tax purposes in accordance with capital gains tax principles.

(2) All of the following questions are determined in accordance with the enactments relating to capital gains tax as if accounting periods were tax years—

(a) any question as to the amounts to be, or not to be, taken into account as chargeable gains or allowable losses,

(b) any question as to the amounts to be, or not to be, taken into account in calculating gains or losses,

(c) any question as to the amounts charged to tax as a company's gains, and

(d) any question as to the time when any amount is treated as accruing.

(3) This section is subject to any provision made elsewhere by the Corporation Tax Acts.

2E References to income tax or Income Tax Acts in case of companies

2E 2E References to income tax or Income Tax Acts in case of companies

(1) If the CGT enactments contain any reference to—

(a) income tax, or

(b) the Income Tax Acts,

the reference is, in relation to a company, to be read as a reference to corporation tax or the Corporation Tax Acts.

(2) But—

(a) this does not affect references to income tax in section 39(2), and

(b) so far as the CGT enactments operate by reference to matters of any specified description, account is to be taken for corporation tax purposes of matters of that description confined to companies but not of any confined to individuals.

(3) In this section "the CGT enactments" means the enactments relating to capital gains tax.

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2F Interaction of capital gains tax and corporation tax

2F 2F Interaction of capital gains tax and corporation tax

(1) This Act as it has effect in accordance with this Chapter is not to be affected in its operation by the fact that capital gains tax and corporation tax are distinct taxes.

(2) But this Act is, so far as it is consistent with the Corporation Tax Acts, to apply in relation to capital gains tax and corporation tax on gains as if they were one tax.

(3) Accordingly, a matter which in a case involving two individuals is relevant to both of them in relation to capital gains tax is in a similar case involving an individual and a company—
   (a) relevant to the individual in relation to capital gains tax, and
   (b) relevant to the company in relation to corporation tax.

Supplementary

2G Assets of a company vested in a liquidator

2G 2G Assets of a company vested in a liquidator

(1) If assets of a company are vested in a liquidator—
   (a) this Chapter, and
   (b) the enactments applied by this Chapter,

   apply as if the assets were vested in the company and as if the acts of the liquidator in relation to the assets were the company's acts.

(2) Accordingly, acquisitions from or disposals to the liquidator by the company are ignored.

(3) The assets may be vested in the liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise.

CHAPTER 3

ATTRIBUTION OF GAINS OF NON-UK RESIDENT CLOSE COMPANIES

Gains of non-UK resident companies not otherwise chargeable

3 Gains attributed to UK resident individuals etc

3 3 Gains attributed to UK resident individuals etc

(1) This section applies if—
   (a) a chargeable gain accrues at any time to a non-UK resident close company,
   (b) the gain is connected to avoidance (see section 3A),

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(c) the gain is not connected to a foreign trade or other economically significant foreign activities (see section 3A), and

(d) apart from this section, some or all of the gain would not be chargeable to corporation tax on the company.

(2) So much of the gain as would not otherwise be so chargeable is apportioned among participators, or indirect participators, in the company—

(a) who are resident in the United Kingdom at that time, or

(b) who are trustees of a settlement and are not resident in the United Kingdom at that time.

(3) The proportion of the amount of the gain to be apportioned to each person corresponds to the extent of the person's interest in the company as a participator or indirect participator.

(4) The amount apportioned to each person is treated as a chargeable gain accruing to the person.

(5) No apportionment of any part of a gain is made to an individual if—

(a) the gain accrues in a tax year which, as respects the individual, is a split year, and

(b) the gain accrues in the overseas part of the year.

(6) No apportionment of any part of a gain is made to a person if the total amount that would, apart from this subsection, be apportioned to—

(a) the person, and

(b) persons connected to the person,

is 25% or less of the amount of the gain falling to be apportioned.

(7) A person (“P”) is an “indirect participator” in a company (“A”) if—

(a) another company (“B”) which is a non-UK resident close company is a participator in A, and

(b) P is a participator in B or P is a participator in a third non-UK resident close company which is participator in B,

and so on through any number of non-UK resident close companies that are participators in other non-UK resident close companies.

(8) P's interest as an indirect participator in A in the case of any gain is determined by—

(a) apportioning the gain among the participators in A according to the extent of their respective interests as participators, and

(b) then further apportioning the gain apportioned to B among the participators in B according to the extent of their respective interests as participators, and so on through other companies.

(9) So far as it would go to reduce or extinguish chargeable gains accruing, as a result of this section, to a person in a chargeable period, this section applies to a loss accruing to the company on the disposal of an asset in that period as it would apply if there had been a gain.

(10) But—

(a) this only applies in relation to that person, and

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(b) this section does not otherwise apply in relation to losses accruing to the company.

(11) In this section "a non-UK resident close company" means a company—

(a) which is not resident in the United Kingdom, and

(b) which would be a close company if it were resident in the United Kingdom.

3A Gains connected to avoidance or foreign activities etc

3A 3A Gains connected to avoidance or foreign activities etc

(1) A gain accruing to a company on the disposal of an asset is taken to be "connected to avoidance" unless it is shown that neither—

(a) the disposal of the asset by the company, nor

(b) the acquisition or holding of the asset by the company,

formed part of a scheme or arrangements of which the main purpose, or one of the main purposes, was avoidance of liability to capital gains tax or corporation tax.

(2) A gain is "connected to a foreign trade" if it accrues on the disposal of an asset used only—

(a) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or

(b) for the purposes of the foreign part of a trade carried on by the company partly within, and partly outside, the United Kingdom,

and the reference here to the foreign part of a trade is to the part of the trade carried on outside the United Kingdom.

(3) For this purpose an asset is to be regarded as used only for the purposes of a trade carried on by the company wholly outside the United Kingdom if—

(a) the asset is accommodation, or an interest or right in accommodation, situated outside the United Kingdom, and

(b) the accommodation has for each relevant period been furnished holiday accommodation of which a person has made a commercial letting.

(4) Each of the following is a "relevant period"—

(a) the period of 12 months ending with the date of the disposal and each of the two preceding periods of 12 months, or

(b) if the company has beneficially owned the accommodation (or interest or right) for more than 36 months, the period of 12 months ending with the date of the disposal and each of the preceding periods of 12 months throughout which the company had that beneficial ownership.

(5) The reference in this section to the commercial letting of furnished holiday accommodation is to be read in accordance with Chapter 6 of Part 4 of CTA 2009, but as if—

(a) sections 266, 268 and 268A were omitted, and

(b) the reference to an accounting period in section 267(1) were to a relevant period.

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(6) A gain accruing on the disposal of an asset is "connected to other economically significant foreign activities" if—

(a) the asset is used only for the purposes of activities carried on by the company wholly or mainly outside the United Kingdom,

(b) the activities consist of the provision of goods or services on a commercial basis, and

(c) the activities also satisfy the staff, premises and economic value test.

(7) Activities satisfy the staff, premises and economic value test if they involve—

(a) the use of employees, agents or contractors of the company in numbers, and with competence and authority, commensurate with the size and nature of the activities,

(b) the use of premises and equipment commensurate with the size and nature of the activities, and

(c) the addition of economic value by the company to the persons to whom the goods or services are provided commensurate with the size and nature of the activities.

(8) This section applies for the purposes of section 3(1)(b) and (c).

3B Participators and their interests

3B 3B Participators and their interests

(1) "Participator" has the meaning given by section 454 of CTA 2010.

(2) Any reference to a person's interest as a participator in a company is to the interest in it represented by all the factors by reference to which the person is a participator.

(3) Any reference to the extent of a person's interest as a participator in a company is to such proportion of the interests as participators of all of the company's participators as, on a just and reasonable basis, is represented by that interest.

(4) If—

(a) the interest of a person in a company is wholly or partly represented by an interest under a settlement ("the beneficial interest"), and

(b) the beneficial interest is the factor (or one of them) by reference to which the person would, apart from this subsection, have an interest as a participator in the company,

that interest as a participator is, so far as represented by the beneficial interest, to be treated instead as the interest of the trustees of the settlement.

(5) If—

(a) exempt assets of a pension scheme are taken into account in ascertaining a person's interest as a participator in a company, and

(b) if those assets were ignored, an amount in respect of a gain accruing to the company would not be apportioned to the person as a result of section 3,

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no amount in the respect of the gain is to be apportioned to the person as a result of that section.

(6) For this purpose—

(a) "assets of a pension scheme" means assets held for the purposes of a fund or scheme to which section 271(1)(c) or (1A) applies, and

(b) those assets are "exempt" if, at the time when the gain accrues, a disposal of those assets would be exempt from tax as a result of either of those provisions.

(7) This section applies for the purposes of section 3.

Prevention of multiple charges

3C Prevention of double UK taxation

3C 3C Prevention of double UK taxation

(1) If—

(a) an amount of tax is paid by a person as a result of section 3 in respect of a gain, and

(b) there is a distribution of an amount in respect of the gain before the end of the relevant period,

the amount of tax is applied so as to reduce or extinguish any liability of the person to tax in respect of the distribution.

(2) For the purposes of subsection (1)—

(a) the distribution is one made by way of dividend or distribution of capital or on the dissolution of the company,

(b) the tax in respect of the distribution is income tax, corporation tax or capital gains tax, and

(c) in determining the liability to tax of any individual in respect of any distribution for a tax year it is to be assumed that the distribution is the highest part of the individual's income for the year.

(3) For the purposes of subsection (1) "the relevant period" means the period of 3 years from the end of whichever of the following periods is earlier—

(a) the period of account of the company in which the gain accrued, and

(b) the period of 12 months beginning with the date on which the gain accrued.

(4) The amount of tax paid by a person as a result of section 3 is allowable as a deduction in calculating a chargeable gain accruing on the disposal by the person of any asset representing the person's interest as a participator in the company.

(5) An amount of tax—

(a) is not to be used more than once under this section (whether to reduce or extinguish a liability or as a deduction or a combination of those things), and

(b) is not to be applied if it is reimbursed by the company.

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Non-UK domiciled individuals and temporary non-residents

3D Non-UK domiciled individuals

3D 3D Non-UK domiciled individuals

(1) This section applies if, as a result of section 3, an amount in respect of a gain accruing to a company in a tax year is apportioned to an individual who is not domiciled in the United Kingdom in that year.

(2) The apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset if the asset disposed of by the company is a foreign asset (but not otherwise).

(3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis)—
- (a) treat any consideration obtained by the company on the disposal of the asset as deriving from the apportioned amount, and
- (b) if that consideration is less than the market value of the asset, treat the asset as deriving from the apportioned amount.

(4) The apportioned amount may not be reduced or extinguished by a loss under section 3 if—
- (a) the apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset,
- (b) the remittance basis applies to the individual for the tax year in question, and
- (c) any of the apportioned amount is remitted to the United Kingdom in a subsequent tax year.

(5) Paragraph 5 of Schedule 1 applies for the purposes of this section as it applies for the purposes of that Schedule.

3E Temporary non-residents

3E 3E Temporary non-residents

(1) This section applies if—
- (a) an individual is temporarily non-resident, and
- (b) a gain or loss accrues to a company in a tax year falling wholly or partly in the temporary period of non-residence.

(2) So much of the gain as would, as a result of section 3, have been treated as accruing to the individual in the tax year if the residence assumption were made is to be treated as accruing to the individual in the period of return.

(3) But if—
- (a) the remittance basis applies to the individual for the tax year that comprises or includes the period of return, and
- (b) any part of the gain has not been remitted to the United Kingdom before the period of the return,

subsection (2) has effect subject to the further application of Schedule 1 (as read with section 3D) in relation to that part of the gain.

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(4) Paragraph 5 of Schedule 1 applies for the purposes of subsection (3) as it applies for the purposes of that Schedule.

(5) So much of the loss accruing in the tax year as would, in accordance with section 3(9), have reduced or extinguished a gain treated as accruing to the individual in that year as a result of section 3 if the residence assumption were made is to be treated as accruing to the individual in the period of return.

(6) For the purposes of this section the "residence assumption" is—
- (a) that the individual was resident in the United Kingdom for the tax year in which the gain or loss accrued to the company, and
- (b) that the tax year was not a split year as respects the individual.

(7) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.

(8) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance)—

"the period of return"

"temporarily non-resident"

"the temporary period of non-residence".

Application to groups

3F Non-resident groups of companies

3F 3F Non-resident groups of companies

(1) This section applies, for the purposes of section 3, certain provisions of this Act (modified as mentioned below) in relation to non-resident companies which are members of a non-resident group of companies.

(2) The applied provisions are—
- (a) section 41(8),
- (b) section 171 but as if subsections (1)(b) and (1A) were omitted,
- (c) section 173 but as if "to which this section applies" in subsections (1)(a) and (2)(a) were omitted, as if "such" in subsections (1)(c) and (2)(c) were omitted and as if subsection (3) were omitted,
- (d) section 174(4) but as if "at a time when both were members of the group" were substituted for " in a transfer to which section 171(1) applied ",
- (e) section 175(1) but as if "to which this section applies" were omitted, and
- (f) section 179 but as if subsections (1)(b) and (1A) were omitted, as if for any reference to a group of companies there were substituted a reference to a non-resident group of companies and as if for any reference to a company there were substituted a reference to a non-resident company.

(3) In this section—

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"non-resident company" means a company which is not resident in the United Kingdom,

"non-resident group of companies"—

(a) in the case of a group none of whose members are resident in the United Kingdom, means that group, and

(b) in the case of a group some of whose members are not resident in the United Kingdom, means the members which are not resident in the United Kingdom, and

"group" is to be read in accordance with section 170.

Supplementary

3G Supplementary provisions

3G 3G Supplementary provisions

(1) If tax payable by a person ("P") as a result of section 3 is paid by—

(a) the company ("C") to which the gain accrues, or

(b) a company by reference to which P is regarded as an indirect participator in C,

the amount paid is not a payment to P for tax purposes.

(2) The reference here to tax purposes is to the purposes of income tax, capital gains tax or corporation tax.

(3) For the purposes of section 3 the amount of a gain or loss accruing to a company is calculated as if the company were a company resident in the United Kingdom chargeable to corporation tax on the gain."

3 Omit sections 16ZB to 16ZD (losses of non-UK domiciled individuals).

4 After section 36 insert—

"Re-basing for non-residents for UK land etc held on 5 April 2019

36A Re-basing in relation to direct or indirect disposals of UK land

36A 36A Re-basing in relation to direct or indirect disposals of UK land

Schedule 4AA makes provision for the re-basing of assets where—

(a) the assets are held on 5 April 2019,

(b) there is a disposal after that date, and

(c) the disposal is a direct or indirect disposal of UK land (within the meaning of that Schedule)."

5 Omit Chapter 5 of Part 2 (computation of gains and losses: relevant high value disposals).

6 Omit Chapter 6 of Part 2 (computation of gains and losses: non-resident CGT disposals).

7 Omit Chapter 7 of Part 2 (computation of gains and losses: disposals of residential property interests).

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8 After section 103DA insert—

"103DB UK property rich collective investment vehicles etc

"103DB "103DB UK property rich collective investment vehicles etc

Schedule 5AAA makes provision in relation to collective investment vehicles where the property which is the subject of or held by the vehicles consists of or includes direct or indirect interests in land in the United Kingdom."

9 After section 271 insert—

"Visiting forces and official agents etc

271ZA Visiting forces and staff of designated allied headquarters

271ZA 271ZA Visiting forces and staff of designated allied headquarters

(1) This section applies for the purposes of capital gains tax if section 833 of ITA 2007 (visiting forces and staff of designated allied headquarters) applies to an individual throughout a period.

(2) The period is not a period of residence in the United Kingdom.

(3) The period does not create a change of the individual's residence or domicile.

271ZB Official agents of Commonwealth countries or Republic of Ireland etc

271ZB 271ZB Official agents of Commonwealth countries or Republic of Ireland etc

(1) An individual who is entitled to immunity from income tax as a result of section 841 of ITA 2007 (official agents of Commonwealth countries or Republic of Ireland etc) is entitled to the same immunity from capital gains tax as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964.

(2) The reference here to a member of the staff of a mission is to be read in accordance with the Diplomatic Privileges Act 1964."

10 Omit Schedule B1 (disposals of UK residential property interests).

11 Omit Schedule BA1 (disposals of non-UK residential property interests).

12 Omit Schedule C1 (section 14F: meaning of "closely-held company" and "widely-marketed scheme").

13 For Schedule 1 substitute—

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"SCHEDULE 1

UK RESIDENT INDIVIDUALS NOT DOMICILED IN UK

Foreign gains treated as accruing when remitted to UK

1 (1) This paragraph applies in the case of an individual to whom the remittance basis applies for a tax year if—
  (a) in that year the individual disposes of foreign assets,
  (b) chargeable gains accrue to the individual on the disposal of those assets, and
  (c) the gains are not taken outside the charge to capital gains tax as a result of section 1G (cases where tax year is a split year).

(2) The gains are treated as accruing to the individual only so far as, and at the time when, they are remitted to the United Kingdom.

(3) The amount treated as accruing is equal to the full amount remitted to the United Kingdom at that time.

Use of allowable losses against foreign gains remitted in later year

2 (1) This paragraph applies if—
  (a) gains are treated as accruing to an individual in a tax year as a result of paragraph 1,
  (b) the tax year is later than the one ("the actual year of accrual") in which those gains actually accrued to the individual, and
  (c) an election under section 16ZA (election for foreign losses to be allowable losses) has effect for both the tax year and the actual year of accrual.

(2) No allowable losses may be deducted under section 1 from the gains.

(3) This prohibition—
  (a) applies regardless of whether or not the allowable losses accrue on disposals of foreign assets, but
  (b) does not prevent the prior application of paragraph 3(3) in relation to the gains (which contains a rule for reducing the amount of the gains by reference to losses).

Matching rules for relieving allowable losses

3 (1) This paragraph applies in the case of an individual for a tax year if—
  (a) the remittance basis applies to the individual for the tax year, and
  (b) an election under section 16ZA has effect for the tax year.

(2) Allowable losses accruing to the individual must be matched to chargeable gains accruing to the individual in accordance with paragraph 4.

(3) If allowable losses are matched to chargeable gains accruing on disposals of foreign assets—
  (a) which actually accrue in the tax year, but

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(b) which are, as a result of paragraph 1, treated as not accruing in the tax year,

the amount of those gains is reduced by the matched amount (and the allowable losses are reduced accordingly).

(4) So far as allowable losses are matched to other chargeable gains, they are deducted from chargeable gains accruing to the individual in the tax year.

(5) This is subject to—

(a) paragraph 2 (no use of allowable losses against foreign gains remitted in later year), and

(b) section 1E(4) (prohibition of deduction of losses from gains treated as accruing under section 87, 87K, 87L or 89(2)).

Rules for matching losses to chargeable gains

4 (1) This paragraph explains how, for the purposes of paragraph 3, allowable losses are matched to chargeable gains in the case of an individual to whom that paragraph applies for a tax year.

(2) The losses are matched to the gains in the following order—

first, gains actually accruing to the individual in the tax year on the disposal of foreign assets so far as they are remitted to the United Kingdom in the tax year;

second, gains actually accruing to the individual in the tax year on the disposal of foreign assets so far as they are not remitted to the United Kingdom in the tax year;

third, any other gains accruing to the individual in the tax year.

(3) If the tax year is a split year, the matching under the first and second steps is to be done by reference to the extent to which the gains are, or are not, remitted in the UK part of the year.

(4) If there are losses to be matched to gains under the second step but the losses are insufficient to eliminate the gains—

(a) the losses are to be matched against gains accruing on the most recent day first (and then the next most recent day and so on until none of the losses remain), and

(b) if losses cannot be matched fully against gains accruing on a particular day, the appropriate portion of the losses is matched against each of the gains.

(5) "The appropriate portion" means the amount of each gain accruing on the day divided by the total amount of all of the gains accruing on the day.

Definitions

5 (1) For the purposes of this Schedule "foreign asset" means an asset situated outside the United Kingdom.

(2) For the purposes of this Schedule any reference to "the remittance basis" applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.

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(3) For the purposes of this Schedule any question as to whether, and when, amounts are "remitted to the United Kingdom" is determined in accordance with the rules in Chapter A1 of Part 14 of ITA 2007."

14 After Schedule 1 insert—

"SCHEDULE
1A

ASSETS DERIVING 75% OF VALUE FROM UK LAND ETC

PART 1

INTRODUCTION

1 This Schedule makes provision, for the purposes of section 1A(3)(c) or 2B(4)(b), for determining in the case of any disposal of any asset—
   (a) whether the asset derives at least 75% of its value from UK land (see Part 2 of this Schedule), and
   (b) whether the person making the disposal has a substantial indirect interest in the UK land (see Part 3 of this Schedule).

2 The provision made by this Schedule needs to be read together with—
   (a) paragraph 5 of Schedule 5AAA (which treats units in a CoACS as shares for the purposes of this Schedule), and
   (b) paragraph 6 of that Schedule (which treats certain disposals of interests in collective investment vehicles as meeting the conditions in Part 3 of this Schedule).

PART 2

WHETHER ASSET DERIVES AT LEAST 75% OF ITS VALUE FROM UK LAND

The basic rule

3 (1) An asset derives at least 75% of its value from UK land if—
   (a) the asset consists of a right or an interest in a company, and
   (b) at the time of the disposal, at least 75% of the total market value of the company's qualifying assets derives (directly or indirectly) from interests in UK land.

(2) Market value may be traced through any number of companies, partnerships, trusts and other entities or arrangements but may not be traced through a normal commercial loan.

(3) It is irrelevant whether the law under which a company, partnership, trust or other entity or an arrangement is established or has effect is—
   (a) the law of any part of the United Kingdom, or
   (b) the law of any territory outside the United Kingdom.

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(4) The assets held by a company, partnership or trust or other entity or arrangement must be attributed to the shareholders, partners, beneficiaries or other participants at each stage in whatever way is appropriate in the circumstances.

(5) For the purposes of this paragraph—

"normal commercial loan" means a loan which is a normal commercial loan for the purposes of section 158(1)(b) or 159(4)(b) of CTA 2010, and

"qualifying assets" has the meaning given by paragraph 4.

(6) The provision made by this paragraph is subject to exceptions provided by—

(a) paragraph 5 (interests in UK land used for trading purposes), and

(b) paragraph 6 (certain disposals of rights or interests in connected companies).

Meaning of "qualifying assets"

4 (1) Subject as follows, all of the assets of the company are qualifying assets.

(2) An asset of the company is not a qualifying asset so far as it is matched to a related party liability.

(3) But an interest in UK land is a qualifying asset of the company even if it is matched to any extent to a related party liability.

(4) An asset of the company is matched to a related party liability if—

(a) the asset consists of a right under a transaction (for example, a right under a loan relationship or derivative contract),

(b) the right entitles the company to require another person to meet a liability arising under the transaction, and

(c) the other person is relevant to the paragraph 3 tracing exercise or is a related party of the company on the day of the disposal.

(5) For the purposes of this paragraph a person is relevant to the paragraph 3 tracing exercise if—

(a) the person has assets that fall to be taken into account in the tracing exercise mentioned in paragraph 3, or

(b) the person has obligations (whether as a trustee or otherwise) in relation to the holding of assets comprised in any trust or other arrangement that fall to be taken into account in that exercise.

(6) Whether, for the purposes of this paragraph, a person is a related party of the company on any day is determined in accordance with the rules in Part 8ZB of CTA 2010 but as if, in section 356OT(4) of that Act, the words ", within the period of 6 months beginning with that day" were omitted.

(7) In this paragraph a liability includes a contingent liability (such as one arising as a result of the giving of a guarantee, indemnity or other form of financial assistance).

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Exception in relation to interests in UK land used for trading purposes

5 (1) A disposal of a right or interest in a company is not to be regarded as a disposal of an asset deriving at least 75% of its value from UK land if it is reasonable to conclude that, so far as the market value of the company's qualifying assets derives (directly or indirectly) from interests in UK land—

(a) all of the interests in UK land are used for trading purposes, or

(b) all of the interests in UK land would be used for those purposes if low-value non-trade interests in UK land were left out of account.

(2) An interest in UK land is "used for trading purposes" for the purposes of this paragraph if (and only if), at the time of the disposal—

(a) it is being used in, or for the purposes of, a qualifying trade, or

(b) it has been acquired for use in, or for the purposes of, a qualifying trade.

(3) A trade is a "qualifying" trade for the purposes of this paragraph if—

(a) it has been carried on by the company, or by a person connected with the company, throughout the period of one year ending with the time of the disposal on a commercial basis with a view to the realisation of profits, and

(b) it is reasonable to conclude that the trade will continue to be carried on (for more than an insignificant period of time) on a commercial basis with a view to the realisation of profits.

(4) For the purposes of this paragraph, "low-value non-trade interests in UK land" means interests in UK land—

(a) which are not used for trading purposes, and

(b) the total market value of which is, at the time of the disposal, no more than 10% of the total market value at that time of the interests in UK land that are used for trading purposes.

Exception for certain disposals of rights or interests under same arrangements etc

6 (1) This paragraph applies if—

(a) there are two or more disposals of rights or interests in companies,

(b) the disposals are linked with each other,

(c) some but not all of the disposals would, apart from this paragraph, be disposals of assets deriving at least 75% of their value from UK land, and

(d) if one of the companies included all of the assets of the others, a disposal of a right or interest in it would not be a disposal of an asset deriving at least 75% of its value from UK land.

(2) None of the disposals are to be regarded as disposals of assets deriving at least 75% of their value from UK land.

(3) In determining whether the condition in sub-paragraph (1)(d) is met in the case of a disposal of a right or interest in a company, it is to be assumed that, for the purposes of paragraph 4, each of the other companies in which rights

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or interest are disposed of is (so far as this would not otherwise be the case) a related party of the company on the day of the disposal.

(4) For the purposes of this paragraph a disposal of a right or interest in a company is linked with a disposal of a right or interest in another company if—

(a) the disposals are made under the same arrangements,

(b) the disposals are made by the same person or by persons connected with each other,

(c) the disposals are made to the same person or to persons connected with each other, and

(d) in the case of each disposal, the person making the disposal is connected with the company in which the right or interest is disposed of.

(5) For the purposes of this paragraph, the question whether or not a person is connected with another is to be determined immediately before the arrangements are entered into.

(6) Section 286 (connected persons: interpretation) has effect for the purposes of this paragraph as if, in subsection (4), the words "Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements," were omitted.

Meaning of "interest in UK land"

7 For the purposes of this Part of this Schedule "interest in UK land" has the meaning given by section 1C.

PART 3

WHETHER PERSON HAS SUBSTANTIAL INDIRECT INTEREST IN UK LAND

Basic rule

8 (1) If—

(a) a person disposes of an asset consisting of a right or an interest in a company, and

(b) the asset derives at least 75% of its value from UK land,

the person has a substantial indirect interest in UK land if, at any time in the period of 2 years ending with the time of the disposal, the person has a 25% investment in the company.

(2) But a person is not to be regarded as having a 25% investment in the company at times falling in the person's qualifying ownership period if, having regard to the length of that period, the times (taken as whole) constitute an insignificant proportion of that period.

(3) The "person's qualifying ownership period" means the period throughout which the person has held an asset consisting of a right or an interest in the company, but excluding times that fall before the beginning of the 2 year period mentioned in sub-paragraph (1).

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Meaning of "25% investment"

9 (1) A person ("P") has a 25% investment in a company ("C") if—

(a) P possesses or is entitled to acquire 25% or more of the voting power in C,

(b) in the event of a disposal of the whole of the equity in C, P would receive 25% or more of the proceeds,

(c) in the event that the income in respect of the equity in C were distributed among the equity holders in C, P would receive 25% or more of the amount so distributed, or

(d) in the event of a winding-up of C or in any other circumstances, P would receive 25% or more of C's assets which would then be available for distribution among the equity holders in C in respect of the equity in C.

(2) In this paragraph references to the equity in C are to—

(a) the shares in C other than restricted preference shares, or

(b) loans to C other than normal commercial loans.

(3) For this purpose "shares in C" includes—

(a) stock, and

(b) any other interests of members in C.

(4) For the purposes of this paragraph a person is an equity holder in C if the person possesses any of the equity in C.

(5) For the purposes of this paragraph—

"normal commercial loan" means a loan which is a normal commercial loan for the purposes of section 158(1)(b) or 159(4)(b) of CTA 2010, and

"restricted preference shares" means shares which are restricted preference shares for the purposes of section 160 of CTA 2010.

(6) In a case where C is a company which does not have share capital, in applying for the purposes of this paragraph the definitions of "normal commercial loan" and "restricted preference shares"—

(a) sections 160(2) to (7) and 161 to 164 of CTA 2010, and

(b) any other relevant provisions of that Act,

have effect with the necessary modifications.

(7) In this paragraph references to a person receiving any proceeds, amount or assets include—

(a) the direct or indirect receipt of the proceeds, amount or assets, and

(b) the direct or indirect application of the proceeds, amount or assets for the person's benefit,

and it does not matter whether the receipt or application is at the time of the disposal, distribution, winding-up or other circumstances or at a later time.

(8) If—

(a) there is a direct receipt or direct application of any proceeds, amount or assets by or for the benefit of a person ("A"), and

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(b) another person ("B") directly or indirectly owns a percentage of the equity in A,

there is, for the purposes of sub-paragraph (7), an indirect receipt or indirect application of that percentage of the proceeds, amount or assets by or for the benefit of B.

(9) For this purpose the percentage of the equity in A directly or indirectly owned by B is to be determined by applying the rules in sections 1155 to 1157 of CTA 2010 with such modifications (if any) as may be necessary.

(10) Sub-paragraph (7) is not to result in a person being regarded as having a 25% investment in another person merely as a result of their being parties to a normal commercial loan.

(11) Any reference in this paragraph, in the case of a person who is a member of a partnership, to the proceeds, amount or assets of the person includes the person's share of the proceeds, amount or assets of the partnership (apportioning those things between the partners on a just and reasonable basis).

Attribution of rights and interests

10 (1) In determining for the purposes of paragraph 9 the investment that a person ("P") has in a company, P is to be taken to have all of the rights and interests of any person connected with P.

(2) A person is not to be regarded as connected with another person for the purposes of this paragraph merely as a result of their being parties to a loan that is a normal commercial loan for the purposes of paragraph 9.

(3) Section 286 (connected persons: interpretation) has effect for the purposes of this paragraph—

(a) as if, in subsection (2), for the words from ", or is a relative" to the end there were substituted " or is a lineal ancestor or lineal descendant of the individual or of the individual's spouse or civil partner ", and

(b) as if subsections (4) and (8) were omitted.

PART 4

ANTI-AVOIDANCE

11 (1) This paragraph applies if a person has entered into any arrangements the main purpose, or one of the main purposes, of which is to obtain a tax advantage for the person as a result (wholly or partly) of—

(a) a provision of this Schedule applying or not applying, or

(b) double taxation arrangements having effect despite a provision of this Schedule in a case where the advantage is contrary to the object and purpose of the double taxation arrangements.

(2) The tax advantage is to be counteracted by the making of such adjustments as are just and reasonable.

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(3) The adjustments may be made (whether by an officer of Revenue and Customs or the person) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

(4) The counteraction has effect in a treaty shopping case regardless of section 6(1) of TIOPA 2010.

(5) This paragraph applies by reference to—

(a) arrangements entered into on or after 22 November 2017 in a treaty shopping case, and

(b) arrangements entered into on or after 6 July 2018 in any other case.

(6) In this paragraph—

"arrangements" (except in the expression "double taxation arrangements") includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"double taxation arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010,

"tax" means capital gains tax or corporation tax,

"tax advantage" includes—

(a) relief or increased relief from tax,

(b) repayment or increased repayment of tax,

(c) avoidance or reduction of a charge to tax or an assessment to tax,

(d) avoidance of a possible assessment to tax,

(e) deferral of a payment of tax or advancement of a repayment of tax, and

(f) avoidance of an obligation to deduct or account for tax, and

"treaty shopping case" means a case where this paragraph applies as a result of sub-paragraph (1)(b)."

15 After Schedule 1A insert—

"SCHEDULE
1B

RESIDENTIAL PROPERTY GAINS

Meaning of "residential property gain"

1 (1) For the purposes of Chapter 1 of Part 1 "residential property gain" means so much of a chargeable gain accruing to a person on a disposal of residential property as, in accordance with paragraph 2, is attributable to that property.

(2) The question whether or not a person disposes of residential property is determined in accordance with paragraphs 3 to 7.

Attribution of gain to residential property

2 (1) The proportion of a chargeable gain attributable to residential property is equal to—

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(a) the relevant fraction of the gain, and
(b) if there has been mixed use of the land to which the disposal relates on one or more days in the applicable period, the relevant fraction of the gain as adjusted, on a just and reasonable basis, to take account of the mixed use on the day or days.

(2) The relevant fraction is A/B where—

A is the number of days in the applicable period on which the land to which the disposal relates consists of or includes a dwelling, and

B is the total number of days in the applicable period.

(3) There is mixed use of land on any day on which the land consists of—
(a) one or more dwellings, and
(b) other land.

(4) If the disposal is of an interest in land subsisting under a contract for the acquisition of land consisting of or including a building that is to be constructed or adapted for use as a dwelling, that land is taken to consist of or include a dwelling throughout the applicable period.

(5) In this paragraph "the applicable period" means the period—
(a) beginning with the day on which the person making the disposal acquired the interest in land being disposed of or, if later, the day from which the interest in land became chargeable, and
(b) ending with the day before the day on which the disposal occurs.

(6) For the purposes of this paragraph an interest in land became "chargeable"—
(a) in any case where the disposal is of an interest in land in the United Kingdom—
(i) by a person in a tax year in which the person is not UK resident, or
(ii) by a person in the overseas part of a tax year which is, as respects the person, a split year,

from 6 April 2015, and
(b) in any other case, from 31 March 1982.

(7) If the interest in land disposed of by the person results from interests in land acquired by the person at different times, the person is regarded for the purposes of this paragraph as having acquired the interest disposed of at the time of the first acquisition.

Disposing of residential property

3 (1) For the purposes of this Schedule a person "disposes of residential property" if the person disposes of an interest in land in a case where—
(a) the land consisted of or included a dwelling at any time falling on or after the date on which the applicable period begins,
(b) the interest in land subsisted for the benefit of land that consisted of or included a dwelling at any time falling on or after that date, or
(c) the interest in land subsists under a contract for the acquisition of land consisting of or including a building that is to be constructed or adapted for use as a dwelling.

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(2) No account is to be taken for the purposes of this paragraph of any time falling on (or after) the day on which the disposal is made.

Interest in land

4 (1) For the purposes of this Schedule an "interest in land" means—

(a) an estate, interest, right or power in or over land, or

(b) the benefit of an obligation, restriction or condition affecting the value of an estate, interest, right or power in or over land,

other than an excluded interest.

(2) The following interests are "excluded interests"—

(a) any interest or right held for securing the payment of money or the performance of any other obligation,

(b) a licence to use or occupy land,

(c) in relation to land in England and Wales or Northern Ireland, a tenancy at will or an advowson, franchise or manor, and

(d) such other descriptions of interest or right in relation to land as may be specified in regulations made by the Treasury.

(3) An interest or right is not within sub-paragraph (2)(a) if it is—

(a) a rentcharge, or

(b) in relation to land in Scotland, a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000.

(4) The grant of an option by a person binding the person to dispose of an interest in land is (so far as it would not otherwise be the case) regarded as a disposal of an interest in land by the person for the purposes of this Schedule.

(5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).

(6) In applying the domestic concepts of law mentioned in this paragraph to land outside the United Kingdom, this paragraph is to be read so as to produce the result most closely corresponding with that produced in relation to land in the United Kingdom.

(7) In this paragraph—

"franchise" means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and

"land" includes—

(a) buildings and structures, and

(b) land under the sea or otherwise covered by water.

Dwelling: basic meaning

5 (1) For the purposes of this Schedule a building is a dwelling at any time when—

(a) it is used, or suitable for use, as a dwelling, or

(b) it is in the process of being constructed or adapted for use as a dwelling,

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and, in each case, it is not an institutional building.

(2) Land that at any time is, or is intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure) is taken to be part of the dwelling at that time.

(3) A building is an institutional building if—

(a) it is used as residential accommodation for school pupils,

(b) it is used as residential accommodation for members of the armed forces,

(c) it is used as a home or other institution providing residential accommodation for children,

(d) it is used as a home or other institution providing residential accommodation with personal care for persons in need of personal care because of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder,

(e) it is used as a hospital or hospice,

(f) it is used as a prison or similar establishment,

(g) it is used as a hotel or inn or similar establishment,

(h) it is otherwise used, or suitable for use, as an institution that is the sole or main residence of its residents,

(i) it falls within—

(i) paragraph 4 of Schedule 14 to the Housing Act 2004 (buildings in England or Wales occupied by students and managed or controlled by educational establishment etc), or

(ii) any provision having effect in Scotland or Northern Ireland that is designated by regulations made by the Treasury as provision corresponding to paragraph 4 of that Schedule, or

(j) it qualifies in accordance with the next sub-paragraph as student accommodation.

(4) A building qualifies as student accommodation in accordance with this sub-paragraph at any time if the time falls in a tax year in which—

(a) the accommodation provided by the building includes at least 15 bedrooms,

(b) the accommodation is purpose-built, or is converted, for occupation by students, and

(c) the accommodation is occupied by students on at least 165 days.

(5) Accommodation is to be regarded as occupied by persons as students if they occupy it wholly or mainly for undertaking a course of education (otherwise than as school pupils).

Building temporarily unsuitable for use as a dwelling

6 (1) A building is treated for the purposes of paragraph 5 as continuing to be suitable for use as a dwelling at any time when it has become temporarily unsuitable for use as a dwelling.

(2) There is an exception to this rule if—

(a) the temporary unsuitability resulted from accidental damage to the building, and

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(b) the damage resulted in the building becoming unsuitable for use as a dwelling for a period of at least 90 consecutive days ("the 90 day period").

(3) This exception does not apply if the damage occurred in the course of work that—

(a) was being done for the purpose of altering the building, and

(b) itself involved, or could be expected to involve, making the building unsuitable for use as a dwelling for at least 30 consecutive days.

(4) If the exception applies, work done in the 90 day period to restore the building to suitability for use as a dwelling is not to count for the purposes of paragraph 5 as constructing or adapting the building for use as a dwelling.

(5) For the purposes of this paragraph—

(a) references to accidental damage include damage otherwise caused by events beyond the control of the person disposing of the interest in land,

(b) references to alteration of a building include its partial demolition, and

(c) the 90 day period does not include the day of the disposal (or later days).

(6) For the purposes of this paragraph a building's unsuitability for use as a dwelling is not regarded as temporary if paragraph 7 applies (disposal of a building that has undergone works).

Disposal of a building that has undergone works

7 (1) If—

(a) a person disposes of an interest in land on which a building has been suitable for use as a dwelling, and

(b) as a result of qualifying works, the building has, at or before the time of completion of the disposal, ceased to exist or become unsuitable for use as a dwelling,

the building is to be regarded for the purposes of paragraph 5 as unsuitable for use as a dwelling throughout the works period.

(2) For the purposes of this paragraph works are "qualifying" works if—

(a) any planning permission or development consent required for the works, or for any change of use with which they are associated, has been granted (whether before or after completion), and

(b) the works have been carried out in accordance with the permission or consent.

(3) In this paragraph "the works period" means—

(a) the period when the works were in progress, and

(b) such period (if any) ending immediately before the start of the works throughout which the building was, for reasons connected with the works, not used as dwelling.

(4) If at any time when qualifying works are in progress—

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(a) the building was undergoing any other work, or put to any other use, in relation to which planning permission or development consent was required but has not (at any time) been granted, or

(b) anything else was being done in contravention of a condition or requirement attached to a planning permission or development consent relating to the building,

the works period does not include that time.

(5) If sub-paragraph (1) would have applied but for the fact that, at the completion of the disposal, the works are not qualifying works, the works are regarded as not affecting the building's suitability for use as a dwelling at any time before the disposal.

Other definitions

8 (1) For the purposes of this Schedule a building is regarded as ceasing to exist from the time when either—

(a) it has been demolished completely to ground level, or

(b) it has been demolished to ground level except for a single facade (or a double facade if it is on a corner site) the retention of which is a condition or requirement of planning permission or development consent.

(2) For the purposes of this Schedule the completion of the disposal of an interest in land is regarded as occurring—

(a) at the time of the disposal, or

(b) if the disposal is under a contract which is completed by a conveyance, transfer or other instrument, at the time when the instrument takes effect.

(3) In this Schedule—

"building" includes a part of a building,

"development consent" means—

(a) in the case of land in the United Kingdom, development consent under the Planning Act 2008, and

(b) in the case of land outside the United Kingdom, consent corresponding to development consent under that Act, and

"planning permission"—

(a) in the case of land in England or Wales, has the meaning given by section 336(1) of the Town and Country Planning Act 1990,

(b) in the case of land in Scotland, has the meaning given by section 227(1) of the Town and Country Planning (Scotland) Act 1997,

(c) in the case of land in Northern Ireland, has the meaning given by Article 2(2) of the Planning (Northern Ireland) Order 1991, and

(d) in the case of land outside the United Kingdom, means permission corresponding to any planning permission in relation to land anywhere in the United Kingdom.

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Power to modify meaning of "use as a dwelling"

9 (1) The Treasury may by regulations amend this Schedule for the purpose of clarifying or changing the cases where a building is, or is not, to be regarded as being used, or suitable for use, as a dwelling.

(2) The provision that may be made by the regulations includes (for example) provision omitting or adding cases where a building is, or is not, to be regarded as being used, or suitable for use, as a dwelling.

Regulations

10 Regulations under any provision of this Schedule may make incidental, consequential, supplementary or transitional provision or savings."

16 After Schedule 1B insert—

"SCHEDULE
1C

ANNUAL EXEMPT AMOUNT IN CASES INVOLVING SETTLED PROPERTY

Introductory

1 (1) This Schedule provides for the application of section 1K (in some cases with modifications) in relation to the trustees of a settlement for a tax year.

(2) The application of this Schedule depends on (among other things) whether or not—

(a) a settlement is for the benefit of a disabled person, and

(b) a settlement is a qualifying UK settlement.

(3) For the definitions of those expressions, see paragraphs 3 and 7 respectively.

(4) In this Schedule any reference to the application of section 1K in relation to an individual for a tax year is to its application in relation to an individual who is resident and domiciled in the United Kingdom for the year.

Settlements for the benefit of disabled persons

2 (1) In the case of a settlement for the benefit of a disabled person for a tax year, section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year.

(2) This paragraph needs to be read with—

(a) paragraph 6 (cases where settlement is a qualifying UK settlement comprised in a group), and

(b) paragraph 8 (sub-fund settlements).

3 (1) A settlement is a "settlement for the benefit of a disabled person" for a tax year if, for the whole or part of that year, settled property is held on trusts which secure that, during the lifetime of a disabled person, the property and income tests are met.

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(2) The property test is met if any of the property which is applied for the benefit of a beneficiary is applied for the disabled person's benefit.

(3) The income test is met if either—
- (a) the disabled person is entitled to all of the income (if any) arising from any of the property, or
- (b) if any income arising from any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person's benefit.

(4) A settlement is not prevented from being a settlement for the benefit of a disabled person for a tax year just because—
- (a) the trustees have power to apply amounts (of any nature) not exceeding the de minimis threshold for that year,
- (b) the trustees have the powers of advancement conferred by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958,
- (c) the trustees have those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by—
  - (i) proviso (a) of section 32(1) of the Trustee Act 1925, or
  - (ii) section 33(1)(a) of the Trustee Act (Northern Ireland) 1958, or
- (d) the trustees have powers to the same effect as the powers mentioned in paragraph (b) or (c).

(5) For the purposes of sub-paragraph (4)(a) "the de minimis threshold" means—
- (a) £3,000, or
- (b) 3% of the maximum value of the settled property during the tax year,

whichever is the lower.

(6) In this paragraph "disabled person" has the meaning given by Schedule 1A to the Finance Act 2005.

(7) If the income from settled property is held for the benefit of a disabled person ("D") on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), the reference in this paragraph to D's lifetime is to be read as a reference to the period during which the income is held on trust for D.

(8) This paragraph applies for the purposes of this Schedule.

4 (1) The Treasury may by order—
- (a) specify circumstances in which paragraph 3(4)(a) is, or is not, to apply, and
- (b) amend the definition of "the de minimis threshold" in paragraph 3(5).

(2) The order may—
- (a) make different provision for different purposes, and
- (b) contain transitional and saving provision.

(3) A statutory instrument containing an order under this paragraph which reduces the annual exempt amount in any case may not be made unless a

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draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

Other settlements

5 (1) This paragraph applies if settlement is not a settlement for the benefit of a disabled person for a tax year.

(2) Section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year but as if the annual exempt amount for the year were one-half of the amount available for the individual for the year.

(3) This paragraph needs to be read be with—
- (a) paragraph 6 (cases where settlement is qualifying UK settlement comprised in a group), and
- (b) paragraph 8 (sub-fund settlements).

Special rules for qualifying UK settlements comprised in groups

6 (1) This paragraph reduces the annual exempt amount for trustees of a settlement for a tax year if the settlement is one of two or more qualifying UK settlements comprised in a group.

(2) In the case of a settlement for the benefit of a disabled person for the year, the annual exempt amount for the year is to be reduced so that it is equal to—
- (a) one-tenth of an individual's amount for that year, or
- (b) the amount resulting from dividing the individual's amount for that year by the number of settlements in the group,

whichever is the greater.

(3) In the case of any other settlement, the annual exempt amount for the year is to be reduced so that it is equal to—
- (a) one-tenth of an individual's amount for that year, or
- (b) the amount resulting from dividing half of an individual's amount for that year by the number of settlements in the group,

whichever is the greater.

(4) In this paragraph “an individual's amount”, in relation to a tax year, means the annual exempt amount applying to an individual for the year under section 1K.

(5) For the purposes of this paragraph all qualifying UK settlements in relation to which the same person is the settlor constitute a group.

(6) If—
- (a) two or more persons are settlors in relation to a settlement, and
- (b) a settlement is consequently comprised in two or more groups comprising different numbers of settlement,

sub-paragraphs (2)(b) and (3)(b) have effect by reference to the largest group.

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7 (1) In this Schedule "qualifying UK settlement", in relation to a tax year, means any settlement in relation to which both of the following conditions are met—

(a) the trustees of the settlement are resident in the United Kingdom during any part of the tax year, and

(b) the property comprised in the settlement is not held for a charitable or pensions purpose.

(2) Property comprised in a settlement is held for a charitable purpose if (and only if)—

(a) it is held for charitable purposes only, and

(b) it cannot become applicable for other purposes.

(3) Property comprised in a settlement is held for a pensions purpose if (and only if) it is held for the purposes of—

(a) a registered pension scheme,

(b) a superannuation fund to which section 615(3) of the Taxes Act applies, or

(c) an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) that is not a registered pension scheme.

(4) For this purposes of any provision of this Schedule other than paragraph 8 a settlement is not a qualifying UK settlement if—

(a) in the case of one for the benefit of a disabled person, it was made before 10 March 1981, or

(b) in any other case, it was made before 6 June 1978.

Special rules for principal settlements and sub-funds

8 (1) This paragraph—

(a) applies if the trustees of a settlement ("the principal settlement") have made an election under paragraph 1 of Schedule 4ZA the effect of which is that one or more other settlements ("sub-fund settlements") are treated as created, and

(b) provides for the annual exempt for the trustees of each of the affected settlements to be determined by reference to the assumed annual amount.

(2) For this purposes of this paragraph—

(a) the principal settlement and each of the sub-fund settlements is an "affected settlement", and

(b) the "assumed annual amount" means the amount which would be the annual exempt for the trustees of the principal settlement on the assumption that no election had been made under paragraph 1 of Schedule 4ZA.

(3) The annual exempt amount for the trustees of each of the affected settlements is the assumed annual amount unless there are two or more qualifying UK settlements in the affected settlements.

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(4) In that case, the annual exempt amount for the trustees of each of the affected settlements is the assumed annual amount divided by the number of qualifying UK settlements in the affected settlements."

17 After Schedule 4 insert—

"SCHEDULE
4AA

RE-BASING FOR NON-RESIDENTS IN RESPECT OF UK LAND ETC HELD ON 5 APRIL 2019

PART 1

INTRODUCTION

1 (1) Part 2, 3 or 4 of this Schedule applies on the first occasion on which a person disposes of an asset that the person held on 5 April 2019 where—
(a) the disposal is either a direct or indirect disposal of UK land, and
(b) the disposal is made by a non-resident or a UK resident in the overseas part of a tax year.

(2) See also paragraph 16 (non-UK resident company holding UK land becoming resident in UK after 5 April 2019).

(3) For the purposes of this Schedule—
(a) a disposal is a "direct disposal of UK land" if it is a disposal of an interest in UK land, and
(b) a disposal by a person is an "indirect disposal of UK land" if it is a disposal of an asset (other than an interest in UK land) deriving at least 75% of its value from UK land where the person has a substantial indirect interest in that land.

(4) For the purposes of this paragraph, the disposal is made by a non-resident or a UK resident in the overseas part of a tax year if it is—
(a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection,
(b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c),
(c) a disposal on which a gain accrues that falls to be dealt with by section 2B(4), or
(d) a disposal of an asset on which a gain does not accrue but which, had a gain accrued, would fall to be dealt with as mentioned in any of the preceding paragraphs of this sub-paragraph.

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PART 2

INDIRECT DISPOSALS AND DIRECT DISPOSALS NOT CHARGEABLE BEFORE 6 APRIL 2019

Introduction

2 (1) This Part of this Schedule applies to—
- (a) all indirect disposals of UK land,
- (b) direct disposals of UK land that were not fully residential before 6 April 2019, and
- (c) direct disposals of UK land by persons who were not chargeable before 6 April 2019.

(2) For the purposes of this paragraph a direct disposal of UK land made by a person was "not fully residential before 6 April 2019" if in the period—
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 6 April 2015, and
- (b) ending with 5 April 2019,

there was no day on which the land to which the disposal relates consisted of or included a dwelling.

(3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time before 6 April 2019, consisted of or included a building to be constructed or adapted for use as a dwelling, the disposal is taken to be fully residential before that date.

(4) For the purposes of this paragraph, a disposal is made by a person who was not chargeable before 6 April 2019 if, immediately before that date, the person was—
- (a) a company which was not a closely-held company (see sub-paragraph (5)),
- (b) a widely-marketed scheme (see sub-paragraph (6)), or
- (c) a company carrying on life assurance business (as defined in section 56 of the Finance Act 2012) where the interest in UK land was, immediately before that date, held for the purpose of providing benefits to policyholders in the course of that business.

(5) The question as to whether a company is "a closely-held company" is determined in accordance with Part 1 of Schedule C1; but if—
- (a) the company is a divided company within the meaning of section 14G, and
- (b) the company would not otherwise be regarded as a closely-held company,

the company is to be so regarded if the conditions in subsection (3) of that section are met.

(6) A person is a "widely-marketed scheme" if—
- (a) the person is a scheme within the meaning of section 14F, and
- (b) condition A or B in that section is met,

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reading the reference in subsection (8)(a) of that section to the non-resident CGT disposal as a reference to the disposal mentioned in paragraph 1(1).

(7) In determining for the purposes of this paragraph whether or not—

(a) a person is a closely-held company, or

(b) a person is a widely-marketed scheme,

arrangements are to be ignored if the main purpose of, or one of the main purposes of, them is to secure a tax advantage as a result of the person not being a closely-held company or the person being a widely-marketed scheme.

(8) In this paragraph—

(a) "arrangements" and "tax advantage" have the same meaning as in section 16A, and

(b) any reference to section 14F, 14G or Schedule C1 are to those provisions as they had effect on 5 April 2019 (before their repeal by Schedule 1 to the Finance Act 2019).

Re-basing to 5 April 2019

3 (1) In calculating the gain or loss accruing on the disposal it is be assumed that the asset was on 5 April 2019 sold by the person, and immediately reacquired by the person, at its market value on that date.

(2) This paragraph has effect subject to any election made by the person under paragraph 4 (retrospective basis of calculation).

Election for retrospective basis of calculation

4 (1) The person may make an election under this paragraph for the assumption that the asset is sold and reacquired as mentioned in paragraph 3 not to apply.

(2) If, in the case of an indirect disposal of UK land—

(a) a person makes an election under this paragraph, and

(b) a loss accrues on the disposal,

the loss is not an allowable loss.

Calculation of residential property gain if election made under paragraph 4

5 (1) This paragraph applies if—

(a) a person makes an election under paragraph 4 in respect of a disposal on which a gain accrues, and

(b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.

(2) Paragraph 2 of Schedule 1B has effect as if—

(a) sub-paragraphs (5) and (6) of that paragraph were omitted, and

(b) in that paragraph, "the applicable period" had the definition given by the next sub-paragraph.

(3) "The applicable period" means the period—

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(a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
(b) ending with the day before the day on which the disposal is made.

PART 3

DIRECT DISPOSALS OF PRE-APRIL 2015 ASSETS FULLY CHARGEABLE BEFORE 6 APRIL 2019

Introduction

6 (1) This Part of this Schedule applies to any direct disposal of UK land if—
(a) the person held the interest in UK land being disposed of throughout the period beginning with 6 April 2015 and ending with the disposal, and
(b) the disposal was fully residential before 6 April 2019.

(2) For this purpose a direct disposal of UK land made by a person is "fully residential before 6 April 2019" if in the period—
(a) beginning with 6 April 2015, and
(b) ending with 5 April 2019,
every day on which the land to which the disposal relates consisted of a dwelling.

(3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time in that period, did not consist of a building to be constructed or adapted for use as a dwelling, the disposal is taken to be not fully residential before 6 April 2019.

(4) This Part of this Schedule does not apply to a direct disposal of UK land made by a person who was not chargeable before 6 April 2019, as determined for the purposes of paragraph 2.

Re-basing to 5 April 2015

7 (1) In calculating the gain or loss accruing on the disposal it is be assumed that the asset was on 5 April 2015 sold by the person, and immediately reacquired by the person, at its market value on that date.

(2) This paragraph has effect subject to any election made by the person under either—
(a) paragraph 8 (retrospective basis of calculation), or
(b) paragraph 9 (straight-line time apportionment),
(and an election may be made under only one of those paragraphs).

Election for retrospective basis of calculation

8 The person may make an election under this paragraph for the assumption that the asset is sold and reacquired as mentioned in paragraph 7 not to apply.

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Election for straight-line time apportionment

9 (1) The person may make an election under this paragraph—

(a) for the assumption that the asset is sold and reacquired as mentioned in paragraph 7 not to apply, and

(b) for the gain or loss accruing on the disposal to be apportioned so that only the post-5 April 2015 proportion of it is treated as accruing on the disposal.

(2) The "post-5 April 2015 proportion" is the proportion that the days in the post-5 April 2015 period bear to the days in the ownership period.

(3) For this purpose—

"the post-5 April 2015 period" means the day beginning with 6 April 2015 and ending with the day on which the disposal is made, and

"the ownership period" means the period beginning with the day on which the person acquired the interest disposed of or, if later, 31 March 1982 and ending with the day on which the disposal is made.

Calculation of residential property gain if election made under paragraph 8 or 9

10 (1) This paragraph applies if—

(a) a person makes an election under paragraph 8 in respect of a disposal on which a gain accrues, and

(b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.

(2) Paragraph 2 of Schedule 1B has effect as if—

(a) sub-paragraphs (5) and (6) of that paragraph were omitted, and

(b) in that paragraph, "the applicable period" had the definition given by the next sub-paragraph.

(3) "The applicable period" means the period—

(a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and

(b) ending with the day before the day on which the disposal is made.

11 (1) This paragraph applies if—

(a) a person makes an election under paragraph 9 in respect of a disposal on which a gain accrues, and

(b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.

(2) Paragraph 2 of Schedule 1B has effect as if—

(a) sub-paragraphs (5) and (6) of that paragraph were omitted, and

(b) in that paragraph, "the applicable period" had the definition given by the next sub-paragraph.

(3) "The applicable period" means the period—

(a) beginning with 6 April 2015, and

(b) ending with the day before the day on which the disposal is made.

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PART 4

DIRECT DISPOSALS OF ASSETS PARTLY CHARGEABLE BEFORE 6 APRIL 2019

Introduction

12 (1) This Part of this Schedule applies to any direct disposal of UK land if—
- (a) neither Part 2 nor Part 3 of this Schedule applies to the disposal, and
- (b) the interest in UK land being disposed of was not a post-April 2015 asset that was fully residential before 6 April 2019.

(2) For this purpose—
- (a) the interest in UK land being disposed of is a "post-April 2015 asset" if it was acquired by the person after 5 April 2015, and
- (b) the asset "was fully residential before 6 April 2019" if, in the period beginning with the day on which it was acquired and ending with 5 April 2019, every day on which the land to which the disposal relates consisted of a dwelling.

(3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time in that period, did not consist of a building to be constructed or adapted for use as a dwelling, the disposal is taken to be not fully residential before 6 April 2019.

Re-basing to 5 April 2015 and 5 April 2019

13 (1) In calculating the gain or loss accruing on the disposal ("the actual disposal") it is be assumed that—
- (a) the asset was on 5 April 2015 sold by the person, and immediately reacquired by the person, at its market value on that date (but see sub-paragraph (3)), and
- (b) in addition, the asset was on 5 April 2019 sold by the person, and immediately reacquired by the person, at its market value on that date.

(2) In the case of the assumed sale on 5 April 2019, the gain or loss accruing on that sale is treated as accruing on the actual disposal (in addition to the gain or loss that actually accrues on the actual disposal).

(3) If the asset was acquired by the person after 5 April 2015, the assumption that it is sold, and immediately reacquired, on 5 April 2015 is not to apply.

(4) This paragraph has effect subject to any election made by the person under paragraph 14 (retrospective basis of calculation).

Election for retrospective basis of calculation

14 The person may make an election under this paragraph for the assumptions that the asset is sold and reacquired as mentioned in paragraph 13 not to apply.

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Calculation of residential property gain if election made under paragraph 14

15 (1) This paragraph applies if—
(a) a person makes an election under paragraph 14 in respect of a disposal on which a gain accrues, and
(b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.

(2) Paragraph 2 of Schedule 1B has effect as if—
(a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
(b) in that paragraph, "the applicable period" had the definition given by the next sub-paragraph.

(3) "The applicable period" means the period—
(a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
(b) ending with the day before the day on which the disposal is made.

PART 5

MISCELLANEOUS

Companies with UK land becoming UK resident after 5 April 2019

16 (1) This paragraph applies in any case where—
(a) a company becomes resident in the United Kingdom after 5 April 2019,
(b) the company makes a direct or indirect disposal of UK land after that date, and
(c) (ignoring this paragraph) Part 2, 3 or 4 of this Schedule would have applied to the disposal but for the fact that it is made at a time when the company is resident in the United Kingdom.

(2) In that case, Part 2, 3 or 4 of this Schedule applies in relation to the disposal (regardless of paragraph 1(1)(b)).

Persons with UK land ceasing to be UK resident after 5 April 2019

17 (1) This paragraph applies in any case where—
(a) the trustees of a settlement cease to be resident in the United Kingdom after 5 April 2019,
(b) after that date the trustees dispose of an asset held by them on that date, and
(c) the disposal is a direct or indirect disposal of UK land.

(2) Nothing in Part 2, 3 or 4 of this Schedule applies to the disposal.

(3) The asset that is disposed of is excepted from the application of section 80(2) (deemed disposal of assets on trustees ceasing to be resident in UK).

18 (1) This paragraph applies in any case where—

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(a) a company ceases to be resident in the United Kingdom after 5 April 2019,

(b) after that date the company disposes of an asset held by it on that date, and

(c) the disposal is a direct or indirect disposal of UK land.

(2) Nothing in Part 2, 3 or 4 of this Schedule applies to the disposal.

(3) The asset that is disposed of is excepted from the application of section 185(2) and (3) (deemed disposal of assets on company ceasing to be resident in UK).

Wasting assets

19 (1) This paragraph applies if, in calculating a gain or loss accruing to a person in a case where paragraph 3, 7 or 13 is applicable, it is necessary to make a wasting asset determination in relation to the asset disposed of.

(2) The assumption that the asset was acquired on a date mentioned in paragraph 3, 7 or 13 (as the case may be) is to be ignored in making that determination.

(3) In this paragraph "a wasting asset determination" means a determination whether or not an asset is a wasting asset, as defined for the purposes of Chapter 2 of Part 2 of this Act.

Capital allowances

20 (1) This paragraph applies if, in calculating a gain or loss accruing to a person in a case where paragraph 3, 7 or 13 is applicable, it is to be assumed that the asset disposed of was acquired on a particular date for a consideration equal to its market value on that date.

(2) For the purposes of that calculation—

(a) section 41 (restriction of losses by reference to capital allowances and renewals allowances), and

(b) section 47 (wasting assets qualifying for capital allowances),

are to apply in relation to any allowance made in respect of the expenditure actually incurred in acquiring or providing the asset as if it were made in respect of the expenditure assumed to have been incurred.

(3) In this paragraph "allowance" means any capital allowance or renewals allowance.

Making of elections

21 (1) An election under any provision of this Schedule must (regardless of section 42(2) of the Management Act) be made by being included in a relevant return relating to the disposal.

(2) For the purposes of this paragraph a "relevant return" means—

(a) an ordinary tax return, or

(b) a return under Schedule 2 to the Finance Act 2019.

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(3) An election under any provision of this Schedule which is made by being included in a return under Schedule 2 to the Finance Act 2019 may be subsequently revoked by provision included in an ordinary tax return which is delivered on or before the filing date for the ordinary tax return.

(4) Subject to that, an election under any provision of this Schedule is irrevocable.

(5) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under any provision of this Schedule.

(6) For the purposes of this paragraph, in the case of a person other than a company—

"ordinary tax return" means a return under section 8 or 8A of the Management Act, and

"the filing date", in relation to that return, has the meaning given by section 9A(6) of that Act.

(7) For the purposes of this paragraph, in the case of a company—

"ordinary tax return" means a company tax return under Schedule 18 to the Finance Act 1998, and

"the filing date", in relation to that return, has the meaning given by paragraph 14 of that Schedule.

(8) For the purposes of this paragraph—

(a) the reference to an election being included in a relevant return includes its being included as a result of an amendment of the return, and

(b) the reference to the revocation of an election being included in an ordinary tax return includes its being included as a result of an amendment of the return.

Interpretation

22 (1) In this Schedule—

(a) any reference to an interest in UK land is to be read in accordance with section 1C (and any reference to land is to be read in accordance with that section), and

(b) any reference to an asset (other than an interest in UK land) deriving at least 75% of its value from UK land where a person has a substantial indirect interest in that land is to be read in accordance with Schedule 1A.

(2) If an interest in UK land disposed of by a person results from interests in UK land acquired by the person at different times, the person is regarded for the purposes of this Schedule as having acquired the interest disposed of at the time of the first acquisition.

(3) For the purposes of this Schedule, whether a building is a dwelling is determined in accordance with Schedule 1B."

18 Omit Schedule 4ZZA (relevant high value disposals: gains and losses).

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19 Omit Schedule 4ZZB (non-resident CGT disposals: gains and losses).

20 Omit Schedule 4ZZC (disposals of residential property interests: gains and losses).

21 After Schedule 5A insert—

"SCHEDULE
5AAA

UK PROPERTY RICH COLLECTIVE INVESTMENT VEHICLES ETC

PART 1

INTRODUCTION: KEY EXPRESSIONS

Meaning of "collective investment vehicle", "participant" and "unit"

1 (1) In this Schedule "collective investment vehicle" means—
(a) a collective investment scheme,
(b) an AIF,
(c) a company which is a UK REIT, or
(d) a company which is resident outside the United Kingdom and meets the property income condition.

(2) A company meets the property income condition if—
(a) it is not a close company or is a close company but only because it has a qualifying investor as a direct or indirect participator,
(b) at least half of its income is property income from long-term investments,
(c) it distributes all, or substantially all, of its property income from long-term investments and does so on an annual basis, and
(d) it is not liable to tax on that income under the law of any territory in which it is resident.

(3) Paragraph 46 (meaning of "close company", "qualifying investor" and "direct or indirect participator") applies for the purposes of sub-paragraph (2)(a).

(4) For the purposes of sub-paragraph (2) "property income from long-term investments" means income deriving from direct or indirect investments in—
(a) land, or
(b) estates, interests or rights in or over land,
which are made on a long-term basis.

(5) In this Schedule "participant" means—
(a) in relation to a collective investment scheme or an AIF, a person who takes part in the arrangements or undertaking constituting the scheme or AIF, whether by becoming the owner of, or of any part of, the property that is the subject of or held by the arrangements or undertaking or otherwise, or

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(b) in relation to a company within (1)(c) or (d), a shareholder in the company.

(6) In this Schedule "unit" means—

(a) in the case of a collective investment scheme or an AIF, the rights or interests (however described) of the participant in the scheme or AIF, or

(b) in the case of a company within (1)(c) or (d), a share in the company.

(7) In this paragraph—

"AIF" has the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013, and

"UK REIT" has the same meaning as in Part 12 of CTA 2010.

Meaning of "offshore collective investment vehicle"

2 (1) In this Schedule "offshore collective investment vehicle" means—

(a) a collective investment vehicle constituted as a body corporate resident outside the United Kingdom,

(b) a collective investment vehicle under which property is held on trust for the participants where the trustees of the property are not resident in the United Kingdom, or

(c) a collective investment vehicle constituted by other arrangements that create rights in the nature of co-ownership where the arrangements take effect as a result of the law of a territory outside the United Kingdom.

(2) In this paragraph—

"body corporate" does not include a limited liability partnership, and

"co-ownership" is not restricted to the meaning of that term in the law of any part of the United Kingdom.

Meaning of a collective investment vehicle being "UK property rich" etc

3 (1) For the purposes of this Schedule the question whether a collective investment vehicle is "UK property rich" at any time is determined by applying the rules in Part 2 of Schedule 1A on the following assumptions.

(2) The assumptions are—

(a) that (so far as this would not otherwise be the case) the vehicle were a company, and

(b) that a disposal were made at that time of a right or interest in that company.

(3) If that disposal would be regarded for the purposes of Schedule 1A as a disposal of an asset deriving at least 75% of its value from UK land, the vehicle is regarded for the purposes of this Schedule as being UK property rich at that time.

(4) For the purposes of this Schedule the question whether a company is "UK property rich" at any time is determined by applying the rules in Part 2 of

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Schedule 1A on the assumption that a disposal were made at that time of a right or interest in the company.

(5) If that disposal would be regarded for the purposes of Schedule 1A as a disposal of an asset deriving at least 75% of its value from UK land, the company is regarded for the purposes of this Schedule as being UK property rich at that time.

PART 2

BASIC RULES

Application of Act to offshore CIV

4 (1) This paragraph applies to an offshore collective investment vehicle—
(a) which is not a company, and
(b) which is not constituted by two or more persons carrying on a trade or business in partnership.

(2) It is to be assumed that, for relevant purposes—
(a) the vehicle is a company, and
(b) the rights of the participants are shares in that company.

(3) The reference here to "relevant purposes" means—
(a) the purposes of this Schedule, and
(b) the purpose of applying section 1A(3)(b) or (c) or 2B(4) (and the other provisions of this or any other Act so far as relevant to their application) in relation to the vehicle.

(4) This paragraph does not apply to a collective investment vehicle in relation to which an election has effect under Part 3 of this Schedule (election for transparency).

(5) This paragraph applies in relation to a collective investment vehicle to which section 103D applies (tax transparent funds) but does not affect the operation of the rules set out in—
(a) section 103D(4) to (9) (calculation of gains on disposal of units etc), or
(b) section 103DA (share pooling etc).

(6) If this paragraph applies in relation to a collective investment vehicle, section 99 (application of Act to unit trust schemes) does not apply in relation to the scheme.

Units in a CoACS treated as shares in a company

5 (1) This paragraph applies to a unit in an authorised contractual scheme which is a co-ownership scheme where, as a result of the application of section 103D (application of Act to tax transparent funds), the unit is treated as an asset for the purposes of this Act.

(2) The asset is treated for the purposes of Schedule 1A as if it were a share in a company.

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Disposals by non-UK residents

6 (1) This paragraph applies if—

(a) a person disposes of an asset that derives at least 75% of its value from UK land (as determined in accordance with Part 2 of Schedule 1A), and

(b) the disposal has an appropriate connection to a collective investment vehicle (see sub-paragraphs (3) to (6) for the cases in which this test is met).

(2) For the purposes of section 1A(3)(c) or 2B(4)(b) (disposals by non-UK residents of assets deriving 75% of value from UK land etc), the person is treated as having a substantial indirect interest in the UK land at the time of the disposal.

(3) A disposal has an appropriate connection to a collective investment vehicle if the asset disposed of consists of a right or interest in—

(a) a collective investment vehicle, or

(b) a company at least half of whose market value derives from its being a direct or indirect participant in one or more collective investment vehicles.

(4) A disposal has an appropriate connection to a collective investment vehicle if—

(a) the vehicle is constituted by two or more persons carrying on a trade or business in partnership, and

(b) the disposal is made by a person as a participant in the vehicle.

(5) A disposal has an appropriate connection to a collective investment vehicle if the vehicle is a company and the disposal is made by it.

(6) A disposal has an appropriate connection to a collective investment vehicle if—

(a) a company (which is not the vehicle) makes the disposal, and

(b) the vehicle, and one or more other collective investment vehicles that are UK property rich, have a 50% investment in the company.

(7) Collective investment vehicles have a 50% investment in a company if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 50%, the vehicles would be regarded as having a 50% investment in the company at the time of the disposal.

(8) For this purpose the collective investment schemes are to be regarded as if they were a single person.

(9) This paragraph is subject to paragraph 7 (collective investment vehicles expected to have no more than 40% investments in UK land).

7 (1) This paragraph applies to a disposal which would otherwise have an appropriate connection to a collective investment vehicle as a result of paragraph 6(3), (5) or (6).

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(2) A disposal does not have an appropriate connection to a collective investment vehicle if, at the time of the disposal, the vehicle mentioned in paragraph 6(3)(a) or (5) or (6), or each of the vehicles mentioned in paragraph 6(3)(b), meets—
  (a) the non-UK real estate condition, and
  (b) the genuine diversity of ownership condition or, if the vehicle is a company, the non-close condition.

(3) If—
  (a) a disposal is made as mentioned in paragraph 6(6), and
  (b) the vehicle mentioned there is constituted by two or more persons carrying on a trade or business in partnership,

  the condition in sub-paragraph (2)(b) is taken to be met if the company mentioned in paragraph 6(6) meets the non-close condition.

(4) A vehicle meets the non-UK real estate condition at any time if, by reference to the prospectus for the vehicle as the prospectus has effect at that time, no more than 40% of the expected market value of the vehicle's investments is intended to derive from investments consisting of—
  (a) interests in UK land, or
  (b) rights or interests in companies which are UK property rich.

(5) A vehicle meets the genuine diversity of ownership condition at any time if, at that time—
  (a) it meets conditions A to C of regulation 75 of the Offshore Funds (Tax) Regulations 2009, or
  (b) it meets the condition in regulation 75(5) of those Regulations,

  and those Regulations apply for the purposes of this sub-paragraph as if any collective investment vehicle which is not an offshore fund were regarded as an offshore fund.

(6) A company meets the non-close condition at any time if, at that time, it—
  (a) is not a close company, or
  (b) is a close company but only because it has a qualifying investor as a direct or indirect participator.

(7) Paragraph 46 (meaning of "close company", "qualifying investor" and "direct or indirect participator") applies for the purposes of sub-paragraph (6).

PART 3

ELECTION FOR TRANSPARENCY

Election for collective investment vehicle to be treated as partnership

8 (1) This paragraph applies to an offshore collective investment vehicle—
  (a) which is UK property rich, and

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(b) which is transparent for income tax purposes otherwise than as a result of being constituted by two or more persons carrying on a trade or business in partnership.

(2) The manager of the vehicle may make an election for the vehicle to be treated for the purposes of—

(a) this Act, and

(b) the Management Act, and any other provision of the Corporation Tax Acts, so far as relating to the taxation of chargeable gains,

as if, in relation to all times on and after its constitution, it were to be regarded as a partnership.

(3) Accordingly, as a result of sub-paragraph (2)(b), it follows that, in applying rules such as section 1154 of CTA 2010 (meaning of "75% subsidiary" etc) for the purposes of Part 12 of that Act (Real Estate Investment Trusts) so far as relating to the taxation of chargeable gains, the vehicle is to be regarded as a partnership.

(4) In the case of section 12AA of the Management Act as it applies as a result of sub-paragraph (2), a notice under subsection (2) or (3) of that section may be given to the manager of the vehicle.

(5) The election has effect whether or not the vehicle would, but for the making of the election, be regarded as a person chargeable to capital gains tax or corporation tax on chargeable gains.

(6) For the purposes of this paragraph whether or not an offshore collective investment vehicle is regarded as being UK property rich may be determined by reference to the prospectus for the vehicle on the assumption that investments are made by the vehicle in accordance with the prospectus.

(7) For the purposes of this paragraph a collective investment vehicle is "transparent for income tax purposes" if, on the assumption that there are participants who are individuals resident in the United Kingdom, any sums which form part of the income of the vehicle—

(a) would be chargeable to income tax on those assumed participants under a provision specified in section 830(2) of ITTOIA 2005 in respect of such of those sums as would be referable to their interests, or

(b) if any of that income is derived from assets within the United Kingdom, would be so chargeable had the assets been outside the United Kingdom.

(8) If an election is made under this paragraph in relation to a collective investment vehicle—

(a) section 99 (application of Act to unit trust schemes) does not apply in relation to the vehicle, and

(b) section 103D (tax transparent funds) does not apply in relation to the vehicle.

Further provision about election

9 (1) An election under paragraph 8 in relation to an offshore collective investment vehicle—

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(a) has effect only if the participants in the vehicle at the time at which it is made have consented to the making of the election,
(b) must be made by notice given to an officer of Revenue and Customs, and
(c) must be made before the end of the period of 12 months beginning with the relevant acquisition date.

(2) For this purpose "the relevant acquisition date" means the earliest date on which—
(a) an interest in UK land, or
(b) a right or interest in a company that is UK property rich,
forms part of the property that is the subject of or held by the vehicle.

(3) An election under paragraph 8 is irrevocable.

Units in CIVs held by life insurance companies

10 (1) This paragraph applies if an election under paragraph 8 has effect in relation to an offshore collective investment vehicle.

(2) The election is treated as having no effect for the purposes of this Act in relation to any units in the vehicle which are held by an insurance company for the purposes of its long-term business.

Relationship to re-basing rules under Schedule 4AA for non-UK residents

11 (1) This paragraph applies if—
(a) an election under paragraph 8 has effect in relation to an offshore collective investment vehicle, and
(b) as a result of the election, Part 3 or 4 of Schedule 4AA would (but for this paragraph) apply in relation to a disposal made by a participant in the vehicle.

(2) The disposal is to be regarded for the purposes of Schedule 4AA as if it were one to which Part 2 of that Schedule applies.

PART 4

EXEMPTION

Exemption for qualifying offshore CIV that is UK property rich etc

12 (1) An election may be made for a collective investment vehicle, or a company which is not a collective investment vehicle, to be exempt from corporation tax on chargeable gains accruing to it on—
(a) all direct disposals of UK land, and
(b) all indirect disposals of UK land.

(2) An election may be made in respect of a collective investment vehicle if each of the following entitlement conditions is met—
(a) the vehicle is offshore,

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(b) the vehicle is a company (whether as a result of paragraph 4 or otherwise),

(c) the vehicle is UK property rich,

(d) the vehicle meets all of the qualifying conditions set out in paragraph 13, and

(e) if the vehicle is an AIF, it would also meet the definition of a collective investment vehicle for another reason.

(3) An election may be made in respect of a company which is not a collective investment vehicle if each of the following entitlement conditions is met—

(a) the company is wholly (or almost wholly) owned by a collective investment scheme which is constituted by two or more persons carrying on a trade or business in partnership or is constituted by a CoACS,

(b) the appropriate entity is UK property rich, and

(c) the company meets all of the qualifying conditions set out in paragraph 13,

and it does not matter where the company is resident.

(4) In sub-paragraph (3)(b) the "appropriate entity" means—

(a) in a case where the collective investment scheme is constituted by two or more persons carrying on a trade or business in partnership, the company, and

(b) in a case where the collective investment scheme is constituted by a CoACS, the CoACS.

(5) If an election is made under this paragraph in respect of a collective investment vehicle—

(a) the vehicle is referred to in this Part of this Schedule as "a qualifying fund", and

(b) any reference in this Part of this Schedule to a qualifying fund, in relation to any time after the election is made (including any time after the election ceases to have effect), is to be read as a reference to the arrangements, undertaking or company which met the definition of collective investment vehicle when the election was made.

(6) If an election is made under this paragraph in respect of a company which is not a collective investment vehicle—

(a) the company is referred to in this Part of this Schedule as "a qualifying company", and

(b) any reference in this Part of this Schedule to a qualifying company, in relation to any time after the election is made (including any time after the election ceases to have effect), is to be read as a reference to the company.

(7) Section 103D (application of Act to tax transparent funds) does not apply for the purpose of determining whether sub-paragraph (3)(a) applies.

(8) In this paragraph—

"AIF" has the meaning given by regulation 3 of the Alternative Investment Fund Managers Regulations 2013, and

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"CoACS" means an authorised contractual scheme which is a co-ownership scheme.

Qualifying conditions and information provided to HMRC

13 (1) For the purposes of paragraph 12(2), a collective investment vehicle meets the qualifying conditions in this paragraph at any time if, at that time—
(a) it is a collective investment scheme and it meets the genuine diversity of ownership condition,
(b) it is a company (otherwise than as a result of paragraph 4) and it meets the recognised stock exchange condition and the non-close condition, or
(c) it is a collective investment vehicle (of any kind) and it meets the UK tax condition and the non-close condition.

(2) For the purposes of paragraph 12(3), a company which is not a collective investment vehicle meets the qualifying conditions in this paragraph at any time if, at that time, either—
(a) the company meets the UK tax condition and the non-close condition, or
(b) the collective investment scheme which wholly (or almost wholly) owns the company meets the genuine diversity of ownership condition.

(3) For the purposes of this paragraph a collective investment scheme meets the genuine diversity of ownership condition at any time if, at that time—
(a) it meets conditions A to C of regulation 75 of the Offshore Funds (Tax) Regulations 2009, or
(b) it meets the condition in regulation 75(5) of those Regulations,

and those Regulations apply for the purposes of this sub-paragraph as if any collective investment scheme which is not an offshore fund were regarded as an offshore fund.

(4) For the purposes of this paragraph a company meets the recognised stock exchange condition at any time if, at that time—
(a) it has ordinary share capital, and
(b) the shares forming part of its ordinary share capital are regularly traded on a recognised stock exchange.

(5) For the purposes of this paragraph a company meets the non-close condition at any time if, at that time, it—
(a) is not a close company, or
(b) is a close company but only because it has a qualifying investor as a direct or indirect participator.

(6) Paragraph 46 (meaning of "close company", "qualifying investor" and "direct or indirect participator") applies for the purposes of sub-paragraph (5).

(7) For the purposes of this paragraph a company meets the UK tax condition at any time if, on the assumption that all of the shares in it were disposed of for their market value at that time, the person making the election reasonably considers at that time that, as a result solely of double taxation arrangements,

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no more than 25% of the total proceeds would fall to be left out of account for the purposes of this Act.

14 (1) An election under paragraph 12 has effect only if it is accompanied by information of such description as may be specified by an officer of Revenue and Customs about disposals made by participants in the relevant fund at any time in—

(a) the period of two years ending with the day before the day on which the election is made, or

(b) if shorter, the period beginning with the constitution of the relevant fund and ending with the day before the day on which the election is made.

(2) Information is not required by sub-paragraph (1) to accompany the election so far as—

(a) it has already been provided to an officer of Revenue and Customs in a form and manner, and at times, specified by an officer of Revenue and Customs, and

(b) the election sets out those occasions on which the information has been so provided.

15 (1) An election under paragraph 12 has effect subject to such conditions as to the provision of information or documents to an officer of Revenue and Customs as may be specified by an officer of Revenue and Customs.

(2) The information or documents must be provided to an officer of Revenue and Customs in respect of every period of account of the relevant fund which ends at a time when the election has effect.

(3) The information or documents must be provided to an officer of Revenue and Customs within the period of 12 months from the end of the period of account.

(4) The conditions as to the provision of information or documents may include—

(a) conditions relating to the participants in the relevant fund, and

(b) conditions requiring information or documents in respect of the operation of any provision of this Schedule (or any provision of this Act relevant to this Schedule).

(5) In the case of an election under paragraph 12—

(a) a designated HMRC officer may revoke the election if, in the officer's opinion, there has been, without reasonable excuse, a breach of any provision made by or under this paragraph, but

(b) an officer of Revenue and Customs (whether or not designated) may waive a breach of any provision made by or under this paragraph if, in the officer's opinion, there is no reasonable excuse for the breach but, having regard to all the circumstances, the breach is nonetheless insignificant.

(6) The circumstances to which the officer may have regard in determining whether a breach is insignificant include the number and seriousness of previous breaches.

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(7) In this paragraph "period of account", in relation to the relevant fund, means any period for which accounts of the relevant fund are drawn up.

(8) If the period of account would otherwise be longer than 12 months, the period of account is to be treated for the purposes of this paragraph as split into more than one period of account, and—

(a) the first deemed period of account is to be 12 months long, and

(b) any subsequent deemed period of account is to start when the previous deemed period of account ends and is to end 12 months later or, if earlier, when the actual period of account ends.

Exemption for direct or indirect disposals of UK land by persons in which fund invests

16 (1) This paragraph applies if—

(a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company ("Q"),

(b) Q is UK property rich by reference (wholly or partly) to particular interests in UK land ("the relevant UK property"), and

(c) a person other than Q makes a disposal at a time when the election has effect.

(2) If—

(a) the disposal is a direct disposal of any of the relevant UK property by a person, and

(b) immediately before the disposal, Q has a 40% investment in the person,

the appropriate proportion of any gain accruing to the person on the disposal is not a chargeable gain.

(3) If the disposal is an indirect disposal of UK land in a case where—

(a) the interests in UK land in question consist of or include any of the relevant UK property, and

(b) immediately before the disposal, Q has a 40% investment in the company in question,

the appropriate proportion of any gain accruing to the person on the disposal is not a chargeable gain.

(4) For the purposes of this paragraph the "appropriate proportion" means the proportion that so much of the consideration for the disposal as forms part (directly or indirectly) of the assets of Q bears to the total consideration for the disposal.

(5) For the purposes of this paragraph a person has a 40% investment in a company if, applying the rule in paragraph 9 (but without regard to paragraph 10) of Schedule 1A as if references to 25% were references to 40%, the person would be regarded as having a 40% investment in the company immediately before the disposal.

(6) In this paragraph—

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"the interests in UK land in question" means the interests in UK land taken into account in determining whether the disposal is an indirect disposal of UK land, and

"the company in question", in relation to a disposal of a right or interest in a company by the person, means that company.

(7) If an officer of Revenue and Customs considers that the operation of this paragraph would otherwise result in the total proportion of a gain that is not a chargeable gain exceeding the whole of the gain, the officer may make such adjustments to the appropriate proportion of a gain accruing to any person as the officer considers just and reasonable to prevent that result.

Making of election and period for which it has effect

17 (1) An election under paragraph 12—

(a) must be made by the relevant fund manager, and

(b) must be made by notice given to an officer of Revenue and Customs.

(2) An election under paragraph 12 must specify the day from which it is to have effect.

(3) The election has effect in relation to disposals on or after the day specified in the election.

(4) A day may be specified in the election even if it falls before the day on which the election is made.

(5) But a day that falls more than 12 months before the day on which the election is made may be specified only if an officer of Revenue and Customs consents.

(6) For this purpose—

(a) consent may be given generally (for example, by describing, in a notice published by an officer of Revenue and Customs, cases in which consent is deemed to be given), or

(b) consent may be given in relation to particular cases.

Revocation of election

18 (1) In addition to the case set out in paragraph 15(5)(a), a designated HMRC officer may revoke an election under paragraph 12 if, in order to safeguard the public revenue, the officer considers it is appropriate to revoke the election.

(2) In the case of an election under paragraph 12 which is revoked by a designated HMRC officer (whether under this paragraph or paragraph 15), the revocation must be made by notice given by a designated HMRC officer to the relevant fund manager.

(3) The relevant fund manager may revoke an election under paragraph 12 by giving notice of the revocation to an officer of Revenue and Customs.

(4) A notice of revocation of an election under paragraph 12 must specify the day from which the election is to cease to have effect.

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(5) The election ceases to have effect in relation to disposals made on or after the day specified in the notice of revocation.

(6) The relevant fund manager may specify a day in a notice of revocation even if the day falls before the day on which the notice is given but only if an officer of Revenue and Customs consent.

(7) For this purpose—
  (a) consent may be given generally (for example, by describing, in a notice published by an officer of Revenue and Customs, cases in which consent is deemed to be given), or
  (b) consent may be given in relation to particular cases.

19 (1) A notice of revocation given by a designated HMRC officer under paragraph 15 or 18 must state the grounds for revoking the election under paragraph 12.

(2) The relevant fund manager may bring an appeal against the revocation of the election.

(3) The appeal must be made by notice given to the designated HMRC officer during the period of 30 days beginning with the day on which the notice of revocation is given.

(4) In the case of an appeal which is notified to the tribunal (see Part 5 of the Management Act), the tribunal must not allow the appeal unless it considers that a designated HMRC officer could not reasonably have been satisfied that there were grounds for revoking the election.

Qualifying fund or company ceasing to meet applicable exemption conditions

20 (1) This paragraph applies if—
  (a) an election under paragraph 12 has been made at any time in respect of a qualifying fund or qualifying company, and
  (b) at any subsequent time, the qualifying fund or qualifying company ceases to meet the applicable exemption conditions.

(2) The election ceases to have effect from that subsequent time in relation to disposals made at or after that time.

(3) This paragraph needs to be read with—
  (a) paragraph 27 (temporary period of no more than 30 days during which certain of applicable exemption conditions not met),
  (b) paragraph 28 (temporary period of no more than 9 months during which applicable exemption conditions not met), and
  (c) paragraph 30 (steps taken by relevant fund manager to wind up relevant fund).

Deemed disposal: payments not otherwise taxable where value derived from direct or indirect disposals of UK land

21 (1) This paragraph applies if—
  (a) an election under paragraph 12 that has been made in respect of a qualifying fund or qualifying company has effect at any time,

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(b) a participant in the relevant fund is entitled to receive an amount at that time ("the relevant time") which represents, in substance, value derived (directly or indirectly) from a direct disposal of UK land or from the UK land component of an indirect disposal of UK land, and

(c) the amount is regarded as being of a revenue nature and does not fall to be taken into account for the purposes of income tax or corporation tax on income.

(2) In the case of an election made in respect of a qualifying fund, the participant in the relevant fund is deemed for the purposes of this Act—

(a) to have sold its units in the relevant fund immediately before the relevant time at their market value immediately before that time, and

(b) to have reacquired those units immediately after the relevant time at their market value immediately after that time.

(3) In the case of an election made in respect of a qualifying company, the participant in the relevant fund is deemed for the purposes of this Act—

(a) to have sold its rights and interests in the company immediately before the relevant time at their market value immediately before that time, and

(b) to have reacquired those rights and interests immediately after the relevant time at their market value immediately after that time.

(4) In this paragraph "the UK land component" of an indirect disposal of UK land means the interests in UK land taken into account in determining whether the disposal is an indirect disposal of UK land.

Deemed disposal if election ceases to have effect

22 (1) This paragraph applies if at any time an election which has been made under paragraph 12 in respect of a qualifying fund or qualifying company ceases to have effect.

(2) In the case of an election made in respect of a qualifying fund, each participant in the relevant fund is deemed for the purposes of this Act—

(a) to have sold its units in the relevant fund immediately before that time, and

(b) to have immediately reacquired those rights and interests,

at their market value immediately before that time.

(3) In the case of an election made in respect of a qualifying company, each participant in the relevant fund is deemed for the purposes of this Act—

(a) to have sold its rights and interests in the company immediately before that time, and

(b) to have immediately reacquired those rights and interests,

at their market value immediately before that time.

Gains accruing on disposals under paragraph 21 or 22

23 (1) This paragraph applies if a disposal of an asset is deemed to have been made by a person at any time under—

(a) paragraph 21, or

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(b) paragraph 22 but only as a result of paragraph 20 (qualifying fund or qualifying company ceasing to meet the applicable exemption conditions).

(2) Any gain ("the deemed gain") accruing to the person on the disposal is treated as accruing to the person in accordance with the rules set out in the remainder of this paragraph.

(3) If, at the time of the deemed disposal or a subsequent time—
(a) the person actually disposes of a unit in the relevant fund, or
(b) the person receives an amount of a kind mentioned in paragraph 21(1),

the appropriate portion of the deemed gain is treated as accruing to the person at the time of the actual disposal or the time of the receipt.

(4) For this purpose "the appropriate portion" means the proportion which—
(a) the consideration for the actual disposal, or
(b) the amount of the receipt,

bears to the amount of the deemed gain.

(5) If some of the deemed gain has accrued on one or more previous occasions, the appropriate portion is restricted so that, when added to the appropriate portion or portions on the previous occasion or occasions, it does not exceed 100%.

(6) In determining the appropriate proportion, so much (if any) of the consideration for the actual disposal or the amount of the receipt as exceeds the amount of the deemed gain is to be ignored.

(7) In the case of a disposal under paragraph 21, the remainder of the deemed gain is treated as accruing to the person (unless the whole amount has already accrued) when the relevant fund is wound up.

(8) In the case of a disposal under paragraph 22, the remainder of the deemed gain is treated as accruing to the person (unless the whole amount has already accrued) at—
(a) the end of the period of three years beginning with the time of the deemed disposal, or
(b) if earlier, when the relevant fund is wound up.

Relief for expenses in the case of deemed disposals under paragraph 21 or 22

24 (1) This paragraph applies if a disposal is deemed to have been made by a person as a result of paragraph 21 or 22.

(2) The person is treated for the purposes of section 38(1)(c) as having incurred incidental costs of making the deemed disposal equal to the notional costs.

(3) The reference here to the notional costs is to the incidental costs —
(a) which the person would reasonably have expected to have incurred if the deemed sale under paragraph 21 or 22 had been an actual sale, and
(b) which would have been allowable under section 38(1)(c) if there had been an actual sale.

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Notification to participants in relation to deemed disposals under paragraph 21 or 22

25 (1) This paragraph applies if—
- (a) a disposal is deemed to have been made by a person under paragraph 21,
- (b) a disposal is deemed to have been made by a person under paragraph 22 as a result of the revocation of an election, or
- (c) an amount is treated as accruing to a person under paragraph 23(7) or (8).

(2) The relevant fund manager must notify the person of the matters mentioned in sub-paragraph (1)(a), (b) or (c).

(3) The notification—
- (a) must be in writing, and
- (b) must be given within the period of 30 days beginning with the relevant time.

(4) If this paragraph applies as result of sub-paragraph (1)(a) or (b), "the relevant time" means the time at which the deemed disposal is made.

(5) If this paragraph applies as result of sub-paragraph (1)(c), "the relevant time" is the time at which the amount is treated as accruing.

26 (1) A person who fails to comply with paragraph 25 is liable to a penalty not exceeding £3,000.

(2) If—
- (a) there is a failure to comply with that paragraph, and
- (b) there are two or more persons who are the relevant fund managers each of whom is subject to the duty to notify under that paragraph,

the total amount of the penalties to which those managers (taken together) are liable is not to exceed £3,000.

(3) If a person becomes liable to a penalty under this paragraph, an officer of Revenue and Customs must—
- (a) assess the penalty, and
- (b) notify the person.

(4) The assessment must be made within the period of 12 months beginning with the day on which an officer of Revenue and Customs first becomes aware that the person has failed to comply with paragraph 25.

(5) A person may, by notice, appeal against a decision of an officer of Revenue and Customs that a penalty is payable under this paragraph.

(6) Notice of appeal under this paragraph must specify the grounds of appeal.

(7) Notice of appeal under this paragraph must be given—
- (a) within 30 days after the penalty was notified to the person,
- (b) to the officer of Revenue and Customs who notified the person.

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(8) A penalty under this paragraph must be paid before the end of the period of 30 days beginning with—

(a) the day on which the person was notified of the penalty, or

(b) if notice of appeal against the penalty is given, the day on which the appeal is finally determined or withdrawn.

Temporary period during which applicable exemption conditions not met

27 (1) This paragraph applies if—

(a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company ("Q"),

(b) Q ceases at any time ("the relevant time") to meet the applicable exemption conditions otherwise than as a result of the vehicle or appropriate entity ceasing to be UK property rich (see paragraph 12(2)(c) or (3)(b)),

(c) the election would (but for this paragraph) have, accordingly, ceased to have had effect under paragraph 20 from the relevant time,

(d) the relevant fund manager expects Q to meet the applicable exemption conditions within 30 days, and

(e) Q does meets those conditions within 30 days.

(2) The failure by Q to meet the applicable exemption conditions is to be ignored for the purposes of this Part of this Schedule.

(3) In this paragraph any reference to Q meeting the applicable exemption conditions within 30 days is to Q meeting those conditions before the end of the period of 30 days beginning with the day on which the relevant time falls.

(4) This paragraph does not apply on more than four occasions in any period of 12 months.

28 (1) This paragraph applies if—

(a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company,

(b) but for this paragraph, the election would, as a result of paragraph 20, have ceased to have effect from a particular time for all purposes of this Part of this Schedule ("the relevant time"),

(c) the relevant fund manager expects the failure to meet the applicable exemption conditions to last for a temporary period, and

(d) at the end of the temporary period, the qualifying fund or qualifying company does meet those conditions.

(2) It is to be assumed that, for the purposes of any provision of this Part of this Schedule other than paragraph 22, the qualifying fund or qualifying company continues to meet the applicable exemption conditions during the temporary period.

(3) Accordingly—

(a) a deemed disposal occurs under paragraph 22 by reference to the failure to meet the applicable exemption conditions, but

(b) subject to that, the election continues to have effect during the temporary period.

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(4) A period is not to be regarded as a temporary period for the purposes of this paragraph if it is longer than a period of 9 months beginning with the relevant time.

(5) This paragraph does not apply if paragraph 27 applies.

29 (1) This paragraph applies if paragraph 28 has applied in relation to a qualifying fund or qualifying company on one or more occasions.

(2) Paragraph 23(8) has effect as if, for the words from "at—" to the end, there were substituted " when the relevant fund is wound up. "

Steps taken by relevant fund manager to wind up relevant fund

30 (1) This paragraph applies if—

(a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company,

(b) but for this paragraph, the election would, as a result of paragraph 20, have ceased to have effect from a particular time ("the relevant time") for all purposes of this Part of this Schedule, and

(c) the relevant time occurs at a time when the relevant fund manager is taking steps with a view to the disposal of all of the assets of the relevant fund so that it can be wound up.

(2) It is to be assumed that, for the purposes of any provision of this Part of this Schedule other than paragraph 22, the qualifying fund or qualifying company continues to meet the applicable exemption conditions until the relevant fund is wound up.

(3) Accordingly—

(a) a deemed disposal occurs under paragraph 22 by reference to the failure to meet the applicable exemption conditions, but

(b) subject to that, the election continues to have effect until the relevant fund is wound up.

Deemed disposals of UK land by companies previously owned by fund

31 (1) This paragraph applies if—

(a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company ("Q"),

(b) Q, or a company covered by the election, disposes of all of its rights and interests in another company ("C") which is UK property rich, and

(c) C is covered by the election.

(2) C is deemed for the purposes of this Act—

(a) to have sold, at the relevant time, the appropriate proportion of every qualifying asset the actual disposal of which by C would be a direct or indirect disposal of UK land, and

(b) to have reacquired the appropriate proportion of the asset immediately after the relevant time,

at its market value at the relevant time.

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(3) In the case of a disposal, a company is "covered by the election" for the purposes of this paragraph if the disposal is one to which paragraph 16 applies where the election concerned is the one referred to in this paragraph.

(4) For the purposes of this paragraph "the appropriate proportion" of an asset is equal to whatever would be, for the purposes of paragraph 16, the appropriate portion of any gain if it is assumed—

(a) that C had sold the asset at the relevant time, and

(b) that the total consideration for that sale was such that it results in a gain of £100 accruing to C.

(5) For the purposes of this paragraph, an asset is a "qualifying asset" if, throughout the period of one year ending with the day on which the disposal of the asset is made, the asset has been held by C or any other company covered by the election or by Q.

(6) In this paragraph "the relevant time" means the time immediately before the disposal of all the rights and interests in C.

Deemed disposals of UK land by company or fund ceasing to be qualifying etc

32 (1) This paragraph applies if—

(a) an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company ("Q"),

(b) the election has had effect for a continuous period of at least five years, and

(c) either the election ceases to have effect (otherwise than in disqualifying circumstances) or the relevant fund manager starts to take steps with a view to the disposal of all of the assets of the relevant fund so that it can be wound up.

(2) Q is deemed for the purposes of this Act—

(a) to have sold, at the relevant time, every asset the actual disposal of which by Q would be a direct or indirect disposal of UK land, and

(b) to have reacquired the asset immediately after the relevant time,

at its market value at the relevant time.

(3) In the case of any asset covered by the election for 12 months and held by a company at the relevant time, the company is deemed for the purposes of this Act—

(a) to have sold, at the relevant time, the appropriate proportion of the asset, and

(b) to have reacquired the appropriate proportion of the asset immediately after the relevant time,

at its market value at the relevant time.

(4) For the purposes of sub-paragraph (3) an asset held by a company at the relevant time has been "covered by the election for 12 months" if, assuming the asset were disposed of at the relevant time, the disposal would have been one to which paragraph 16 applied by reference to the election.

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(5) For the purposes of sub-paragraph (3) "the appropriate proportion" of an asset is equal to whatever would be, for the purposes of paragraph 16, the appropriate portion of any gain if it is assumed—
  (a) that the company had sold the asset at the relevant time, and
  (b) that the total consideration for that sale was such that it results in a gain of £100 accruing to it.

(6) For the purposes of this paragraph the election ceases to have effect in "disqualifying circumstances" if—
  (a) it ceases to have effect as a result of a notice of revocation under paragraph 15(5)(a) in a case where a designated officer of Revenue and Customs is of the opinion that there have been at least three serious breaches of provision made by or under paragraph 15 during the period for which the election has had effect, or
  (b) it ceases to have effect as a result of a notice of revocation under paragraph 18(1).

(7) In this paragraph "the relevant time" means the time immediately before—
  (a) the election ceases to have effect, or
  (b) the relevant fund manager starts to take steps with a view to the disposal of all or the assets of the relevant fund so that it can be wound up.

(8) For the purposes of this paragraph an election made under paragraph 12 in respect of Q is taken to be the same election as one made at a subsequent time in respect of another qualifying fund or qualifying company ("A") if, at the subsequent time, Q is wholly owned by A.

Exemption for disposals by companies wholly owned by certain investors

33 (1) This paragraph applies if an election under paragraph 12 has been made in respect of a qualifying fund or qualifying company.

(2) If—
  (a) a participant in the relevant fund disposes of a unit in the relevant fund,
  (b) the participant is a company which is wholly owned by one or more investors to which this paragraph applies, and
  (c) the participant is not a collective investment vehicle,

  any gain accruing on the disposal is not a chargeable gain.

(3) Nothing in paragraph 21 is to result in a deemed disposal of an asset held by any investor to which this paragraph applies other than an insurance company.

(4) Each of the following is an investor to which this paragraph applies—
  (a) any person who is a qualifying institutional investor within the meaning of Schedule 7AC (substantial shareholding exemption),
  (b) a company carrying on life assurance business where, immediately before the disposal, its right or interest in the participant is an asset which, applying the rules in section 138 of the Finance Act 2012,

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is wholly matched to a liability of its life assurance business that is not BLAGAB,

(c) a company carrying on long-term business none of which is BLAGAB where, immediately before the disposal, its right or interest in the participant is an asset held for the purposes of its long-term business, and

(d) a qualifying fund or qualifying company in respect of which an election under paragraph 12 has effect.

(5) In this paragraph "BLAGAB" means basic life assurance and general annuity business.

Disapplication of paragraph 3A of Schedule 7AC: qualifying institutional investors

34 (1) This paragraph applies if—

(a) a gain or loss accrues to a company ("the investing company") which has ordinary share capital owned by one or more qualifying institutional investors,

(b) some of the gain or loss is not chargeable or allowable as a result of paragraph 16(3), and

(c) some or all of the ownership of the qualifying institutional investors in the investing company is through the company which is Q for the purposes of paragraph 16(3).

(2) The ownership of the qualifying institutional investors in the investing company is to be ignored for the purpose of applying the exemption conferred by paragraph 3A of Schedule 7AC so far as the ownership is through Q.

(3) In this paragraph "qualifying institutional investors" has the same meaning as in Schedule 7AC.

(4) Paragraph 3B of Schedule 7AC (meaning of "ownership") applies for the purposes of this paragraph as it applies for the purposes of paragraph 3A of that Schedule.

Relationship between rules in this Part and REIT rules in Part 12 of CTA 2010

35 (1) Nothing in this Part of this Schedule is to exempt so much of any qualifying REIT gain as accrues on a disposal made by a company which is, or is a member of, a UK REIT.

(2) A chargeable gain is a "qualifying REIT gain" so far as—

(a) the gain is not a chargeable gain as a result of section 535 or 535A of CTA 2010, and

(b) the gain is not one falling to be exempted as a result of the application of either of those sections following a notice given under section 586(1) or 587(1) of that Act (venturing group).

(3) In this paragraph "UK REIT" has the same meaning as in Part 12 of CTA 2010.

36 (1) This paragraph applies if—

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(a) a gain accrues on a disposal made by a company ("the JV company") which is a member of a group UK REIT,

(b) the gain is one falling to be exempted as a result of the application of section 535 or 535A of CTA 2010 following a notice given under section 586(1) or 587(1) of that Act (venturing group),

(c) the principal company of the group UK REIT that gave the notice is covered by an election made under paragraph 12 in respect of a qualifying fund, and

(d) the JV company is also covered by the election.

(2) The amount of the gain accruing to the JV company which is not a chargeable gain as a result of the operation, by reference to the election, of the rules in this Part of this Schedule—

(a) is found by first taking the two steps mentioned below (which require the application of each of the exemption rules without regard to the other), and

(b) once those two steps are taken, is so much of the amount found by the first step as exceeds the amount found by the second step.

(3) The first step is, ignoring the effect of Part 12 of CTA 2010, to apply the rules in this Part of this Schedule that operate by reference to the election to identify the amount of the gain which (but for this paragraph) would not be chargeable.

(4) The second step is, ignoring the effect of this Part of this Schedule, to apply the rules in Part 12 of CTA 2010 that operate in relation to the group UK REIT to identify the amount of the gain accruing to the JV company which falls to be exempted as mentioned in sub-paragraph (1)(b).

(5) In the case of a disposal, a company is "covered by an election made under paragraph 12" for the purposes of this paragraph if the disposal is one to which paragraph 16 applies where the election concerned is the one referred to in this paragraph.

(6) In this paragraph "group UK REIT" has the same meaning as in Part 12 of CTA 2010.

Separate application of exemptions under this Schedule and elsewhere

37 (1) If—

(a) a person disposes of a right or interest in a company on which a gain or loss accrues, and

(b) proportions of the gain or loss are not chargeable or allowable as a result of the operation of any relevant exemption provision,

each relevant exemption provision is to work separately (without regard to the other) in relation to each proportion of the gain or loss to which the relevant exemption provision applies.

(2) Accordingly—

(a) each relevant exemption provision is to operate by reference to the whole of the gain or loss (ignoring the effect of the other relevant exemption provision), and

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(b) the total proportion of the gain or loss which is not chargeable or allowable is the total of the proportions separately found (but not so as to exceed the whole amount of the gain or loss).

(3) Each of the following is a "relevant exemption provision" for the purposes of this paragraph—
(a) any provision made by this Part of this Schedule,
(b) any provision made by paragraph 3A of Schedule 7AC, and
(c) any provision made by Part 12 of CTA 2010.

(4) This paragraph is subject to paragraphs 34 to 36.

Meaning of meeting "the applicable exemption conditions"

38 (1) For the purposes of Part of this Schedule a qualifying fund "meets the applicable exemption conditions" at any time if, at that time—
(a) it is a collective investment vehicle, and
(b) it meets the entitlement conditions set out in paragraph 12(2).

(2) For the purposes of Part of this Schedule a qualifying company "meets the applicable exemption conditions" at any time if, at that time, it meets the entitlement conditions set out in paragraph 12(3).

Meaning of "the relevant fund" and "the relevant fund manager"

39 (1) In this Part of this Schedule "the relevant fund"—
(a) in the case of an election in respect of a qualifying fund under paragraph 12, means the collective investment vehicle concerned, and
(b) in the case of an election in respect of a qualifying company under paragraph 12, means the collective investment scheme which wholly (or almost wholly) owns that company.

(2) In this Part of this Schedule "the relevant fund manager", in the case of an election in respect of a qualifying fund or qualifying company under paragraph 12, means the manager of the relevant fund.

Meaning of "wholly owned" or "wholly (or almost wholly) owned"

40 (1) For the purposes of this Part of this Schedule a collective investment scheme, or a person or persons together, wholly owns or own a company at any time if the scheme, or person or persons together, has or have a 100% investment in the company at that time.

(2) Whether a scheme, or person or persons together, have a 100% investment in a company at any time is determined—
(a) by applying a modified version of the rule in paragraph 9 of Schedule 1A, and,
(b) in the case of a collective investment scheme, on the assumption that it is a person.

(3) The reference here to a modified version of the rule in paragraph 9 of Schedule 1A is to the rule in that paragraph as it has effect without regard

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to paragraph 10 and as if in sub-paragraph (1) of paragraph 9 the following modifications were made—

(a) for the opening words substitute "A person or persons together (" P ") has or have a 100% investment in a company ("C") if all of the following conditions are met—",

(b) omit paragraph (a),

(c) in each of paragraphs (b), (c) and (d), for "25% or more" substitute " 100% ", and

(d) for the "or" at the end of paragraph (c) substitute " and ".

41 (1) For the purposes of this Part of this Schedule a collective investment scheme or person wholly (or almost wholly) owns a company at any time if—

(a) the scheme or person wholly owns the company at that time, or

(b) the scheme or person has a 99% investment in the company at that time.

(2) Whether a scheme or person has a 99% investment in a company at any time is determined—

(a) by applying a modified version of the rule in paragraph 9 of Schedule 1A, and,

(b) in the case of a collective investment scheme, on the assumption that it is a person.

(3) The reference here to a modified version of the rule in paragraph 9 of Schedule 1A is to the rule in that paragraph as it has effect without regard to paragraph 10 and as if in sub-paragraph (1) of paragraph 9 the following modifications were made—

(a) omit paragraph (a),

(b) for "25%", in each place, substitute " 99% ", and

(c) for the "or" at the end of paragraph (c) substitute " and ".

Meaning of "designated HMRC officer"

42 In this Part of this Schedule "designated HMRC officer" means an officer of Revenue and Customs who has been designated by the Commissioners for Her Majesty's Revenue and Customs for the purpose of revoking elections under paragraph 12.

PART 5

REPORTING AND PAYMENT

Reporting by collective investment vehicles

43 (1) The Treasury may by regulations make provision for managers of collective investment vehicles to elect to provide information to an officer of Revenue and Customs in respect of any participant in the vehicle who holds units the disposal of which would constitute an indirect disposal of UK land.

(2) The regulations may specify circumstances in which the provision of information or documents in accordance with the regulations is taken to

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satisfy obligations of the participant (or anyone else) to provide information or documents to an officer of Revenue and Customs.

(3) The regulations may be framed so as to apply to obligations of a description specified in the regulations.

Withholding of amounts on account of capital gains tax

44 (1) The Treasury may by regulations make provision for managers of collective investment vehicles to elect to meet the liability to capital gains tax or corporation tax in respect of indirect disposals of UK land made by any participant in the vehicle.

(2) The regulations may make provision for a simplified calculation of the tax liability of the participant in respect of those disposals.

(3) The regulations may make provision authorising the manager of a collective investment vehicle (or anyone else of a description specified in the regulations) to deduct an amount on account of capital gains tax from amounts that would otherwise be receivable by the participant.

(4) The regulations—

(a) may provide for the times at which amounts deducted on account of capital gains tax are to be paid to Her Majesty's Revenue and Customs, and

(b) may set out the extent to which those payments meet the liability of the participant to capital gains tax or corporation tax in respect of any indirect disposal of UK land.

General

45 (1) Regulations under this Part of this Schedule—

(a) may make different provision for different purposes, and

(b) may make supplementary, incidental, consequential or transitional or saving provision.

(2) Regulations under this Part of this Schedule may make provision having effect in relation to times before the regulations are made.

PART 6

GENERAL

Meaning of "close company", "qualifying investor" and "direct or indirect participator"

46 (1) This paragraph has effect for the purposes of the provisions of this Schedule which apply this paragraph (or to which this paragraph is applied).

(2) Whether a company is "a close company" is determined in accordance with the rules in Chapter 2 of Part 10 of CTA 2010 but subject to the following modifications—

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(a) section 442(a) (non-UK resident companies) is to be treated as omitted,

(b) section 444 (companies involved with non-close companies) is to be treated as omitted,

(c) section 447(1)(a) (shares in quoted companies beneficially held by non-close companies) is to be treated as omitted, and

(d) for the purposes of any attribution under section 451(4) (rights of a person's associates to be attributed to the person etc in determining "control") the rights and powers of a person ("A") are not to be attributed to another person ("P") merely because A is a partner of P.

(3) A "qualifying investor" means—

(a) a person who is within any of section 528(4A)(a), (b), (c), (i) or (j) of CTA 2010 where, if the collective investment vehicle mentioned in the provision concerned is a company, it meets the non-close condition or, if not, the vehicle meets the genuine diversity of ownership condition,

(b) a person who is within any other provision of section 528(4A) of that Act, or

(c) a qualifying fund or qualifying company in respect of which an election under paragraph 12 has effect.

(4) For the purposes of sub-paragraph (3)(a) a collective investment vehicle meets the genuine diversity of ownership condition at any time if, at that time—

(a) it meets conditions A to C of regulation 75 of the Offshore Funds (Tax) Regulations 2009, or

(b) it meets the condition in regulation 75(5) of those Regulations,

and those Regulations apply for the purposes of this sub-paragraph as if any collective investment vehicle which is not an offshore fund were regarded as an offshore fund.

(5) For the purposes of sub-paragraph (3)(a) a company meets the non-close condition at any time if, at that time, it—

(a) is not a close company, or

(b) is a close company but only because it has a qualifying investor as a direct or indirect participator,

applying the provisions of this paragraph for the purposes of this sub-paragraph.

(6) A person is a "direct participator" if the person is a participator for the purposes of Part 10 of CTA 2010 (see section 454).

(7) A person is an "indirect" participator in a company if the person has a share or interest in the capital or income of the company through another body corporate or other bodies corporate.

(8) The reference here to having a share or interest in the capital or income of a company through a body corporate is to be read as follows.

(9) Suppose that 3 or more bodies corporate are ordered in a series such that each body in the series (other than the last) has a share or interest in the capital or income of the body immediately below it in the series.

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(10) If B is a body that is below, but not immediately below, A in the series, A is said to own a share or interest in the capital or income of B through each body corporate that is between A and B in the series.

(11) A person is regarded for the purposes of sub-paragraphs (7) to (10) as having a share or interest in the capital or income of a company if the person would be a participator in the company as a result of section 454(2) of CTA 2010.

Other definitions

47 (1) In this Schedule—

"double taxation arrangements" means arrangements having effect under section 2(1) of TIOPA 2010,

"interest in UK land" is to be read in accordance with section 1C,

"the manager", in relation to a collective investment vehicle, means—

(a) any person who is the manager of the property that is the subject of or held by the vehicle, or

(b) any other person who has, or is expected to have, day-to-day control of that property, and

"prospectus", in relation to a collective investment vehicle, means any document (however described) which is made available to investors and which sets out descriptions of the investments to be made, or intended to be made, by the vehicle.

(2) For the purposes of this Schedule—

(a) a reference to a direct disposal of UK land is to a disposal of an interest in UK land, and

(b) a reference to an indirect disposal of UK land is to a disposal of an asset deriving at least 75% of its value from UK land.

(3) For this purpose the reference to a disposal of an asset deriving at least 75% of its value from UK land is to be read in accordance with Part 2 of Schedule 1A.

Power to make provision in relation to UK property rich collective investment vehicles etc

48 (1) The Treasury may by regulations make provision for the purposes of any provision of this Act in relation to—

(a) collective investment vehicles that are UK property rich, or

(b) investments made (directly or indirectly) by collective investment vehicles in companies that are UK property rich.

(2) Among other things, the regulations—

(a) may amend any provision made by this Schedule, or

(b) may disapply any provision made by or under this Act or provide for any provision made by or under this Act to have effect with modifications specified in the regulations.

(3) The regulations may make provision having effect in relation to times before the regulations are made.

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(4) The regulations—

(a) may make different provision for different purposes, and

(b) may make supplementary, incidental, consequential or transitional or saving provision.

PART 7

TRANSITIONAL PROVISION

Elections for transparency under paragraph 8

49 (1) This paragraph applies in the case of an offshore collective investment vehicle to which paragraph 8 applies which was constituted before 6 April 2019.

(2) Paragraph 9(1)(c) has effect as if it permitted the election under paragraph 8 to be made before 6 April 2020.

(3) The election is to have effect in relation to disposals made on or after 6 April 2019 (so that paragraph 8(2) has effect subject to this sub-paragraph).

(4) If a person is a participant in the vehicle on 6 April 2019—

(a) the making of an election under paragraph 8 is not to be regarded as being a disposal of the person's units in the vehicle, and

(b) any question arising for the purposes of this Act, in relation to a disposal on or after 6 April 2019 of the person's units in the vehicle, is to be determined as if the election under paragraph 8 had had effect in relation to all times on or after the vehicle's constitution.

Elections under paragraph 12 and information about disposals by participants

50 Nothing in paragraph 14 requires information about disposals made before 6 April 2019."

PART 2

CONSEQUENTIAL AMENDMENTS

TMA 1970

22 In TMA 1970, after section 8B insert—

"**8C Returns so far as relating to capital gains tax**

"**8C** "**8C Returns so far as relating to capital gains tax**

(1) This section applies if—

(a) the amount of chargeable gains accruing to a person in a tax year does not exceed the annual exempt amount for the year applicable to the person under section 1K of the 1992 Act,

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(b) the total amount or value of the consideration for all chargeable disposals of assets made by the person in the year does not exceed four times that annual exempt amount,

(c) the person is not a remittance-basis individual for the year, and

(d) a notice under section 8 or 8A is given to the person requiring information for the purpose of establishing the amount in which the person is chargeable to capital gains tax for the year.

(2) If the person makes a statement confirming the matters set out in subsection (1)(a) to (c), the statement constitutes sufficient compliance with that requirement.

(3) For the purposes of this section every disposal is a "chargeable disposal" other than—

(a) a disposal on which any gain accruing is not a chargeable gain, and

(b) a disposal to which section 58 of the 1992 Act applies (spouses and civil partners).

(4) For the purposes of this section an individual is "a remittance-basis individual" for a tax year if—

(a) section 809B of ITA 2007 applies to the individual for the year, or

(b) paragraph 2 of Schedule 1 to the 1992 Act applies in relation to any gains that are treated as accruing to the individual in the year as a result of paragraph 1 of that Schedule."

TCGA 1992

23 TCGA 1992 is amended as follows.

24 In section 16 (computation of losses), omit subsection (3).

25 (1) Section 25 (non-residents: deemed disposals) is amended as follows.

(2) In subsection (3A), for paragraph (b) substitute—

"(b) on ceasing to carry on the trade the asset is disposed of in circumstances in which section 139 or 171 applies."

(3) In subsection (7), for the words from "the disposal—" to the end substitute " the disposal would be chargeable to capital gains tax under section 1A(3)(a) or to corporation tax under section 2B(3). "

26 For section 25ZA substitute—

"**25ZA Postponing gain or loss under section 25(3): interests in UK land**

"**25ZA** "**25ZA Postponing gain or loss under section 25(3): interests in UK land**

(1) This section applies if an interest in UK land is deemed to have been disposed of under section 25(3) by a person at any time.

(2) The gain or loss that, but for this subsection, would have accrued to the person at that time is not to accrue at that time.

(3) But, on a subsequent disposal by the person of the whole or part of the interest in UK land, the whole or a corresponding part of the gain or loss is treated as accruing on the subsequent disposal.

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(4) This gain or loss is in addition to any gain or loss that actually accrues on the subsequent disposal.

(5) A disposal to which section 171 (transfers within a group) applies does not count as a subsequent disposal for the purposes of this section.

(6) A person may elect for a disposal deemed to have been made under section 25(3) to be excluded from the operation of this section.

(7) An election made by a company must be made within 2 years after the day on which the deemed disposal occurs.

(8) In this section "interest in UK land" has the meaning given by section 1C."

27 (1) Section 48A (unascertainable consideration) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

"(a) a person ("P") has made a disposal ("the original disposal") on which a relevant non-resident gain or relevant non-resident loss accrued,".

(3) In subsection (2)—

(a) in the opening words, for the words from "condition A" to "the receipt of the ascertained consideration—" substitute " P is not UK resident for the tax year in which the ascertained consideration is received (as determined for the purposes of Chapter 1 of Part 1)— ", and

(b) in paragraph (c), in step 2, for "NRCGT gain or loss, ATED-related gain or loss" substitute " relevant non-resident gain or relevant non-resident loss ".

(4) After subsection (6) insert—

"(7) In this section—

"relevant non-resident gain" means—

(a) a gain that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or

(b) a gain that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c), and

"relevant non-resident loss" means an allowable loss accruing on a disposal which, had a gain accrued instead, would have been a relevant non-resident gain."

(5) The amendments made by this paragraph have effect where the ascertained consideration is received on or after 6 April 2019, but, subject to the following modifications, in a case where the original disposal was made before that date.

(6) In that case, section 48A of TCGA 1992—

(a) has effect without the amendments made by sub-paragraphs (2) and (3)(b), and

(b) has effect as if, in step 3 in subsection (2)(c) of that section, for "(of the type appropriate to the computation)" (in both places) there were substituted " (of a kind most closely corresponding to that accruing on the original disposal) ".

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28 In section 59 (partnerships), in subsections (2)(b), (3) and (4), for "capital gains of the partnership" substitute " chargeable gains of the partnership ".

29 (1) Section 62 (death: general provisions) is amended as follows.

(2) In subsection (2A)—

(a) in paragraph (a), for "section 10A" substitute " section 1M ", and

(b) for paragraph (b) substitute—

"(b) relevant non-resident gains (see subsection (11))."

(3) In subsection (2AA), for "allowable NRCGT losses (see section 57B and Schedule 4ZZB)" substitute " relevant non-resident losses (see subsection (11)) ".

(4) After subsection (10) insert—

"(11) In this section—

"relevant non-resident gain" means—

(a) a gain that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or

(b) a gain that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c), and

"relevant non-resident loss" means an allowable loss accruing on a disposal which, had a gain accrued instead, would have been a relevant non-resident gain."

(5) The reference to relevant non-resident gains in section 62(2A)(b) of TCGA 1992 (as substituted by sub-paragraph (2)(b)) includes NRCGT gains as defined by section 57B of, and Schedule 4ZZB to, that Act.

(6) The reference here to section 57B of, and Schedule 4ZZB to, TCGA 1992 is to those provisions as they had effect before their repeal by this Schedule.

30 (1) Section 79B (attribution to trustees of gains of non-resident companies) is amended as follows.

(2) In subsection (1), for "section 13" substitute " section 3 (see section 3B) ".

(3) In subsection (2), for "section 13" substitute " section 3 ".

(4) In subsection (3)—

(a) for "section 13(2)" substitute " section 3 ", and

(b) for "section 13(9)" substitute " section 3(7) ".

(5) In subsection (4), for "section 13(9)" substitute " section 3(7) ".

31 For section 80A substitute—

"**80A Postponing gain or loss under section 80(2): interests in UK land**

"**80A** "**80A Postponing gain or loss under section 80(2): interests in UK land**

(1) This section applies if—

(a) an interest in UK land is deemed to have been disposed of under section 80(2) by trustees of a settlement at any time, and

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(b) the trustees make an election under this subsection.

(2) The gain or loss that, but for this subsection, would have accrued to the trustees at that time is not to accrue at that time.

(3) But, on a subsequent disposal by the trustees of the whole or part of the interest in UK land, the whole or a corresponding part of the gain or loss is treated as accruing on the subsequent disposal.

(4) This gain or loss is in addition to any gain or loss that actually accrues on the subsequent disposal.

(5) In this section "interest in UK land" has the meaning given by section 1C."

32 In section 85A (transfers of value: attribution of gains to beneficiaries and treatment of losses)—

(a) in subsection (2A), for "any section 2(2) amount" substitute " any section 1(3) amount ", and

(b) in subsection (3), for "section 2(2) amount" (in both places) substitute " section 1(3) amount ".

33 (1) Section 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements) is amended as follows.

(2) In subsection (1)(e), for "section 2(2)" substitute " section 1(3) ".

(3) For subsection (4ZA) substitute—

"(4ZA) Where (apart from this subsection) the amount mentioned in subsection (1)(e) would include a chargeable gain or allowable loss to which section 1A(3)(b) or (c) applies (disposals by non-UK residents within the charge to capital gains tax), so much of the gain or loss as would be so included is to be disregarded for the purposes of subsection (1)(e)."

34 (1) Section 86A (attribution of gains to settlor in section 10A cases) is amended as follows.

(2) In subsection (1)(a), for "section 10A" substitute " section 1M(3) ".

(3) In subsection (2), for "the section 2(2) amount" substitute " the section 1(3) amount ".

(4) In subsection (3), for "section 10A" substitute " section 1M(3) ".

(5) In subsection (4)(a), for "the section 2(2) amount" substitute " the section 1(3) amount ".

(6) In subsection (6), for "section 10A" substitute " section 1M(3) ".

(7) In subsection (7), for "the section 2(2) amount" (in both places) substitute " the section 1(3) amount ".

(8) In subsection (8)(c), for "section 10A" substitute " section 1M(3) ".

(9) In the title, for "in section 10A cases" substitute " where temporarily non-resident ".

35 (1) Section 87 (non-UK resident settlements: attribution of gains to beneficiaries) is amended as follows.

(2) In subsection (2), for "the section 2(2) amount" substitute " the section 1(3) amount ".

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(3) In subsection (4)—

(a) in the opening words, for "The section 2(2) amount" substitute " The section 1(3) amount ", and

(b) in paragraph (a), for "section 2(2)" substitute " section 1(3) ".

(4) In subsection (5), for "The section 2(2) amount" substitute " The section 1(3) amount ".

(5) For subsection (5A) substitute—

"(5A) Where (apart from this subsection) the amount mentioned in subsection (4)(a) would include a chargeable gain or allowable loss to which section 1A(3)(b) or (c) applies (disposals by non-UK residents within the charge to capital gains tax), so much of the gain or loss as would be so included is to be disregarded for the purposes of determining the section 1(3) amount."

(6) In subsection (5B), for "the section 2(2) amount" substitute " the section 1(3) amount ".

36 In section 87A (section 87: matching), for "the section 2(2) amount" (in each place) substitute " the section 1(3) amount ".

37 In section 87B (section 87: remittance basis), for subsection (2) substitute—

"(2) The chargeable gains are chargeable gains accruing on the disposal of an asset situated outside the United Kingdom."

38 In section 87J (relevant parts of payment from which onward gift derive), in subsections (2) and (5), for "the section 2(2) amount" substitute " the section 1(3) amount ".

39 In section 87N (sections 87 and 87A: disregard of payments to migrating beneficiary), in subsection (2)(d)(i) and (ii), for "the section 2(2) amount" substitute " the section 1(3) amount ".

40 In section 87P (sections 87 and 87A: temporary migration after payment disregarded), in subsection (1)(e)(i) and (ii), for "the section 2(2) amount" substitute " the section 1(3) amount ".

41 In section 88 (gains of dual settlements), in subsections (2) and (3)(a) and (b), for "section 2(2)" substitute " section 1(3) ".

42 In section 89 (migrant settlements, etc), in subsection (2), for "the section 2(2) amount" substitute " the section 1(3) amount ".

43 In section 90 (sections 87 and 89(2): transfers between settlements), in subsection (3) (in both places) and subsections (5) and (10)(b), for "the section 2(2) amount" substitute " the section 1(3) amount ".

44 In section 91 (increase in tax payable under section 87 or 89(2), in subsection (1)(a), for "the section 2(2) amount" substitute " the section 1(3) amount ".

45 In section 96 (payments by and to companies), in subsection (9A)(a), for "section 10A" substitute " section 1M ".

46 Omit section 100A (exemption for certain EEA UCITS).

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47 In section 103KC (carried interest: foreign chargeable gains), for "a foreign chargeable gain within the meaning of section 12" substitute " a chargeable gain accruing on the disposal of an asset situated outside the United Kingdom ".

48 In section 103KE (carried interest: avoidance of double taxation), in subsection (8)(b), for "section 2(2)(b)" substitute " section 1(3)(b) ".

49 (1) Section 139 (reconstruction involving transfer of business) is amended as follows.

(2) In subsection (1A)—

(a) in paragraphs (a) and (b), omit "or NRCGT assets", and

(b) in the sentence after paragraph (b), for the words from "and would by virtue of" to "purposes" substitute " chargeable to corporation tax as a result of section 2B(3) or (4) ".

(3) Omit subsection (1AA).

50 In section 140A (transfer or division of UK business), in subsection (2), for "section 10B" substitute " section 2B(3) ".

51 (1) Section 140E (merger leaving assets within UK tax charge) is amended as follows.

(2) In subsection (5)(b), for "section 10B" substitute " section 2B(3) ".

(3) In subsection (6)(b), for "section 10B" substitute " section 2B(3) ".

52 In section 159 (non-residents: roll-over relief), in subsection (4), for the words from "the disposal—" to the end substitute " the disposal would be chargeable to capital gains tax under section 1A(3)(a) or to corporation tax under section 2B(3). "

53 For section 159A substitute—

"**159A Disposals of interests in UK land by non-residents: roll-over relief**

"**159A "159A Disposals of interests in UK land by non-residents: roll-over relief**

(1) This section applies in a case where—

(a) the old assets that are disposed of are interests in UK land, and

(b) a chargeable gain accruing on the disposal would (apart from section 152) be within the charge to tax because of section 1A(3)(b) or 2B(4)(a).

(2) Section 152 applies only if the new assets that are acquired are interests in UK land.

(3) In this section—

(a) "interest in UK land" has the meaning given by section 1C,

(b) "the old assets" and "the new assets" have the same meaning as in section 152,

(c) any reference to a disposal of the old assets includes a disposal of an interest in them,

(d) the reference to the acquisition of the new assets includes the acquisition of an interest in them or entering into an unconditional contract for their acquisition."

54 (1) Section 161 (appropriations to and from trading stock) is amended as follows.

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(2) In subsection (1), for "subsections (3) to (3ZB)" substitute " subsection (3) ".

(3) Omit subsections (3ZA) and (3ZB).

(4) In subsection (3A), omit "or (3ZA)".

55 (1) Section 165 (relief for gifts of business assets) is amended as follows.

(2) In subsection (7A)(a), for "non-resident CGT disposal" substitute " direct or indirect disposal of UK land which meets the non-residence condition ".

(3) In subsection (7B), for "references to "chargeable NRCGT gain"" substitute " references to "so much of any gain accruing on the disposal as falls to be dealt with as mentioned in subsection (7D)(a) or (b)" ".

(4) In subsection (7C), for " "the chargeable NRCGT gain" substitute " "so much of the gain mentioned in subsection (7B)".

(5) After that subsection insert—

"(7D) For the purposes of subsections (7A) to (7C) a disposal is a "direct or indirect disposal of UK land which meets the non-residence condition" if it is—

(a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or

(b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c)."

56 (1) Section 167A (gifts of UK residential property interests to non-residents) is amended as follows.

(2) In subsection (1)—

(a) in the opening words, for "of a UK residential property interest" substitute " of an asset within section 1A(3)(b) or (c) ", and

(b) for paragraph (b) substitute—

"(b) on the assumption that the disposal is a direct or indirect disposal of UK land which meets the non-residence condition (whether or not that is the case), that gain would be a relevant gain (see subsections (6) and (7))."

(3) In subsection (3)—

(a) in the opening words, for "non-resident CGT disposal" substitute " direct or indirect disposal of UK land which meets the non-residence condition ",

(b) in paragraph (a), for " "chargeable NRCGT gain"" substitute " "relevant gain" ",

(c) in paragraph (b), for " "chargeable NRCGT gain"" substitute " "relevant gain" ", and

(d) in paragraph (c), for " "the chargeable NRCGT gain" substitute " "the relevant gain".

(4) In subsection (4)—

(a) in the opening words, for "the interest in UK land" substitute " the asset within section 1A(3)(b) or (c) ", and

(b) for paragraph (b) substitute—

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"(b) (if that would not otherwise be the case) is to be treated as a relevant gain."

(5) For subsection (6) substitute—

"(6) For the purposes of this section, a disposal is a "direct or indirect disposal of UK land which meets the non-residence condition" if it is—

(a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or

(b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c).

(7) For the purposes of this section, a "relevant gain" means so much of any chargeable gain accruing on a disposal as falls to be dealt with as mentioned in subsection (6)(a) or (b)."

(6) In the title, for "UK residential property interests" substitute " direct or indirect interests in UK land ".

57 For section 168A substitute—

"**168A Postponing held-over gain: interests in UK land**

"**168A** "**168A Postponing held-over gain: interests in UK land**

(1) This section applies if—

(a) an interest in UK land is deemed to have been disposed of under section 168(1) by a transferee at any time, and

(b) the transferee makes an election under this subsection.

(2) The held-over gain (within the meaning of section 165 or 260) that, but for this subsection, would have accrued to the transferee at that time is not to accrue at that time.

(3) But, on a subsequent disposal by the transferee of the whole or part of the interest in UK land, the whole or a corresponding part of the held-over gain is treated as accruing on the subsequent disposal.

(4) This gain is in addition to any gain or loss that actually accrues on the subsequent disposal.

(5) In this section "interest in UK land" has the meaning given by section 1C."

58 In section 169N (amount of entrepreneurs' relief: general), in subsection (4B), for "Section 4" substitute " Section 1H ".

59 In section 169VK (cap on investors' relief for disposal by an individual), in subsection (3), for "Section 4" substitute " Section 1H ".

60 In section 169VL (cap on investors' relief for disposal by trustees of a settlement), in subsection (4), for "Section 4" substitute " Section 1H ".

61 (1) Section 171 (transfers within a group: general provisions) is amended as follows.

(2) In subsection (1A), in the second sentence, for the words from "and would" to the end substitute " chargeable to corporation tax as a result of section 2B(3) or (4). "

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(3) After subsection (1A) insert—

"(1B) If—

(a) company A is deemed under section 25(3) to have previously disposed of the asset, but

(b) no gain or loss accrued on that deemed disposal as a result of section 25ZA(2),

that deemed disposal is to be ignored in applying subsection (1) of this section in relation to company B."

(4) In subsection (2), omit paragraph (ba).

62 In section 171A (election to reallocate gain or loss to another member of the group), for subsection (2) substitute—

"(2) In determining for the purposes of subsection (1)(c) whether subsection (1) of section 171 would have applied, it is to be assumed that subsection (1A)(b) of that section read—

"(b) that—

(i) at the time of the disposal, company B is resident in the United Kingdom, or carrying on a trade in the United Kingdom through a permanent establishment there, or

(ii) the asset is a chargeable asset in relation to company B immediately after the time of the disposal."""

63 In section 171B (election under section 171A: effect), in subsection (5), for the words from "and would by virtue of" to the end substitute " chargeable to corporation tax as a result of section 2B(3) or (4). "

64 In section 175 (replacement of business assets by members of a group), in subsection (2AA), for "section 10B" substitute " section 2B(3) ".

65 (1) Section 179 (company ceasing to be member of group: post-appointed day cases) is amended as follows.

(2) In subsection (3B)(c), for "section 13(2)" substitute " section 3 ".

(3) In subsection (10A)(a), for the words from "and would by virtue of" to "purposes" substitute " chargeable to corporation tax as a result of section 2B(3) or (4), ".

66 Omit section 187A (deemed disposal under section 185: ATED-related gains and losses).

67 For section 187B substitute—

"**187B Postponing gain or loss under section 185(2): interests in UK land**

"**187B "187B Postponing gain or loss under section 185(2): interests in UK land**

(1) This section applies if an interest in UK land is deemed to have been disposed of under section 185(2) by a company at any time.

(2) The gain or loss that, but for this subsection, would have accrued to the company at that time is not to accrue at that time.

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(3) But, on a subsequent disposal by the company of the whole or part of the interest in UK land, the whole or a corresponding part of the gain or loss is treated as accruing on the subsequent disposal.

(4) This gain or loss is in addition to any gain or loss that actually accrues on the subsequent disposal.

(5) A company may elect for a disposal deemed to have been made under section 185(2) to be excluded from the operation of this section.

(6) The election must be made within 2 years after the day on which the deemed disposal occurs.

(7) In this section "interest in UK land" has the meaning given by section 1C."

68 Omit sections 188A to 188K (and the italic heading before section 188A).

69 (1) Section 190 (tax recoverable from another group company or controlling director) is amended as follows.

(2) In subsection (2), for paragraph (b) substitute—

"(b) that the gain is chargeable to corporation tax as a result of section 2B(3) or (4)."

(3) In subsection (3)(b), for the words from "gain forms" to "10B" substitute " taxpayer company was not resident in the United Kingdom at the time when the gain accrued ".

70 (1) Section 199 (exploration or exploitation assets: deemed disposals) is amended as follows.

(2) In subsection (2), for "in respect of whom the residence condition (see section 2(1A)) is not met" substitute " who is not UK resident for a tax year (as determined for the purposes of Chapter 1 of Part 1) ".

(3) In subsection (6), for paragraphs (a) and (b) substitute " would be chargeable to capital gains tax or corporation tax as a result of section 1A(3)(a) or 2B(3) ".

71 In section 210A (insurance companies: ring-fencing of losses), in subsection (1), for "Section 8(1)" substitute " Section 2A(1) ".

72 In section 222A (determination of main residence: non-resident CGT disposals), in subsection (1), for paragraph (b) substitute—

"(b) the disposal is—

(i) a disposal on which a residential property gain (as defined by Schedule 1B) accrues which is chargeable to capital gains tax because of section 1A(3)(b), or

(ii) a disposal on which a loss accrues but is one which, had a gain accrued, would be within sub-paragraph (i)."

73 (1) Section 222B (non-qualifying tax years) is amended as follows.

(2) In subsection (2), for "a non-resident CGT disposal" substitute " a disposal falling within section 222A(1)(b) (non-resident disposals) ".

(3) In subsection (10), for "Section 11(1)(a)" substitute " Section 271ZA(2) ".

74 (1) Section 223 (amount of relief) is amended as follows.

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(2) In subsection (7), in paragraph (b), for "an NRCGT gain chargeable to capital gains tax by virtue of section 14D" substitute " a residential property gain (as defined by Schedule 1B) which is chargeable to capital gains tax because of section 1A(3)(b) ".

(3) In subsection (7A), for "paragraph 9 of Schedule 4ZZB applies by virtue of sub-paragraph (1)(b) of that paragraph" substitute " paragraph 8 or 14 of Schedule 4AA applies ".

75 In section 228 (conditions for relief: supplementary), in subsection (6), for the words from ", and either" to "section 10B" substitute " chargeable to capital gains tax or corporation tax on gains ".

76 (1) Section 260 (gifts on which inheritance tax is chargeable etc) is amended as follows.

(2) In subsection (6ZA)(a), for "non-resident CGT disposal" substitute " direct or indirect disposal of UK land which meets the non-residence condition ".

(3) In subsection (6ZB), for "a reference to "chargeable NRCGT gain"" substitute " a reference to "so much of any gain accruing on the disposal as falls to be dealt with as mentioned in subsection (6ZD)(a) or (b)" ".

(4) In subsection (6ZC), for " "the chargeable NRCGT gain" substitute " "so much of the gain mentioned in subsection (6ZB)".

(5) After that subsection insert—

"(6ZD) For the purposes of subsections (6ZA) to (6ZC) a disposal is a "direct or indirect disposal of UK land which meets the non-residence condition" if it is—

(a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or

(b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c)."

77 (1) Section 261ZA (gifts of UK residential property interests to non-residents) is amended as follows.

(2) In subsection (1)—

(a) in the opening words, for "of a UK residential property interest" substitute " of an asset within section 1A(3)(b) or (c) ", and

(b) for paragraph (b) substitute—

"(b) on the assumption that the disposal is a direct or indirect disposal of UK land which meets the non-residence condition (whether or not that is the case), that gain would be a relevant gain (see subsections (6) and (7))."

(3) In subsection (3)—

(a) in the opening words, for "non-resident CGT disposal" substitute " direct or indirect disposal of UK land which meets the non-residence condition ",

(b) in paragraph (a), for " "chargeable NRCGT gain"" substitute " "relevant gain" ", and

(c) in paragraph (b), for " "the chargeable NRCGT gain" substitute " "the relevant gain".

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(4) In subsection (4)—

(a) in the opening words, for "the interest in UK land" substitute " the asset within section 1A(3)(b) or (c) ", and

(b) in paragraph (b)—

(i) for "a chargeable NRCGT gain" substitute " a relevant gain ", and

(ii) for "a non-resident CGT disposal" substitute " a direct or indirect disposal of UK land which meets the non-residence condition ".

(5) In subsection (5)(b)(i)—

(a) for "a non-resident CGT disposal" substitute " a direct or indirect disposal of UK land which meets the non-residence condition ", and

(b) for "the chargeable NRCGT gain" substitute " the relevant gain ".

(6) For subsection (6) substitute—

"(6) For the purposes of this section, a disposal is a "direct or indirect disposal of UK land which meets the non-residence condition" if it is—

(a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or

(b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c).

(7) For the purposes of this section, a "relevant gain" means so much of any chargeable gain accruing on a disposal as falls to be dealt with as mentioned in subsection (6)(a) or (b)."

(7) In the title, for "UK residential property interests" substitute " direct or indirect interests in UK land ".

78 In section 261C (meaning of "the maximum amount" for purposes of section 261B), in subsection (2)(b), for "section 3(1)" substitute " section 1K(1) ".

79 In section 261E (meaning of "the maximum amount" for purposes of section 261D), in subsection (2)—

(a) in paragraph (a), for "section 2(2)" substitute " section 1(3) ", and

(b) in paragraph (b), for "section 3(1)" substitute " section 1K(1) ".

80 In section 263ZA (former employees: employment-related liabilities), in subsection (5)—

(a) in paragraph (b), for "section 2(2)" substitute " section 1(3) ", and

(b) in paragraph (c), for "section 3(1)" substitute " section 1K(1) ".

81 In section 271B (branch or agency treated as UK representative), in subsection (2), for "under section 10" substitute " as a result of section 1A(3)(a) ".

82 In section 279A (deferred unascertainable consideration: election for treatment of loss), in subsection (7)(b), for "section 10A" substitute " section 1M ".

83 (1) Section 279B (provisions supplementary to section 279A) is amended as follows.

(2) In subsection (1)(b)(ii)—

(a) for "section 2(2)" substitute " section 1(3) ", and

(b) for "section 3" substitute " section 1K ".

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(3) In subsection (7), for "section 10A(2)" substitute " section 1M ".

(4) In subsection (8)(a) and (b), for "section 10A(2)" substitute " section 1M ".

84 (1) Section 279C (effect of election under section 279A) is amended as follows.

(2) In subsection (3), for "section 2(2)(a)" substitute " section 1(3)(a) ".

(3) In subsection (4)—
(a) for "section 2(2)" substitute " section 1(3) ", and
(b) omit "(read, where appropriate, with section 2(4)(a))".

(4) In subsection (5), for "section 2(2)(b)" substitute " section 1(3)(b) ".

(5) In subsection (6)—
(a) in the opening words, for "section 2(2)(b)" substitute " section 1(3)(b) ", and
(b) in paragraph (c), for "section 10A" substitute " section 1M ".

85 (1) Section 279D (elections under section 279A) is amended as follows.

(2) In subsection (6)(c), for "section 2(2)(a)" substitute " section 1(3)(a) ".

(3) In subsection (7), for "section 2(2)(b)" (in both places) substitute " section 1(3)(b) ".

86 In section 287 (orders and regulations etc), in subsection (4), for "3(4)" substitute " 1L(2) ".

87 (1) Section 288 (interpretation) is amended as follows.

(2) In subsection (1) omit—
(a) the definition of "ATED-related",
(b) the definition of "non-resident CGT disposal",
(c) the definition of "NRCGT gain",
(d) the definition of "NRCGT group",
(e) the definition of "NRCGT loss", and
(f) the definition of "relevant high value disposal".

(3) In subsection (8), in the Table, in the entry relating to "branch or agency", for "s 10(6)" substitute " s 1B(5) ".

88 In Schedule 4A (disposal of interest in settled property etc), in paragraph 6(1), for "met the residence condition set out in section 2(1A)" substitute " was UK resident for the tax year (as determined in accordance with Chapter 1 of Part 1 of this Act) ".

89 (1) Schedule 4C (transfers of value: attribution of gains to beneficiaries) is amended as follows.

(2) For "the section 2(2) amount" or "the section 2(2) amounts", in each place, substitute " the section 1(3) amount " or "the section 1(3) amounts" respectively.

(3) In paragraph 1A(3), for "meets the residence condition set out in section 2(1A)" substitute " is UK resident for the tax year (as determined in accordance with Chapter 1 of Part 1 of this Act) ".

(4) In paragraph 4—
(a) in sub-paragraph (2), for "section 2(2)" substitute " section 1(3) ", and
(b) for sub-paragraph (3) substitute—

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"(3) Where (apart from this sub-paragraph) the chargeable amount mentioned in sub-paragraph (2) would include a chargeable gain or allowable loss to which section 1A(3)(b) or (c) applies (disposals by non-UK residents within the charge to capital gains tax), so much of the gain or loss as would be so included is to be disregarded for the purposes of determining the chargeable amount."

(5) In paragraph 6(1)(b), for "section 10A" substitute " section 1M ".

(6) In paragraph 12(1)(a) and (5), and in the italic heading before paragraph 12, for "section 10A" substitute " section 1M ".

(7) In paragraph 12A(1) and (5), and in the italic heading before paragraph 12, for "section 10A" substitute " section 1M ".

90 (1) Schedule 5 (attribution of gains to settlors with interest in non-resident or dual resident settlements) is amended as follows.

(2) In paragraph 1(1), for "section 3" substitute " section 1K ".

(3) In paragraph 1(2)(a), for "section 2(2)" substitute " section 1(3) ".

(4) In paragraph 1(3)—

(a) in paragraph (b), for "section 13" substitute " section 3 ", and

(b) in the second sentence—

(i) for "Subsections (12) and (13) of section 13" substitute " Section 3B(1) to (3) ", and

(ii) for "that section" substitute " section 3 ".

91 In Schedule 7A (restriction on set-off of pre-entry losses), in paragraph 6(1)(c) and (d), for "section 8(1)" substitute " section 2A(1) ".

92 In Schedule 7AC (exemptions for disposals by companies with substantial shareholdings), in paragraph 3(2)(c)(ii), for the words from "would" to "purposes" substitute " would be chargeable to corporation tax as a result of section 2B(3) or (4) ".

93 In Schedule 7C (relief for transfers to Schedule 2 share plans), in paragraph 8—

(a) in paragraph (a), for "under section 2(1)" substitute " as a result of section 1A(1) ", and

(b) in paragraph (b), for "under section 10(1)" substitute " as a result of section 1A(3)(a) ".

IHTA 1984

94 IHTA 1984 is amended as follows.

95 In Schedule A1 (non-excluded overseas property), in paragraph 8(3)—

(a) in the definition of "interest in UK land", for the words from "the meaning" to the end substitute " the same meaning as it has for the purposes of section 1A(3)(b) of the 1992 Act (see section 1C of that Act); ",

(b) in the definition of "dwelling", for the words from "the meaning" to the end substitute " the same meaning as it has for the purposes of Schedule 1B to the 1992 Act; ", and

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(c) in the definition of "contract for an off-plan purchase", for the words from "has the meaning" to the end substitute " means a contract for the acquisition of land consisting of, or including, a building, or part of a building, that is to be constructed or adapted for use as a dwelling. "

FA 2005

96 FA 2005 is amended as follows.

97 (1) Section 32 (non-UK resident vulnerable persons: amount of relief) is amended as follows.

(2) In subsection (3), in the definitions of "TLVB" and "TLVA", omit "for the purposes of section 3 of TCGA 1992".

(3) After that subsection insert—

"(3A) For the purposes of this section "the vulnerable person's taxable amount for the tax year" means the amount on which that person would be chargeable to capital gains tax for the tax year if no account were taken of section 1K of TCGA 1992."

98 (1) Schedule 1 (non-UK resident vulnerable persons: interpretation) is amended as follows.

(2) In paragraph 3—

(a) in sub-paragraph (1)(a), for "for the purposes of section 3 of TCGA 1992" substitute " (as defined by section 32(3A)) ",

(b) in sub-paragraph (1)(b), for "for the purposes of that section" substitute " (as defined by section 32(3A)) ",

(c) in sub-paragraph (2)—

(i) in paragraph (a), for "section 2(2)(b)" substitute " section 1(3)(b) ", and

(ii) omit paragraph (b) (together with the "and" before it).

(3) In paragraph 7—

(a) in sub-paragraph (1)(b), for "subsection (3) of that section" substitute " section 1E(2) of that Act ", and

(b) in sub-paragraph (2), for "section 10A" substitute " section 1M ".

ITA 2007

99 ITA 2007 is amended as follows.

100 In section 641 (accrued income profits and losses: trustees of a disabled person's trusts), in subsection (4), in the definition of "disabled person's trusts", for "paragraph 1(1) of Schedule 1" substitute " paragraph 3 of Schedule 1C ".

101 In section 643 (accrued income profits and losses: non-residents), in subsection (5), for "section 10(6)" substitute " section 1B(5) ".

102 In section 809F (remittance basis: effect on what is chargeable), in subsection (4), for "section 12 of TCGA 1992" substitute " paragraph 1 of Schedule 1 to TCGA 1992 ".

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103 In section 809G (claim for remittance basis: effect on allowances etc), in subsection (3), for "section 3(1A)" substitute " section 1K(6) ".

104 In section 809K (introduction to rules on remittance of income and gains), in subsection (1), for paragraph (e) substitute—

"(e) Schedule 1 to TCGA 1992 (UK resident individuals not domiciled in UK)."

105 In section 809VK (retention of funds to meet CGT liabilities), for subsection (5) substitute—

"(5) The highest potential CGT rate is the highest rate specified in section 1H of TCGA 1992 (regardless of the type of the chargeable gain or, if P is an individual, the rate of income tax at which P's income is chargeable)."

106 (1) Section 809YD (chargeable gains accruing on sales of exempt property) is amended as follows.

(2) In subsection (1)(c)(ii), for "section 13" substitute " section 3 ".

(3) In subsection (3), for "section 12 of TCGA 1992" substitute " paragraph 1 of Schedule 1 to TCGA 1992 ".

(4) In subsection (5)(a)—

(a) for "section 10A" substitute " section 1M ", and

(b) for "the year of return" substitute " the tax year that consists of or includes the period of return ".

(5) In subsection (7)—

(a) in the opening words, for "fell within the definition of foreign chargeable gains in section 12(4) of that Act" substitute " accrued on the disposal of a foreign asset (within the meaning of Schedule 1 to TCGA 1992) ", and

(b) for paragraphs (a) to (d) substitute—

"(a) section 1M,

(b) section 3D, and

(c) Schedule 1."

(6) In subsection (8), for "section 14A(2)" substitute " section 3D(2) ".

107 In section 809Z7 (meaning of "foreign income and gains" etc), in subsection (5), for the words from "are the foreign" to the end substitute " are the chargeable gains accruing to the individual in that year on the disposal of foreign assets (within the meaning of Schedule 1 to TCGA 1992) ".

CTA 2009

108 CTA 2009 is amended as follows.

109 In section 2 (charge to corporation tax), omit subsection (2A).

110 (1) Section 5 of CTA 2009 (territorial scope of charge to corporation tax) is amended as follows.

(2) In subsections (1), (2A) and (3), for "chargeable to corporation tax" substitute " chargeable to corporation tax on income ".

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(3) In subsection (2), for "within the charge to corporation tax" substitute " within the charge to corporation tax on income ".

(4) After subsection (4) insert—

"(5) The territorial scope of the charge to corporation tax on chargeable gains is given by section 2B of TCGA 1992."

111 In section 18A (exemption for profits or losses of foreign permanent establishments), after subsection (2A) insert—

"(2B) Profits and losses are not to be left out of account as mentioned in subsection (2) so far as, if the company were non-UK resident, they would be gains or losses accruing on disposals of assets within section 2B(4)(a) or (b) of TCGA 1992 (interests in UK land or other assets deriving at least 75% of their value from UK land)."

112 (1) Section 19 (chargeable profits) is amended as follows.

(2) In subsection (1), after "applies" insert " for the purposes of the charge to corporation tax on income ".

(3) In subsection (3)—

(a) at the end of paragraph (a), insert " and ", and

(b) omit paragraph (c).

(4) After subsection (3) insert—

"(4) For the purposes of the charge to corporation tax on chargeable gains accruing to the company, see section 2B(3) of TCGA 1992.

(5) That subsection provides (among other things) that the gains are chargeable to corporation tax only so far as they are attributable to the permanent establishment in accordance with sections 20 to 32 of this Act."

CTA 2010

113 CTA 2010 is amended as follows.

114 In section 533 (financial statements: supplementary), after subsection (1) insert—

"(1A) The profits and gains of the UK property rental business of a non-UK member of the group are to be treated as if they were profits and gains of a UK resident member of the group for the purposes of a financial statement under section 532(2)(a)."

115 After section 535 insert—

"**535A Gains: disposals of rights or interests in UK property rich companies**

"**535A "535A Gains: disposals of rights or interests in UK property rich companies**

(1) This section applies if—

(a) a company ("A") which is, or is a member of, a UK REIT disposes of an asset, and

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(b) the asset consists of a right or an interest in a company ("B") which is UK property rich.

(2) The appropriate proportion of a gain accruing to A on the disposal is not a chargeable gain.

(3) The asset disposed of is regarded for the purposes of section 550 as used for the purposes of A's property rental business to an extent equal to the appropriate proportion.

(4) In the case of a non-UK member of a group UK REIT, this section has effect as if any reference to property rental business of the member were to its UK property rental business.

(5) In relation to a disposal of a right or interest in B—

(a) B is "UK property rich" for the purposes of this section if the disposal would be regarded for the purposes of Schedule 1A to TCGA 1992 as a disposal of an asset deriving at least 75% of its value from UK land, and

(b) any reference in this section to "the appropriate proportion" is to the proportion that, at the beginning of the accounting period in which the disposal is made, the value of B's relevant PRB assets bears to the total value of B's assets.

(6) For the purposes of subsection (5)(b)—

(a) "the value of B's relevant PRB assets" means the value of B's assets deriving (directly or indirectly) from assets used for the purposes of UK property rental business,

(b) B's assets are to be valued in accordance with section 533(1)(d), and

(c) if the asset disposed of was acquired after the beginning of the accounting period, it is to be assumed that an accounting period began on the day on which the disposal is made.

(7) Any reference in this section to the disposal of a right or interest in B includes the disposal of a right or interest in an offshore collective investment vehicle (a "relevant fund")—

(a) to which paragraph 8 of Schedule 5AAA to TCGA 1992 applies, but

(b) in relation to which an election under that paragraph has not been made.

(8) In the case of a disposal which is, as a result of subsection (7), a disposal of a right or interest in B, the value of B's relevant PRB assets for the purposes of subsection (5)(b) is taken to be—

(a) the value of B's assets that are used for the purposes of UK property rental business, plus

(b) the value of B's assets deriving indirectly from assets held by a relevant fund that are used for the purposes of UK property rental business.

(9) This section is to be read as if it were contained in TCGA 1992.

(10) Apart from subsection (7) of section 535, nothing else in that section applies in relation to a disposal to which this section applies.

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(11) This section does not apply to a gain—

(a) if sub-paragraph (3) of paragraph 3A of Schedule 7AC to TCGA 1992 applies in relation to the gain (no chargeable gain accruing on disposals of certain shares by qualifying institutional investors), or

(b) so far as sub-paragraph (4) of that paragraph applies to reduce the amount of the gain.

535B Section 535A: use of pre-April 2019 residual business losses or deficits

535B 535B Section 535A: use of pre-April 2019 residual business losses or deficits

(1) In determining the amount of a gain accruing to a company which is not to be a chargeable gain as a result of section 535A, any pre-April 2019 residual business losses or deficits which—

(a) have not been deducted from (or taken into account in calculating) other profits or gains (of any kind) of the company or any other person, and

(b) have not previously been deducted under this subsection,

may be deducted from the gain.

(2) For this purpose "pre-April 2019 residual business losses or deficits" means—

(a) allowable losses accruing on disposals made before 6 April 2019, or

(b) deficits or other losses for accounting periods ending before that date,

which would otherwise have been deducted from (or taken into account in calculating) profits or gains (of any kind) accruing to residual business of the company.

(3) If an accounting period (a "straddling period") begins before and ends on or after 6 April 2019—

(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 accounting periods, and

(b) if it is necessary to apportion an amount for the straddling period to the two separate accounting periods, it is to be apportioned—

(i) on a time basis according to the respective length of the separate accounting periods, or

(ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis."

116 In section 547 (funds awaiting reinvestment), at the end insert—

"(6) This section also applies to proceeds held in cash by a company on a disposal of an asset so far as section 535A secures that the appropriate proportion of a gain or loss accruing on the disposal is not a chargeable gain or allowable loss."

117 In section 550(3) (attribution of distributions), after "section 535" insert " or 535A ".

118 (1) Section 556 (disposal of assets) is amended as follows.

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(2) After subsection (3) insert—

"(3A) Subsection (3B) applies in the case of a company ("C") which is, or is a member of, a UK REIT if—

(a) one or more properties acquired (directly or indirectly) by a relevant UK property rich company have been developed since acquisition,

(b) the cost of the development exceeds 30% of the fair value of the property (determined in accordance with international accounting standards) at entry or at acquisition, whichever is later,

(c) C disposes of any of its rights or interests in the relevant UK property rich company,

(d) the disposal is made within the period of 3 years beginning with the completion of the development, and

(e) if C is a member of a UK REIT, the disposal is not to another member of the UK REIT.

(3B) If this subsection applies, section 535A is not to apply in relation to so much of the amount of a gain accruing on the disposal as relates to the property which has been developed.

(3C) For the purposes of subsection (3A)—

(a) a company is a "relevant UK property rich company" if, as a result of section 535A, any part of a gain accruing to C on a disposal of a right or interest in the company would not be a chargeable gain, and

(b) a relevant UK property rich company acquires property "indirectly" if property is acquired by someone other than the relevant UK property rich company and the property is taken into account in determining the value of the assets of the relevant UK property rich company."

(3) In subsection (7), for "Section 535 is" substitute " Sections 535 and 535A are ".

119 In section 582 (early exit), in subsection (3)(b), for "or 535(1)" substitute " , 535(1) or 535A ".

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISIONS ETC

120 (1) The amendments made by this Schedule have effect—

(a) for the purposes of capital gains tax, for the tax year 2019-20 and subsequent tax years, and

(b) for the purposes of corporation tax, for accounting periods beginning on or after 6 April 2019.

(2) The amendments made by this Schedule also have effect for the purposes of corporation tax in relation to disposals made on or after 6 April 2019 (whether in their application to accounting periods beginning on, and ending on or after, that date or to later accounting periods).

121 (1) This paragraph applies to—

(a) allowable NRCGT losses accruing to a person before 6 April 2019, and

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(b) ring-fenced ATED-related allowable losses accruing to a person before that date,

so far as they have not been deducted under section 2B, 8(1)(b)(ii), 14D or 188D of TCGA 1992 (as those provisions have effect before the amendments made by this Schedule) from chargeable gains accruing before that date.

(2) If losses to which this paragraph applies accrued to a company, they are deductible in accordance with section 2A(1) of TCGA 1992 as if they had accrued to the company while it was within the charge to corporation tax.

(3) If losses to which this paragraph applies accrued to any other person, they—

(a) are deductible in accordance with section 1(3) of TCGA 1992, and

(b) are to be treated for the purposes of section 1E of TCGA 1992 as if they accrued on a disposal of assets that were within section 1A(3) of that Act.

(4) In this paragraph—

(a) the reference to allowable NRCGT losses is to be read in accordance with Schedule 4ZZB to TCGA 1992 (as that Schedule has effect before its repeal by this Schedule), and

(b) the reference to ring-fenced ATED-related allowable losses is to be read in accordance with section 2B of that Act (as that section has effect before its repeal by this Schedule).

122 The Treasury may by regulations make any transitional provisions or savings that they consider appropriate in connection with the coming into force of any provision made by this Schedule.

123 (1) This paragraph applies where this Schedule re-enacts in TCGA 1992 (with or without modification) an enactment contained in TCGA 1992 repealed by this Schedule.

(2) The repeal and re-enactment does not affect the continuity of the law.

(3) Any subordinate legislation or other thing which—

(a) has been made or done, or has effect as if made or done, under or for the purposes of the repealed provision, and

(b) is in force or effective on 5 April 2019,

has effect in relation to times after that date as if made or done under or for the purposes of the corresponding provision of TCGA 1992.

(4) Any reference (express or implied) in any enactment, instrument or document to a provision of TCGA 1992 is to be read as including, in relation to times, circumstances or purposes in relation to which the corresponding repealed provision had effect, a reference to that corresponding provision.

(5) Any reference (express or implied) in any enactment, instrument or document to a repealed provision of TCGA 1992 is to be read as including, in relation to times, circumstances or purposes in relation to which the corresponding provision has effect, as or (as the context may require) as including a reference to that corresponding provision.

(6) The generality of this paragraph is not to be affected by specific transitional, transitory or saving provision made elsewhere by this Schedule.

(7) This paragraph has effect instead of section 17(2) of the Interpretation Act 1978.

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124 The Treasury may by regulations make such provision as they consider appropriate in consequence of the provision made by this Schedule.

125 (1) The Treasury may by regulations make provision, in relation to a case in which they consider that a provision of this Schedule changes the effect of a provision of TCGA 1992 that is re-enacted by this Schedule, for the purpose of returning the effect of the law to what it would have been if this Act had not been passed.

(2) The power conferred by this paragraph may not be exercised on or after 6 April 2022.

126 (1) This paragraph applies to regulations made under paragraph 124 or 125.

(2) The regulations may amend, repeal or revoke any provision made by or under—
- (a) this Schedule, or
- (b) any other provision of the Taxes Acts (within the meaning of section 118(1) of TMA 1970).

(3) The regulations may, if made before 6 April 2020, contain provision (however expressed) for securing that the provision made by the regulations has effect in accordance with paragraph 120 (commencement) as it were included in the amendments made by this Schedule.

(4) The regulations may contain incidental, supplemental, consequential or transitional provision or savings.

SCHEDULE 2

Section 14

RETURNS FOR DISPOSALS OF UK LAND ETC

PART 1

RETURNS AND PAYMENTS ON ACCOUNT: DISPOSALS OF UK LAND ETC

Disposals to which Schedule applies

1 (1) This Schedule applies for the purposes of capital gains tax to—
- (a) any direct or indirect disposal of UK land which meets the non-residence condition (whether or not a gain accrues) and which is made on or after 6 April 2019, and
- (b) any other direct disposal of UK land on which a residential property gain accrues and which is made on or after 6 April 2020,

but this Schedule does not apply to excluded disposals.

(2) A disposal is an excluded disposal if—
- (a) it is a disposal on which, as a result of any of the no gain/no loss provisions, neither a gain nor a loss accrues,
- (b) it is the grant of a lease for no premium to a person not connected with the grantor under a bargain made at arm's length,
- (c) it is a disposal made by a charity, or
- (d) it is a disposal of any pension scheme investments.

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(3) The Treasury may by regulations amend sub-paragraph (2).

(4) See also paragraph 9 for a case where a disposal which would have been within sub-paragraph (1)(b) if a gain had accrued is treated, for certain purposes, as if it were a disposal to which this Schedule applies.

2 (1) A disposal is a "direct or indirect disposal of UK land which meets the non-residence condition" if it is—

(a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) of TCGA 1992 because the asset disposed of is within paragraph (b) or (c) of that subsection,

(b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) of that Act in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c), or

(c) a disposal of an asset on which a gain does not accrue but which, had a gain accrued, would fall to be dealt with as mentioned in either of the preceding paragraphs of this sub-paragraph.

(2) A disposal is "any other direct disposal of UK land on which a residential property gain accrues" if the disposal is a disposal on which a residential property gain accrues where—

(a) the land in question is in the United Kingdom, and

(b) the gain falls to be dealt with by section 1A(1) or (3)(a) of TCGA 1992,

and the disposal does not fall within sub-paragraph (1).

(3) This paragraph applies for the purposes of this Part of this Schedule.

Obligation to deliver a return to officer of Revenue and Customs

3 (1) If a person makes a disposal to which this Schedule applies, the person—

(a) must make a return in respect of the disposal, and

(b) must deliver the return to an officer of Revenue and Customs on or before the 30th day following the day of the completion of the disposal.

(2) If—

(a) a person makes two or more disposals to which this Schedule applies, and

(b) the disposals are made in the same tax year with the same completion date,

the person must make and deliver a single return with respect to the disposals.

(3) This paragraph is subject to—

(a) paragraph 4 (residential property gain accruing but no payment on account required),

(b) paragraph 5 (ordinary tax return already delivered etc), and

(c) paragraph 10 (disposal in case of a collective investment scheme).

4 (1) If—

(a) a person makes a disposal to which this Schedule applies as a result of paragraph 1(1)(b), and

(b) the person would not be liable under paragraph 6 to pay an amount on account of the person's liability to capital gains tax for the tax year concerned,

the person is not required to make or deliver a return under this Schedule in respect of the disposal.

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(2) In determining whether sub-paragraph (1)(b) applies, it is to be assumed that the person is required to make a return under this Schedule in respect of the disposal.

5 (1) A person is not required to make or deliver a return under this Schedule in respect of a disposal if the filing date for the return would otherwise fall on or after—

(a) the date on which the person has delivered to an officer of Revenue and Customs the person's ordinary tax return containing a self-assessment that takes account of the disposal, or

(b) the date on or before which the person has (by notice) been required to deliver to an officer of Revenue and Customs the person's ordinary tax return for the tax year concerned.

(2) For the purposes of sub-paragraph (1)(a), a self-assessment does not take account of the disposal if the amount of capital gains tax that is self-assessed is less than the amount that would be payable under paragraph 6 if the person were required to make and deliver a return under this Schedule in respect of the disposal.

Obligation to make a payment on account of capital gains tax

6 (1) This paragraph applies if—

(a) a person is required to make a return under this Schedule in respect of any disposal, and

(b) as at the filing date for the return, an amount of capital gains tax is notionally chargeable on the person (as determined in accordance with paragraph 7).

(2) The person is liable to pay that amount on account of the person's liability to capital gains tax for the tax year concerned so far as that amount has not already become payable as a result of any previous return under this Schedule in respect of a disposal in that period.

(3) The amount is payable on the filing date for the return.

(4) For cases where there are repayments of amounts previously paid on account of capital gains tax, see paragraphs 8 and 9.

Calculation of an amount of capital gains tax notionally chargeable

7 (1) This paragraph applies for determining the amount of capital gains tax (if any) which is notionally chargeable on a person as at the filing date for a return.

(2) The amount of capital gains tax notionally chargeable on the person as at that date is the amount of that tax for which the person would be liable for the tax year concerned, ignoring, for this purpose, the following disposals—

(a) disposals which have a completion date later than the completion date of the disposal in respect of which the return is made (but see sub-paragraph (3)), and

(b) disposals on which gains accrue but which are not disposals to which this Schedule applies.

(3) A disposal on which a loss accrues is not to be ignored under sub-paragraph (2)(a) if the time at which the disposal is made (as determined under section 28 of TCGA 1992) falls on or before the completion date of the disposal in respect of which the return is made.

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(4) For provision relevant to the operation of this paragraph, see paragraphs 14 and 15 (making of assumptions, reasonable estimates etc).

Repayments of amounts previously paid on account of capital gains tax

8 (1) This paragraph applies if—

(a) a person makes and delivers a return under this Schedule in respect of a disposal,

(b) the person has previously paid amounts on account of the person's liability to capital gains tax for the tax year concerned, and

(c) the amounts exceed the amount of capital gains tax notionally chargeable on the person as at the filing date for the return.

(2) The excess is repayable to the person on the filing date for the return.

(3) In determining the total amount of payments that have, at any time, been made on account of a person's liability to capital gains tax for a tax year, account must be taken of amounts already repaid under this paragraph.

9 (1) If—

(a) a person makes a disposal on which an allowable loss accrues, and

(b) had a gain accrued instead, the disposal would have been one to which this Schedule applies as a result of paragraph 1(1)(b),

the person may make and deliver a return under this Schedule in respect of the disposal for the purpose of securing the application of paragraph 8.

(2) Accordingly, the disposal is treated for that purpose as if it were a disposal to which this Schedule applies.

(3) This paragraph does not apply in respect of a disposal if the filing date for the return which the person would otherwise be entitled to make and deliver falls on or after the date mentioned in paragraph 5(1)(a) or (b).

Collective investment schemes to which Sch.5AAA to TCGA 1992 applies

10 (1) A person is not required to make or deliver a return under this Schedule in respect of a disposal if—

(a) the disposal has an appropriate connection to a collective investment scheme for the purposes of paragraph 6 of Schedule 5AAA to TCGA 1992, and

(b) the person would not be liable under paragraph 6 of this Schedule to pay an amount on account of the person's liability to capital gains tax for the tax year concerned.

(2) In determining whether sub-paragraph (1)(b) applies, it is to be assumed that the person is required to make a return under this Schedule in respect of the disposal.

11 (1) This paragraph applies if—

(a) an election under paragraph 8 of Schedule 5AAA to TCGA 1992 (election for CIS to be treated as partnership for purposes of Act) has effect in respect of an offshore collective investment scheme (within the meaning of that Schedule),

(b) a disposal is made of property that is the subject of the scheme,

(c) the disposal is made before the day on which this election is made, and

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(d) a person is required to make a return under this Schedule in respect of the disposal.

(2) The disposal is treated for the purposes of this Part of this Schedule as if it completed on the day on which the election is made.

12 (1) This paragraph applies if—

(a) a disposal is deemed to have been made by a person as a result of paragraph 21 or 22 of Schedule 5AAA to TCGA 1992 (qualifying offshore CIS etc), and

(b) the person is required to make a return under this Schedule in respect of the disposal.

(2) If the disposal is one to which paragraph 23 of that Schedule applies (gains treated as accruing when value received)—

(a) a disposal to which this Schedule applies is treated as being made by the person on each occasion on which any part of the gain is treated as accruing to the person under that paragraph, and

(b) the time at which that disposal is treated as completing is the time at which the part of the gain is treated as so accruing to the person or, if later, the time at which the required notification is given to the person.

(3) If the disposal is not one to which paragraph 23 of Schedule 5AAA to TCGA 1992 applies, it is treated for the purposes of this Part of this Schedule as if it completed on the day on which the required notification is given to the person.

(4) In this paragraph "the required notification" means notification under paragraph 25 of Schedule 5AAA to TCGA 1992 in relation to the disposal deemed to have been made as a result of paragraph 21 or 22 of that Schedule.

(5) In determining for the purposes of sub-paragraph (1)(b) whether a person is required to make a return under this Schedule in respect of the disposal the effect of paragraphs 4, 5 and 10 is ignored.

Effect of s.144(2) or 144A(2)(b) of TCGA 1992 when asset sold on exercise of option

13 (1) This paragraph applies if—

(a) an option is granted binding the grantor to sell an asset and the grant of the option is a disposal to which this Schedule applies, and

(b) the option is then exercised so that, as a result of section 144(2) or 144A(2)(b) of TCGA 1992, the grant of the option is treated as the same transaction as the sale.

(2) Despite section 144(2) or 144A(2)(b) of TCGA 1992, the grantor remains subject to the obligations under this Schedule in relation to the grant of the option.

(3) In this paragraph references to sale are to be read in accordance with section 144(6) of TCGA 1992.

Making of assumptions, reasonable estimates etc

14 (1) If, in determining whether a disposal is one to which this Schedule applies—

(a) a question arises as to whether a provision of TCGA 1992 applies, and

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(b) the determination of the question requires account to be taken of times after the completion of the disposal,

it is to be assumed that the provision does apply if, at the time of the completion of the disposal, it is reasonable to expect that it will apply.

(2) For the purposes of this Schedule it is to be assumed that a person has made a claim or election or given a notice if, at the time of the completion of the disposal in respect of which a return is required to be made under this Schedule, it is reasonable to expect that one will be made or given.

(3) Nothing in sub-paragraph (2) is to be read as affecting—

(a) any requirement imposed by or under any Act for a claim, election or notice to be made or given in a particular way or by a particular time, or

(b) any other provision made by or under any Act that is concerned with the making or giving of the claim, election or notice.

(4) If—

(a) a person is required to make and deliver a return under this Schedule, and

(b) having regard to the person's knowledge and all other relevant circumstances, it is reasonable to make an estimate of a qualifying matter,

the person may make a reasonable estimate of that matter in the return.

(5) For this purpose "qualifying matter" means—

(a) anything that is relevant to the application of section 1I of TCGA 1992,

(b) the value of anything, or

(c) the value of amounts to be apportioned to anything.

15 (1) This paragraph applies if a person is required to make and deliver a return under this Schedule in respect of a disposal and, at any time after the completion of the disposal—

(a) it becomes reasonable to expect that, by reference to the person's residence, a provision of TCGA 1992 will apply,

(b) it becomes reasonable to conclude that a provision of TCGA 1992 conferring a relief applies in relation to the disposal,

(c) matters relevant to the application of section 1I of TCGA 1992 become known, or it becomes reasonable to make a different estimate of those matters, where an estimate of those matters was used in the return, or

(d) the value of anything, or of any amount to be apportioned to anything, becomes known where an estimate was used in the return.

(2) The person may (but need not) assume, for the purposes of this Schedule—

(a) that there is an additional disposal to which this Schedule applies,

(b) that the additional disposal completed at the later time by reference to which this paragraph applies, and

(c) that the additional disposal is in all other respects a replication of the actual disposal.

(3) In determining the amount of capital gains tax notionally chargeable as at the filing date for a return in respect of the additional disposal, the actual disposal is ignored.

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Contents of return

16 A return under this Schedule—

(a) must contain information of a description specified by an officer of Revenue and Customs (and different descriptions of information may be specified for different cases), and

(b) must include a declaration by the person making it that the return is, to the best of the person's knowledge, correct and complete.

Interpretation

17 (1) In this Part of this Schedule—

"the filing date", in relation to a return in respect of a disposal, means the date on or before which the return in respect of the disposal must be delivered to an officer of Revenue and Customs,

"lease" has the meaning given by paragraph 10 of Schedule 8 to TCGA 1992,

"ordinary tax return" means a return under section 8 or 8A of TMA 1970,

"pension scheme investments" means investments held for the purposes of a registered pension scheme or an overseas pension scheme (and expressions used in this definition have the same meaning as they have in section 271(1A) of TCGA 1992),

"premium" has the meaning given by paragraph 10 of Schedule 8 to TCGA 1992,

"residential property gain" has the meaning given by Schedule 1B to TCGA 1992, and

"the tax year concerned", in relation to a disposal, means the tax year in which the disposal is made.

(2) In this Part of this Schedule the "completion" of a disposal is regarded as occurring—

(a) at the time of the disposal, or

(b) if the disposal is under a contract which is completed by a conveyance, transfer or other instrument later than the time of the disposal, at the time when the instrument takes effect.

(3) This Part of this Schedule has effect as if it were included in TCGA 1992.

PART 2

NOTIFICATION OF CHARGEABLE AMOUNTS, AMENDMENTS OF RETURNS, ENQUIRIES ETC

Requirement to notify HMRC of amounts chargeable to tax

18 (1) A person is not required to give a notice under section 7 of TMA 1970 merely by reference to a chargeable gain accruing on a disposal if—

(a) the person delivers a return under this Schedule in respect of the disposal, and

(b) the return is delivered before the end of the notification period within the meaning of that section.

(2) But sub-paragraph (1) does not apply if the amount of capital gains tax notionally chargeable on the person as at the filing date for the return (as determined in

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accordance with paragraph 7) is less than the amount of capital gains tax for which the person is liable for the tax year concerned.

Amendments of returns

19 (1) The amendment provisions applicable to ordinary tax returns apply in relation to returns made by a person under this Schedule as they apply in relation to ordinary tax returns, but subject to the following limitations or other modifications.

(2) An amendment is permitted only so far as the return under this Schedule could, when originally delivered, have included the amendment by reference to things already done.

(3) A person may not make an amendment of a return under this Schedule in respect of a disposal at any time on or after—

(a) the date on which the person has delivered to an officer of Revenue and Customs the person's ordinary tax return containing a self-assessment that takes account of the disposal, or

(b) the date on or before which the person has (by notice) been required to deliver to an officer of Revenue and Customs the person's ordinary tax return for the tax year concerned.

(4) If a person is not required to deliver an ordinary tax return for the tax year concerned, the person may not make an amendment of a return under this Schedule more than 12 months after the last day for delivery of an ordinary tax return.

(5) For the purposes of this paragraph "the amendment provisions applicable to ordinary tax returns" means sections 9ZA and 9ZB of TMA 1970.

Enquiries

20 (1) The enquiry provisions apply in relation to returns made by a person under this Schedule as they apply in relation to ordinary tax returns, but subject as follows.

(2) If the person is required to deliver an ordinary tax return for the tax year concerned, the time allowed for giving a notice of enquiry into a return under this Schedule is the same as that allowed for giving a notice of enquiry into the ordinary tax return.

(3) If the person is not required to deliver an ordinary tax return for the tax year concerned, the time allowed for giving a notice of enquiry into a return under this Schedule is determined on the assumption that the person was required to deliver an ordinary tax return for that year and that it was delivered at the later of—

(a) the last day for delivery of an ordinary tax return, and

(b) the day on which the return under this Schedule was delivered.

(4) If there is an enquiry into a return under this Schedule—

(a) nothing in paragraph 8 requires any repayment to be made before the day on which the enquiry is completed, but

(b) the officer of Revenue and Customs concerned may, at any time before that day, make the repayment, on a provisional basis, to such extent as the officer thinks fit.

(5) If—

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(a) a notice of enquiry ("the main enquiry notice") is given at any time into an ordinary tax return for a tax year, and

(b) a notice of enquiry into a return under this Schedule has not been given, on or before that time, in respect of a disposal to which this Schedule applies which is made in that tax year,

the main enquiry notice is also taken to constitute a notice of enquiry into the return under this Schedule in respect of the disposal.

(6) If—

(a) a final closure notice ("the main closure notice") is given at any time which completes an enquiry into an ordinary tax return for a tax year, and

(b) a final closure notice of an enquiry into a return under this Schedule has not been given, on or before that time, in respect of a disposal to which this Schedule applies which is made in that period,

the main closure notice is also taken to constitute a final closure notice of the enquiry into the return under this Schedule in respect of the disposal.

(7) For the purposes of this paragraph "the enquiry provisions" means sections 9A and 28A of TMA 1970 and the other provisions of that Act so far as they relate to those sections.

(8) Nothing in this paragraph is to be read as affecting the operation of the enquiry provisions in relation to ordinary tax returns.

Amendments of returns during enquiry etc

21 (1) For other provisions which, as a result of paragraph 19 and 20, are relevant to returns made by a person under this Schedule, see sections 9B and 9C of TMA 1970.

(2) In the case of Schedule 3ZA to TMA 1970 (date by which payment to be made after amendment or correction of self-assessment)—

(a) paragraph 1(2) of that Schedule has effect as if the reference to section 59B(3) and (4) of TMA 1970 included a reference to paragraph 7 of this Schedule, and

(b) the other provisions of that Schedule have effect in accordance with the provision made elsewhere by this Part of this Schedule (see, in particular, paragraph 24(3)).

(3) For provisions of that Schedule relevant to returns made by a person under this Schedule, see—

(a) paragraph 2 (amendment of return by taxpayer),

(b) paragraph 3 (correction of return by HMRC),

(c) paragraph 4 (jeopardy amendment by HMRC), and

(d) paragraph 5 (amendment of return by closure notice).

Revenue determinations

22 (1) The Revenue determination provision applicable to ordinary tax returns applies in relation to returns made by a person under this Schedule as it applies in relation to ordinary tax returns, but subject to the following modifications.

(2) The modifications are that—

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(a) any reference to being given a notice is to be read as a reference to being required to deliver a return under this Schedule,

(b) any reference to the filing date is to be read as a reference to the filing date within the meaning of this Part of this Schedule (but see paragraph (e)),

(c) any reference to the amounts to be determined is to be read as a reference to the amount of capital gains tax which is notionally chargeable on a person as at the filing date for a return under this Schedule,

(d) any reference in any enactment to the purposes for which a determination is to have effect is to be ignored, and

(e) the determination may not be made after the end of the period of 3 years beginning with the last day for delivery of an ordinary tax return.

(3) If—

(a) a determination is made as a result of this paragraph, but

(b) it is then superseded by a return made under this Schedule,

any amount which, as a result of the supersession, is payable or repayable under paragraph 6 or 8 is to be payable or repayable on the filing date for the return.

(4) For the purposes of this paragraph "the Revenue determination provision" means section 28C of TMA 1970.

Discovery assessments

23 (1) A return made by a person under this Schedule is treated for the purposes of the discovery provisions as if it were an assessment required to be included as part of the person's ordinary tax return (whether or not the person is actually required to deliver an ordinary tax return).

(2) References in the discovery provisions to an ordinary tax return for a tax year include a return under this Schedule made in respect of a disposal for the tax year concerned.

(3) For the purposes of this paragraph "the discovery provisions" means section 29 of TMA 1970 and the other provisions of that Act relating to that section.

Interpretation

24 (1) Expressions have the same meaning in this Part of this Schedule as they have in Part 1 of this Schedule (see paragraph 17).

(2) For the purposes of this Part of this Schedule any reference to the last day for delivery of an ordinary tax return is to 31 January in the tax year following the tax year concerned.

(3) A return made by a person under this Schedule is to be treated for the purposes of any provision made by or under TMA 1970 as if it contained a self-assessment of an amount of capital gains tax.

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PART 3

CONSEQUENTIAL AMENDMENTS

Amendments of TMA 1970

25 (1) TMA 1970 is amended as follows.

(2) Omit section 7A (disregard of certain NRCGT gains for purposes of section 7).

(3) Omit sections 12ZA to 12ZN (NRCGT returns) and the italic heading before those sections.

(4) In section 28A (completion of enquiry into personal or trustee return)—
- (a) in subsection (1), omit "or 12ZM", and
- (b) in the heading, omit "or NRCGT return".

(5) Omit section 28G (determination of amount notionally chargeable where no NRCGT return delivered).

(6) In section 29 (assessment where loss of tax discovered), omit subsection (7)(a)(ia).

(7) Omit section 29A (non-resident CGT disposals: determination of amount which should have been assessed).

(8) In section 34 (ordinary time limit of 4 years), omit subsection (1A).

(9) In section 42 (procedure for making claims etc), in subsection (11)(a)—
- (a) omit "12ZB", and
- (b) after "12AA of this Act" insert " or a return under Schedule 2 to the Finance Act 2019 ".

(10) After section 59A insert—

"**59AZA Payments on account of capital gains tax: disposals of land etc**

"**59AZA** "**59AZA Payments on account of capital gains tax: disposals of land etc**

For provision requiring payments to be made on account of capital gains tax, see Schedule 2 to the Finance Act 2019."

(11) Omit section 59AA (non-resident CGT disposals: payments on account of capital gains tax).

(12) In section 59B (payment of income tax and capital gains tax: assessments other than simple assessments)—
- (a) in subsection (1)(b), for "or 59AA of this Act" substitute " of this Act or under Schedule 2 to the Finance Act 2019 ", and
- (b) omit subsection (2A).

(13) In section 59BA (payment of income tax and capital gains tax: simple assessments), in subsection (2)(b), for "or 59AA" substitute " of this Act or under Schedule 2 to the Finance Act 2019 ".

(14) In section 107A (relevant trustees), in subsection (2)(b)—
- (a) omit ", 59AA", and

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(b) after "59B of this Act" insert " or under Schedule 2 to the Finance Act 2019 ".

(15) In section 118 (interpretation), omit the definition of "NRCGT return".

(16) In Schedule 3ZA (date by which payment to be made after amendment or correction of self-assessment)—

(a) in paragraph 1(1), omit "or an advance self-assessment (see section 12ZE(1))",

(b) in paragraph 1(2), omit "59AA(2) or",

(c) in paragraph 2(1), omit "or an amendment of an advance self-assessment under section 12K (amendment of NRCGT return by taxpayer)",

(d) in paragraph 2(3), omit "or 12ZN(3)" and "or advance self-assessment",

(e) in paragraph 3(1), omit "or 12ZL" and "or NRCGT return", and

(f) in paragraph 5(1), omit "or advance self-assessment".

Amendments of other Acts

26 (1) TCGA 1992 is amended as follows.

(2) In section 222A (determination of main residence: disposals by non-residents)—

(a) in subsection (6)(a), for "the NRCGT return" substitute " the return under Schedule 2 to the Finance Act 2019 ", and

(b) in subsection (7)(a), for "an NRCGT return" substitute " a return under Schedule 2 to the Finance Act 2019 ".

(3) In section 223A (amount of relief: disposals by non-residents), in subsection (3)(b), for "the NRCGT return" substitute " the return under Schedule 2 to the Finance Act 2019 ".

27 (1) Schedule 24 to FA 2007 (penalties for errors) is amended as follows.

(2) In paragraph 1(4), in the entry relating to capital gains tax, in the second column, for "section 12ZB of TMA 1970 (NRCGT return)" substitute " Schedule 2 to FA 2019 ".

(3) In paragraph 21C, for "section 59AA(2) of TMA 1970 (non-resident CGT disposals: payments on account of capital gains tax)" substitute " Schedule 2 to FA 2019 ".

28 (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.

(2) For paragraph 21ZA and the italic heading before it substitute—

"Application of paragraph 21 in case of returns under Schedule 2 to FA 2019

21ZA(1) For the purposes of paragraph 21 any reference to the making by a person of a return under section 8 or 8A of TMA 1970 includes the making by the person of a return under Schedule 2 to FA 2019.

(2) In the application of paragraph 21 in relation to a return under Schedule 2 to FA 2019, the return is to be treated as if it required a self-assessment of an amount of capital gains tax.

(3) For the purposes of paragraph 21, the definition of "the notice of enquiry" in its application to a return under Schedule 2 to FA 2019 needs to be read in the light of the provision made by paragraph 20 of that Schedule."

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29 (1) Schedule 55 to FA 2009 (penalty for failure to make returns etc) is amended as follows.

(2) In the table in paragraph 1(5), in item 2A, in the third column, for "NRCGT return under section 12ZB of TMA 1970" substitute " Return under Schedule 2 to FA 2019 (other than one made under paragraph 9 or 15 of that Schedule) ".

(3) Schedule 55 to FA 2009, as amended by this paragraph, is taken to have come into force for the purposes of returns under this Schedule on the day on which this Act is passed.

30 (1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended as follows.

(2) In paragraph 1, in the Table, after item 3A insert—

"3B	Capital gains tax	Amount payable under paragraph 6 of Schedule 2 to FA 2019 where not included in a return under section 8 or 8A of TMA 1970	The date falling 30 days after 31 January in the tax year following the one in which the disposal was made"

(3) In paragraph 3(1)(a), after "3" insert " , 3B ".

(4) In paragraph 5(3) of Schedule 11 to F(No.3)A 2010 (which amends paragraph 3(1)(a) of Schedule 56 to FA 2009), after "3" insert (in both places) " 3B ".

(5) Schedule 56 to FA 2009, as amended by this paragraph, is taken to have come into force for the purposes of returns under this Schedule on the day on which this Act is passed.

Late payment interest

31 So far as relating to amounts that are payable (or repayable) as a result of a requirement under this Schedule, sections 101 to 103 of FA 2009 (late payment interest on sums due to HMRC etc) come into force on 6 April 2019.

Commencement

32 (1) The amendments made by this Part of this Schedule have effect in relation to disposals made on or after 6 April 2019.

(2) But section 12ZG of TMA 1970 (cases where advance self-assessment not required) continues to have effect in relation to disposals made on or after that date but before 6 April 2020; and that section has effect in relation to those disposals—

(a) as if references to an NRCGT return were to a return under this Schedule, and

(b) as if references to section 12ZE(1) of TMA 1970 were to paragraph 6 of this Schedule.

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SCHEDULE 3

Section 15

OFFSHORE RECEIPTS IN RESPECT OF INTANGIBLE PROPERTY

1 ITTOIA 2005 is amended as follows.

2 (1) Section 574 (overview of Part 5) is amended as follows.

(2) In subsection (1) after paragraph (a) insert—

"(aa) Chapter 2A (offshore receipts in respect of intangible property),".

(3) In subsection (2) at the end insert " (but see section 608X) ".

3 (1) Section 576 (priority between Chapters within Part 5) is amended as follows.

(2) The existing provision becomes subsection (2) of that section.

(3) Before that subsection insert—

"(1) Any income, so far as it falls within Chapter 2 (receipts from intellectual property) and Chapter 2A (offshore receipts in respect of intangible property), is dealt with under Chapter 2."

4 After section 608 insert—

"CHAPTER 2A

OFFSHORE RECEIPTS IN RESPECT OF INTANGIBLE PROPERTY

Charge to tax on offshore receipts in respect of intangible property

608A Charge to tax on UK-derived amounts

608A 608A Charge to tax on UK-derived amounts

(1) This section applies if—

(a) at any time in a tax year, a person is not UK resident and is not resident in a full treaty territory, and

(b) UK-derived amounts arise to the person in the tax year.

(2) Income tax is charged on the UK-derived amounts.

(3) See—

sections 608D to 608H for the meaning of expressions used in this section;

sections 608J to 608N for exemptions from the charge under this section.

(4) References in the Tax Acts to income from a source in the United Kingdom include UK-derived amounts.

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608B Income charged under section 608A

608B 608B Income charged under section 608A

Tax is charged under section 608A on the full amount of the UK-derived amounts arising in the tax year.

608C Person liable for tax under section 608A

608C 608C Person liable for tax under section 608A

The person liable for any tax charged under section 608A is the person receiving or entitled to the UK-derived amounts.

608D Meaning of residence

608D 608D Meaning of residence

(1) This section applies for the purposes of this Chapter.

(2) A person is "resident" in a territory if, under the laws of the territory, the person is liable to tax there—
  (a) by reason of the person's domicile, residence or place of management, but
  (b) not in respect only of income from sources in that territory or capital situated there.

(3) Where—
  (a) a person is resident in a territory outside the United Kingdom generally for the purposes of the laws of the territory or for particular purposes under those laws, and
  (b) the laws of the territory have no provision for a person to be resident there for tax purposes,

  the person is "resident" in the territory.

608E Meaning of "full treaty territory"

608E 608E Meaning of "full treaty territory"

(1) For the purposes of this Chapter a territory is a "full treaty territory" if—
  (a) double taxation arrangements have been made in relation to the territory, and
  (b) the arrangements contain a non-discrimination provision.

(2) In subsection (1) "non-discrimination provision", in relation to double taxation arrangements, means a provision to the effect that nationals of a state which is a party to those arrangements (a "contracting state") are not to be subject in the other contracting state to—
  (a) any taxation, or
  (b) any requirement connected with taxation,

  which is other or more burdensome than the taxation and connected requirements to which nationals of that other contracting state in the same

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circumstances (in particular with respect to residence) are or may be subjected.

(3) In subsection (2) "national", in relation to a contracting state, includes—
  (a) an individual possessing the nationality or citizenship of the contracting state, and
  (b) a legal person, partnership or association deriving its status as such from the laws in force in that contracting state.

608F Meaning of "UK-derived amount" and "UK sales"

608F 608F Meaning of "UK-derived amount" and "UK sales"

(1) For the purposes of this Chapter an amount is a "UK-derived amount" if—
  (a) it is an amount (whether of a revenue or capital nature) in respect of the enjoyment or exercise of rights that constitute any intangible property, and
  (b) the enjoyment or exercise of those rights (or of any rights derived, directly or indirectly, from those rights) enables, facilitates or promotes UK sales (directly or indirectly).

(2) It does not matter whether the amount relates to UK sales in the tax year mentioned in section 608A or any other tax year.

(3) In this Chapter "UK sales" means any services, goods or other property—
  (a) provided in the United Kingdom, or
  (b) provided to persons in the United Kingdom.

608G Section 608F: apportionment of amounts

608G 608G Section 608F: apportionment of amounts

(1) This section applies where—
  (a) a person receives or is entitled to an amount in respect of the enjoyment or exercise of rights that constitute any intangible property, and that enjoyment or exercise enables, facilitates or promotes UK sales and other sales, or
  (b) a person receives or is entitled to an amount in respect of—
    (i) the enjoyment or exercise of rights that constitute any intangible property, where that enjoyment or exercise enables, facilitates or promotes UK sales, and
    (ii) anything else.

(2) The amount is to be regarded for the purposes of this Chapter as constituting a UK-derived amount to such extent as is just and reasonable.

(3) In a case within subsection (1)(a) it is to be presumed, unless the contrary is shown, that the proportion of the amount that is just and reasonable is—

$$\frac{X}{X+Y}$$

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where X is the value of UK sales and Y is the value of other sales.

608H Meaning of "intangible property"

608H 608H Meaning of "intangible property"

(1) In this Chapter "intangible property" means any property except—

(a) tangible property,

(b) an estate, interest or right in or over land,

(c) a right in respect of anything within paragraph (a) or (b),

(d) a financial asset,

(e) a share or other right in relation to the profits, governance or winding up of a company, or

(f) any property of a prescribed description.

(2) In this section—

"financial asset" has the meaning given by section 806 of CTA 2009;

"prescribed" means prescribed by regulations made by the Treasury.

608I Application of Chapter to certain partnerships

608I 608I Application of Chapter to certain partnerships

(1) This section applies where, under the laws of a full treaty territory, a partnership is regarded for tax purposes as an entity separate and distinct from the partners.

(2) If the partnership is resident in the full treaty territory at any time, each of the partners is treated for the purposes of this Chapter as resident in the territory at that time.

(3) Section 608D(2) applies for the purposes of determining whether the partnership is resident in the territory at any time (references there to a person being read as references to the partnership).

(4) Nothing in this section affects the application of section 848 (firm not to be regarded as entity separate and distinct from partners) or any other provision of Part 9 (partnerships) to this Chapter.

Exemptions

608J Exemption where limited UK sales

608J 608J Exemption where limited UK sales

(1) Section 608A does not apply in relation to a person for a tax year if the total value of the person's UK sales in that tax year does not exceed £10,000,000.

(2) Where—

(a) a person (A), or a person connected with A, receives or is entitled to an amount (whether of a revenue or capital nature), and

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(b) the amount relates (wholly or in part, and directly or indirectly) to the provision of services, goods or other property constituting UK sales,

the UK sales are regarded for the purposes of subsection (1) as A's UK sales.

608K Exemption where business undertaken within territory of residence

608K 608K Exemption where business undertaken within territory of residence

(1) Section 608A does not apply in relation to a person ("the relevant person") for a tax year if—
   (a) the relevant person is resident in a territory throughout the tax year,
   (b) all (or substantially all) relevant activity in relation to relevant intangible property is, and has at all times been, undertaken in that territory,
   (c) there is no relevant connection between relevant intangible property and a related person, and
   (d) the person makes a claim under this section.

(2) For the purposes of this section intangible property is "relevant" if any UK-derived amount arising to the person in the tax year relates to it.

(3) In subsection (1)(b) "relevant activity", in relation to relevant intangible property, means anything done (by any person)—
   (a) for the purpose of creating, developing or maintaining any of the relevant intangible property; or
   (b) for the purpose of generating, for the relevant person, amounts (whether of a revenue or capital nature) that relate, wholly or in part and directly or indirectly, to the enjoyment or exercise of rights that constitute any of the relevant intangible property.

(4) For the purposes of subsection (1)(c) there is a "relevant connection" between relevant intangible property and a related person if any relevant intangible property—
   (a) has been transferred (directly or indirectly) from a person related to the relevant person,
   (b) derives (directly or indirectly) from anything so transferred, or
   (c) derives (directly or indirectly) from intangible property held by a person related to the relevant person.

(5) See section 608T for the meaning of two persons being "related".

608L Exemption where foreign tax at least half of UK tax

608L 608L Exemption where foreign tax at least half of UK tax

(1) Section 608A does not apply in relation to a person for a tax year if—
   (a) the person is resident in a territory outside the United Kingdom in that year,
   (b) the amount of tax ("the local tax amount") which is paid in the territory in respect of UK-derived amounts arising in the tax year is at least half of the corresponding UK tax, and

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(c) the local tax amount is not determined under designer tax provisions.

(2) See section 608M for provisions about the local tax amount.

(3) "The corresponding UK tax" means the amount of income tax that would be charged under this Chapter in respect of UK-derived amounts arising in the tax year, calculated on the following basis—

(a) section 608A applies in relation to the UK-derived amounts, and

(b) the person is not entitled to any relief or allowance for the tax year.

(4) "Designer tax provisions" means provisions which appear to the Commissioners to be designed to enable persons to exercise significant control over the amount of tax which they pay in respect of UK-derived amounts.

608M Section 608L: the local tax amount

608M 608M Section 608L: the local tax amount

(1) This section applies for the purposes of section 608L.

(2) Where an amount of tax is paid in the territory in respect of—

(a) UK-derived amounts arising in the tax year, and

(b) other amounts,

the amount of tax is to be apportioned between the amounts mentioned in paragraph (a) and paragraph (b) on a just and reasonable basis.

(3) Where—

(a) in the territory any tax falls to be paid in respect of UK-derived amounts arising in the tax year,

(b) under the laws of the territory, a repayment of tax, or a payment in respect of credit for tax, is made to any person, and

(c) that repayment or payment is directly or indirectly in respect of the whole or part of the tax mentioned in paragraph (a),

the local tax amount is to be reduced by the amount of that repayment or payment (but this is subject to subsections (4) and (5)).

(4) Subsection (5) applies if the repayment or payment mentioned in subsection (3)(b) is in respect of—

(a) the tax mentioned in subsection (3)(a), and

(b) other tax.

(5) The amount of the repayment or payment is to be apportioned between the tax mentioned in subsection (3)(a) and the other tax on a just and reasonable basis, and the reduction under subsection (3) is limited to the amount apportioned to the tax mentioned in subsection (3)(a).

(6) Any reduction under subsection (3) is to be undertaken after any apportionment under subsection (2).

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608N Exemptions: further provision

608N 608N Exemptions: further provision

(1) The Treasury may by regulations—
  (a) amend this Chapter for the purpose of creating additional exemptions;
  (b) amend any exemption for the time being in force.

(2) "Exemption" means a total or partial exemption from the charge under this Chapter.

(3) The regulations may confer a power to make subordinate legislation or confer a discretion on any person.

(4) The regulations may make retrospective provision, except insofar as they impose or increase taxation.

(5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

Recovery of tax from person in same control group

608O Notice requiring payment from person in same control group as taxpayer

608O 608O Notice requiring payment from person in same control group as taxpayer

(1) This section applies where—
  (a) an amount of income tax has been assessed on a person ("the taxpayer") for a tax year by virtue of this Chapter, and
  (b) the whole or any part of that amount, or of any interest on that amount, is unpaid at the end of the period of 6 months after the relevant date.

(2) A designated officer may give a notice to a relevant person requiring that person, within 30 days of the giving of the notice, to pay any unpaid tax and interest.

(3) The notice must state—
  (a) the amount of income tax and interest that remains unpaid,
  (b) the date when the income tax first became payable, and
  (c) the relevant person's right of appeal.

(4) A notice under this section may not be given more than 3 years and 6 months after the relevant date.

(5) In this section "relevant person" means any person who was in the same control group as the taxpayer at any time in the tax year (see section 608S for the meaning of being in the same "control group").

(6) In this section "the relevant date" means—

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(a) in relation to an amount of income tax determined under section 28C of TMA 1970, the date on which the determination was issued;

(b) in relation to an amount of income tax under a self-assessment in a case where the taxpayer's return under section 8 or 8A of TMA 1970 was delivered after the last day for delivering it in accordance with that section, the date on which the return was delivered;

(c) in any other case, the date the amount mentioned in subsection (1)(a) became due and payable.

(7) A notice may be given anywhere in the world, to any relevant person (whether or not UK resident).

(8) In this section—

"assessment": any reference to an amount of income tax that has been assessed on a person includes an amount of income tax that has been determined under section 28C of TMA 1970 in relation to the person;

"designated officer" means an officer of Revenue and Customs who has been designated by the Commissioners for the purposes of this Chapter.

608P Payment notice: effect

608P 608P Payment notice: effect

(1) This section applies where a notice under section 608O is given to a person.

(2) For the purposes of the recovery from the person of any unpaid tax and interest (including interest accruing after the date of the notice), the person is treated as if—

(a) the amount of income tax assessed as mentioned in section 608O(1)(a) had been assessed on the person,

(b) that amount became due and payable when the tax mentioned in section 608O(1)(a) became due and payable, and

(c) any payments made in respect of the amount mentioned in section 608O(1)(a) (or in respect of interest on that amount) had been made in respect of the amount treated as assessed by virtue of paragraph (a) of this subsection (or in respect of interest on that amount).

(3) Nothing in subsection (2) gives the person a right to appeal against the assessment mentioned in section 608O(1)(a) (or against any assessment treated as made by virtue of subsection (2) of this section).

(4) Any appeal by the taxpayer against the assessment mentioned in section 608O(1)(a) does not affect the liabilities arising by virtue of the giving of the notice.

608Q Payment notice: appeals

608Q 608Q Payment notice: appeals

(1) This section applies where a notice under section 608O is given to a person.

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(2) The person may appeal against the notice, within the period of 30 days beginning with the date on which it is given, on the ground that the person is not a relevant person (as defined by section 608O).

(3) Where an appeal is made, anything required by the notice to be paid is due and payable as if there had been no appeal.

(4) Section 56 of TMA 1970 (payment of tax where further appeal) applies in relation to any further appeal against the notice, but the relevant court or tribunal may, on the application of Her Majesty's Revenue and Customs, direct that section 56(2) does not apply to anything required by the notice to be paid.

(5) A direction may be given if the relevant court or tribunal considers it necessary for the protection of the revenue.

(6) In this section "relevant court or tribunal" has the same meaning as in section 56 of TMA 1970.

608R Payment notice: effect of making payment etc

608R 608R Payment notice: effect of making payment etc

(1) This section applies where a notice under section 608O is given to a person.

(2) A person who pays an amount in pursuance of the notice may recover that amount from the taxpayer.

(3) In calculating the person's income, profits or losses for any tax purposes—
  (a) a payment in pursuance of the notice is not allowed as a deduction, and
  (b) the reimbursement of any such payment is not regarded as a receipt.

(4) Any amount paid by the person in pursuance of the notice is to be taken into account in calculating—
  (a) the amount unpaid, and
  (b) the amount due by virtue of any other notice under section 608O relating to the amount unpaid.

(5) Similarly, any payment by the taxpayer of any of the amount unpaid is to be taken into account in calculating the amount due by virtue of the notice (or by virtue of any other notice under section 608O relating to the amount unpaid).

Meaning of "control group" and "related person"

608S Control groups

608S 608S Control groups

(1) Two persons are in the same control group at any time if—
  (a) they are consolidated for accounting purposes for a period which includes that time,
  (b) one of them has a 51% investment in the other at that time, or
  (c) a third person has a 51% investment in each of them at that time.

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(2) Two persons are consolidated for accounting purposes for a period if—
- (a) their financial results for the period are required to be comprised in group accounts,
- (b) their financial results for the period would be required to be comprised in group accounts but for the application of an exemption, or
- (c) their financial results for the period are in fact comprised in group accounts.

(3) In this section "group accounts" means accounts prepared under—
- (a) section 399 of the Companies Act 2006, or
- (b) any corresponding provision of the law of a territory outside the United Kingdom.

(4) For the meaning of having a 51% investment, see section 608U.

608T Related persons

608T 608T Related persons

(1) Two persons are "related" at any time if—
- (a) at that time—
  - (i) they are in the same control group,
  - (ii) one of them has a 25% investment in the other, or
  - (iii) a third person has a 25% investment in both of them, or
- (b) at any time in the period of 6 months beginning or ending at that time—
  - (i) one of them directly or indirectly participates in the management, control or capital of the other, or
  - (ii) a third person directly or indirectly participates in the management, control or capital of both of them.

(2) See—

section 608S for the meaning of being in the same "control group";

section 608U for the meaning of having a 25% investment;

section 608V for the meaning of direct or indirect participation in the management, control or capital of a person.

608U Meaning of "51% investment" and "25% investment"

608U 608U Meaning of "51% investment" and "25% investment"

(1) A person (P) has a 51% investment in another person (C) if any of the following apply—
- (a) P possesses or is entitled to acquire more than half of the voting power in C;
- (b) in the event of a disposal of the whole of the equity in C, P would receive more than half of the proceeds;
- (c) in the event that the income in respect of the equity in C were distributed among the equity holders in C, P would receive more than half of the amount so distributed;

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(d) in the event of a winding-up of C or in any other circumstances, P would receive more than half of C's assets which would then be available for distribution among the equity holders in C in respect of the equity in C.

(2) A person (P) has a 25% investment in another person (C) where any paragraph of subsection (1) would apply if in that paragraph for "more than half" there were substituted " at least a quarter ".

(3) Section 464(2) to (11) and section 465 of TIOPA 2010 apply for the purposes of subsections (1) and (2) of this section.

(4) In the application of section 464(10) of TIOPA for the purposes of subsection (1), the reference to a "25% investment" is to be read as a "51% investment".

608V Meaning of direct or indirect participation in management, control or capital

608V 608V Meaning of direct or indirect participation in management, control or capital

(1) This section applies for the purposes of section 608T.

(2) A person is directly participating in the management, control or capital of another person at a particular time only if section 157 of TIOPA 2010 so provides.

(3) A person is indirectly participating in the management, control or capital of another person at a particular time only if section 159 or 160 of TIOPA 2010 so provides.

General

608W Anti-avoidance

608W 608W Anti-avoidance

(1) This section applies if a person has entered into any arrangements the main purpose, or one of the main purposes, of which is to obtain a tax advantage for the person as a result (wholly or partly) of—

(a) anything not being subject to the charge under section 608A, or

(b) any provisions of double taxation arrangements having effect in a case where the advantage is contrary to the object and purpose of the provisions.

(2) The tax advantage is to be counteracted by the making of such adjustments as are just and reasonable.

(3) The adjustments may be made (whether by an officer of Revenue and Customs or the person) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

(4) Where this section applies by virtue of subsection (1)(b), the counteraction has effect despite section 6(1) of TIOPA 2010.

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(5) In this section "tax advantage" includes—
- (a) relief or increased relief from tax,
- (b) repayment or increased repayment of tax,
- (c) avoidance or reduction of a charge to tax or an assessment to tax,
- (d) avoidance of a possible assessment to tax,
- (e) deferral of a payment of tax or advancement of a repayment of tax, and
- (f) avoidance of an obligation to deduct or account for tax.

608X Interaction with other general provisions

608X 608X Interaction with other general provisions

(1) This section applies where section 608A applies in relation to a person for a tax year (or would apply, if the following provisions of this section applied).

(2) Part 6 (exempt income) does not apply in relation to UK-derived amounts arising to the person in the tax year.

(3) For the purposes of calculating the person's liability to income tax for the tax year—
- (a) Chapter 1 of Part 14 of ITA 2007 (limits on liability to income tax of non-residents) does not apply in relation to UK-derived amounts arising to the person in the tax year;
- (b) accordingly, the person's liability is the sum of—
  - (i) the person's liability as regards UK-derived amounts (with that Chapter not applying), and
  - (ii) the person's liability as regards anything else (with that Chapter applying, to the extent it would otherwise apply).

608Y Appeals against assessments

608Y 608Y Appeals against assessments

(1) This section applies where a person ("the taxpayer") makes an appeal in relation to an amount of income tax charged on the taxpayer under section 608A.

(2) Section 55(3) to (8A) of TMA 1970 (application for postponement of payment of tax pending appeal) do not apply in relation to the tax charged (and no agreement as to the postponement of payment of any of that tax, or of interest on it, may be made).

(3) In the case of a further appeal, the relevant court or tribunal (as defined by section 56 of TMA 1970) may, on the application of Her Majesty's Revenue and Customs, direct that section 56(2) of TMA 1970 does not apply to the tax charged.

(4) A direction may be given if the relevant court or tribunal considers it necessary for the protection of the revenue.

(5) Nothing in this section applies in relation to a liability arising as a result of the giving of a notice under section 608O.

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Interpretation: general

608Z Interpretation of Chapter: general

608Z 608Z Interpretation of Chapter: general

In this Chapter—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"control group" has the meaning given by section 608S;

"double taxation arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010;

"full treaty territory" has the meaning given by section 608E;

"intangible property" has the meaning given by section 608H;

"related": references to two persons being related are to be read in accordance with section 608T;

"resident": references to being resident in a territory are to be read in accordance with section 608D;

"UK-derived amount" has the meaning given by section 608F;

"UK sales" has the meaning given by section 608F."

5 In section 873(3) (procedure for orders and regulations) before paragraph (c) insert—

"(ba) section 608N (offshore receipts in respect of intangible property),".

6 (1) TIOPA 2010 is amended as follows.

(2) In section 157(1) (direct participation)—

(a) omit the "and" at the end of paragraph (d);

(b) at the end of paragraph (e) insert ", and

(f) section 608T of ITTOIA 2005."

(3) In section 159(1) (indirect participation: potential direct participant)—

(a) omit the "and" at the end of paragraph (d);

(b) at the end of paragraph (e) insert ", and

(f) section 608T of ITTOIA 2005."

(4) In section 160(1) (indirect participation: one of several major participants)—

(a) omit the "and" at the end of paragraph (d);

(b) at the end of paragraph (e) insert ", and

(f) section 608T of ITTOIA 2005."

7 The amendments made by this Schedule have effect for the tax year 2019-20 and subsequent tax years.

8 In section 608W of ITTOIA 2005 (inserted by paragraph 4 of this Schedule) the reference to arrangements is to arrangements made on or after 29 October 2018.

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9 The Treasury may by regulations make such amendments of the Tax Acts as they consider appropriate in consequence of any of the preceding provisions of this Schedule.

10 The Treasury may by regulations amend Chapter 2A of Part 5 of ITTOIA 2005 (inserted by paragraph 4 of this Schedule).

11 Regulations under paragraph 10 may—

(a) make any provision that could be made by an Act;

(b) make incidental, supplementary, consequential or transitional provision or savings.

The consequential provision that may be made includes provision amending any Act (or any instrument under an Act).

12 Regulations under paragraph 10 may not make provision having effect before 29 October 2018.

13 No regulations under paragraph 10 may be made after 31 December 2019.

14 A statutory instrument containing (whether alone or with other provision) regulations under paragraph 10 may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

SCHEDULE 4

Section 16

AVOIDANCE INVOLVING PROFIT FRAGMENTATION ARRANGEMENTS

Introduction and overview

1 (1) This Schedule contains provision about countering the tax effects of certain arrangements ("profit fragmentation arrangements").

(2) Profit fragmentation arrangements involve the following parties—

(a) a person resident in the United Kingdom ("the resident party"),

(b) an overseas person or entity ("the overseas party") who is not resident in the United Kingdom, and

(c) an individual (a "related individual") who is—

(i) the resident party,

(ii) a member of a partnership of which the resident party is a partner, or

(iii) a participator in a company which is the resident party.

(3) An "overseas person or entity" means—

(a) a person abroad within the meaning given by section 718 of ITA 2007, or

(b) a company, partnership, trust or other entity or arrangements established or having effect under the law of a country or territory outside the United Kingdom (regardless of whether it has legal personality as a body corporate).

(4) Paragraphs 2 to 6 deal with the definition of profit fragmentation arrangements.

(5) Paragraph 7 deals with the adjustments which must be made to counteract the effects of such arrangements.

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(6) Other provisions of this Schedule—

(a) deal with double taxation and the tax treatment of reimbursement payments (paragraphs 8 and 9), and

(b) deal with interpretation and commencement (paragraphs 10 to 12).

Profit fragmentation arrangements

2 (1) Arrangements are "profit fragmentation arrangements" if—

(a) provision has been made or imposed as between the resident party and the overseas party by means of the arrangements ("the material provision"),

(b) as a result of the material provision, value is transferred from the resident party to the overseas party which derives directly or indirectly from the profits of a business chargeable to income tax or corporation tax (see paragraph 3),

(c) the value transferred is greater than it would have been if it had resulted from provision made or imposed as between independent parties acting at arm's length, and

(d) any of the enjoyment conditions are met in relation to a related individual (see paragraph 4).

(2) But arrangements are not "profit fragmentation arrangements" if—

(a) the material provision does not result in a tax mismatch for a tax period of the resident party (see paragraphs 5 and 6), or

(b) it is not reasonable to conclude that the main purpose, or one of the main purposes, for which the arrangements were entered into was to obtain a tax advantage.

(3) For the purposes of sub-paragraph (1)(a) provision made or imposed as between a partnership of which the resident party is a member and the overseas party is to be regarded as provision made or imposed as between the resident party and the overseas party.

Transfer of value deriving directly or indirectly from a business

3 (1) In determining whether value deriving directly or indirectly from a business is transferred from the resident party to the overseas party, account is to be taken of any method, however indirect, by which—

(a) any property or right is transferred or transmitted, or

(b) the value of any property or right is enhanced or diminished.

(2) Sub-paragraph (1) applies in particular to—

(a) sales, contracts and other transactions made otherwise than for full consideration or for more than full consideration,

(b) any method by which any property or right, or the control of any property or right, is transferred or transmitted by assigning—

(i) share capital or other rights in a company,

(ii) rights in a partnership, or

(iii) an interest in settled property,

(c) the creation of an option affecting the disposition of any property or right and the giving of consideration for granting it,

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(d) the creation of a requirement for consent affecting such a disposition and the giving of consideration for granting it,

(e) the creation of an embargo affecting such a disposition and the giving of consideration for releasing it, and

(f) the disposal of any property or right on the winding up, dissolution or termination of a company, partnership or trust.

(3) Value may be traced through any number of individuals, companies, partnerships, trusts and other entities or arrangements.

(4) The property held by a company, partnership, trust or other entity or under any arrangements must be attributed to the shareholders, partners or members, beneficiaries or other participants at each stage on a just and reasonable basis.

The enjoyment conditions

4 (1) The enjoyment conditions are met in relation to a related individual if—

(a) it is reasonable to conclude that some or all of the value transferred as a result of the material provision relates to something done by, or any property or purported right of, the individual, and

(b) either of the conditions in sub-paragraph (2) is met.

(2) The conditions are that—

(a) under the arrangements—

(i) the value transferred, or part of it, is so dealt with by any person as to be calculated at some time to enure for the benefit of the individual,

(ii) the value transferred, or part of it, operates to increase the value of any assets which the individual holds or are held for the benefit of the individual,

(iii) the individual receives or is entitled to receive any benefit provided or to be provided out of the value transferred or part of it,

(iv) the individual may become entitled to the beneficial enjoyment of the value transferred, or part of it, if one or more powers are exercised or successively exercised (and for those purposes it does not matter who may exercise the powers or whether they are exercisable with or without the consent of another person), or

(v) the individual (whether acting alone or together with any other person) is able in any manner to control directly or indirectly the application of the value transferred or part of it, or

(b) it is reasonable to conclude that the individual (whether acting alone or with any other person) procured the transfer of value from the resident party to the overseas party in such a way as to avoid the conditions in paragraph (a) being met.

(3) In determining whether the conditions in sub-paragraph (2)(a) are met in relation to an individual and the value transferred as a result of the material provision, all benefits which may at any time accrue to a person as a result of the value being transferred must be taken into account, irrespective of—

(a) the nature or form of the benefits, or

(b) whether the person has legal or equitable rights in respect of the benefits.

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(4) For the purposes of sub-paragraphs (2) and (3), references to an individual include a reference to any person connected with that individual and, for the purposes of this paragraph, section 993 of ITA 2007 (meaning of "connected") has effect but as if—
  (a) subsection (4) of that section were omitted, and
  (b) members of a partnership in which the individual is also a member were not "associates" of the individual for the purposes of sections 450 and 451 of CTA 2010 ("control").

(5) For the purposes of sub-paragraph (4), an individual is treated as connected with a person or entity if—
  (a) the individual or a person connected with the individual (whether acting alone or with any other person)—
    (i) is able to secure that the person or entity acts in accordance with the wishes of the individual or any person connected with the individual,
    (ii) is able to acquire rights which would enable the individual or any person connected with the individual to secure that the person or entity acts in accordance with the wishes of the individual or any person connected with the individual, or
    (iii) is able to exercise significant influence over the person or entity (whether or not as a result of a legal entitlement of the individual or any person connected with the individual), or
  (b) the person or entity can reasonably be expected to act, or typically acts, in accordance with the wishes of the individual or a person connected with the individual.

Tax mismatch

5 (1) The material provision results in a tax mismatch for a tax period of the resident party if—
  (a) in that period, in relation to a relevant tax, it results in one or both of—
    (i) an increase in the expenses of the resident party for which a deduction is taken into account in calculating the amount of the relevant tax payable by the resident party, or
    (ii) a reduction in the income of the resident party which would otherwise have been taken into account in calculating the amount of the relevant tax payable by the resident party,
  (b) it is reasonable to conclude that—
    (i) the resulting reduction in the amount of the relevant tax which is payable by the resident party exceeds the resulting increase in relevant taxes payable by the overseas party for the period corresponding to the tax period, and
    (ii) the overseas party does not meet the 80% payment test, and
  (c) the results described in paragraphs (a) and (b)(i) are not exempted by sub-paragraph (5).

(2) In this Schedule references to "the tax reduction" are to the amount of the excess mentioned in sub-paragraph (1)(b)(i).

(3) It does not matter whether the tax reduction results from the application of different rates of tax, the operation of a relief, the exclusion of any amount from a charge to tax, or otherwise.

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(4) "The 80% payment test" is met by the overseas party if the resulting increase in relevant taxes paid by that party as mentioned in sub-paragraph (1)(b)(i) is at least 80% of the amount of the resulting reduction in the amount of the relevant tax payable by the resident party.

(5) The results described in sub-paragraph (1)(a) and (b)(i) are exempted if they arise solely by reason of—

(a) contributions paid by an employer under a registered pension scheme, or overseas pension scheme, in respect of any individual,

(b) a payment to a charity,

(c) a payment to a person who, on the ground of sovereign immunity, cannot be liable for any relevant tax, or

(d) a payment to an offshore fund or authorised investment fund—

(i) which meets the genuine diversity of ownership condition (whether or not a clearance has been given to that effect), or

(ii) at least 75% of the investors in which are, throughout the accounting period, registered pension schemes, overseas pension schemes, charities or persons who cannot be liable for any relevant tax on the ground of sovereign immunity.

(6) In this paragraph and paragraph 6, where the overseas party does not have an actual period for the purposes of relevant taxes which coincides with the tax period of the resident party—

(a) references to the corresponding period of the overseas party in relation to that tax period are to a notional period of that party for the purposes of relevant taxes that would coincide with that tax period, and

(b) such apportionments as are just and reasonable are to be made to determine the income or tax liability of that party for that corresponding period.

(7) In this paragraph—

"relevant tax" means—

(a) income tax,

(b) corporation tax on income,

(c) a sum chargeable under section 269DA of CTA 2010 (surcharge on banking companies) as if it were an amount of corporation tax,

(d) a sum chargeable under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades as if it were an amount of corporation tax), or

(e) any non-UK tax on income, and

"tax period", in relation to a resident party, means—

(a) a tax year, or

(b) if the resident party is a company, an accounting period of that party.

Tax mismatch: resulting reduction and resulting increase

6 (1) For the purposes of paragraph 5, the resulting reduction in the resident party's liability to a relevant tax for a tax period is—

$$A \times \mathrm{TR}$$

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where—

A is the sum of—

(a) if there are expenses within paragraph 5(1)(a)(i), the lower of the amount of expenses and the amount of the deduction mentioned in that provision, and

(b) any reduction in income mentioned in paragraph 5(1)(a)(ii), and

TR is the rate at which, assuming the resident party has profits equal to A chargeable to the relevant tax for the tax period, those profits would be chargeable to that tax.

For this purpose, the rate at which those profits would be chargeable to that tax for that period is the highest rate at which that tax would be chargeable for that period if those profits were added to the resident party's total income.

(2) For the purposes of paragraph 5(1)(b) and (4), the resulting increase in relevant taxes payable by the overseas party for the period corresponding to the tax period is any increase in the total amount of relevant taxes that would fall to be paid by that party (and not refunded) assuming that—

(a) the overseas party's income for that period, in consequence of the material provision were an amount equal to A,

(b) account were taken of any deduction or relief (other than any qualifying deduction or qualifying loss relief) taken into account by the overseas party in determining that party's actual liability to any relevant taxes in consequence of the material provision, and

(c) all further reasonable steps were taken—

(i) under the law of any part of the United Kingdom or any country or territory outside the United Kingdom, and

(ii) under double taxation arrangements made in relation to any country or territory,

to minimise the amount of tax which would fall to be paid by the overseas party in the country or territory in question (other than steps to secure the benefit of any qualifying deduction or qualifying loss relief).

(3) The steps mentioned in sub-paragraph (2)(c) include—

(a) claiming, or otherwise securing the benefit of, reliefs, deductions, reductions or allowances, and

(b) making elections for tax purposes.

(4) For the purposes of this paragraph, any withholding tax which falls to be paid on payments made to the overseas party is (unless it is refunded) to be treated as tax which falls to be paid by that party (and not the person making the payment).

(5) For the purposes of this paragraph, an amount of tax payable by the overseas party is refunded if and to the extent that—

(a) any repayment of tax, or any payment in respect of a credit for tax, is made to any person, and

(b) that repayment or payment is directly or indirectly in respect of the whole or part of the amount of tax payable by the overseas party,

but an amount refunded is to be ignored if and to the extent that it results from qualifying loss relief obtained by that party.

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(6) Where some or all of the overseas party's income is treated for the purposes of a relevant tax charged under the law of a country or territory outside the United Kingdom as the income of a person or persons other than the overseas party, in paragraph 5 and this paragraph—

(a) references to that party's liability to any tax (however expressed) include a reference to the liabilities of that person or those persons to the relevant tax,

(b) references to any tax being payable by that party (however expressed) include a reference to the relevant tax being payable by that person or those persons, and

(c) references to loss relief obtained by that party include a reference to loss relief obtained by that person or those persons,

and sub-paragraph (4) applies to that person or any of those persons as it applies to that party.

(7) In this paragraph—

"qualifying deduction" means a deduction which—

(a) is made in respect of actual expenditure of the overseas party,

(b) does not arise directly from the arrangements,

(c) is of a kind for which the resident party would have obtained a deduction in calculating that party's liability to any income tax or corporation tax had that party incurred the expenditure in respect of which the deduction is given, and

(d) does not exceed the amount of the deduction that the resident party would have so obtained,

"qualifying loss relief" means any means by which a loss might be used for tax purposes to reduce the amount in respect of which the overseas party is liable to tax on the profits of a business, and

"relevant tax" has the same meaning as in paragraph 5.

Adjustments required to be made in relation to arrangements

7 (1) Adjustments must be made so as to counteract the tax advantages that would (ignoring this Schedule) arise from profit fragmentation arrangements.

(2) The adjustments—

(a) must relate to the expenses, income, profits or losses of the resident party for the tax period in which value is transferred as a result of the material provision,

(b) must be based on what the value transferred would have been if it had resulted from a provision made or imposed as between independent parties acting at arm's length, and

(c) must be just and reasonable.

(3) References in this paragraph to "the resident party" are references to the resident party at the time at which the material provision is made or imposed.

Double taxation

8 (1) This paragraph applies where—

(a) the resident party has paid a relevant tax by virtue of the application of paragraph 7,

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(b) at any time, the resident party or another person pays—
(i) a further amount of the relevant tax, or
(ii) an amount of non-UK tax corresponding to the relevant tax, and
(c) the result is a double payment of tax calculated by reference to the same income or profits.

(2) In order to avoid the double payment of tax, the resident party may make a claim in writing for one or more consequential adjustments to be made in respect of the tax paid mentioned in sub-paragraph (1)(a).

(3) On a claim under this paragraph an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(4) The amount of any consequential adjustments must not exceed the lesser of—
(a) the tax paid by the resident party as mentioned in sub-paragraph (1)(a), and
(b) the tax paid as mentioned in sub-paragraph (1)(b).

(5) Consequential adjustments may be made—
(a) in respect of any tax period,
(b) by way of an assessment, the modification of an assessment, the amendment of a claim or otherwise, and
(c) despite any time limit imposed by or under any enactment.

Reimbursement payments ignored for tax purposes

9 In calculating income, profits or losses for any tax purposes, no account is to be taken of any amount which is paid (directly or indirectly) by a person for the purposes of meeting or reimbursing the cost of tax charged on the resident party by virtue of the application of paragraph 7.

Treatment of a person who is a member of a partnership

10 (1) This paragraph applies where a person is a member of a partnership.

(2) Any references in this Schedule to the expenses, income, profits or losses of, or to the adjustment of the expenses, income, profits or losses of, the person includes a reference to the person's share of the expenses, income, profits or losses of, or adjustment of the expenses, income, profits or losses of, the partnership.

(3) For this purpose "the person's share" of an amount is determined by apportioning the amount between the members of the partnership on a just and reasonable basis.

Other defined terms

11 In this Schedule—

"arrangements" includes any scheme, agreement, understanding, transaction or series of transactions (whether or not legally enforceable),

"authorised investment fund" means—
(a) an open-ended investment company within the meaning of section 613 of CTA 2010, or
(b) an authorised unit trust within the meaning of section 616 of that Act,

"business" includes any trade, profession or vocation,

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"employer" has the same meaning as in Part 4 of FA 2004 (see section 279(1) of that Act),

"genuine diversity of ownership condition" means—

(a) in the case of an offshore fund, the genuine diversity of ownership condition in regulation 75 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), and

(b) in the case of an authorised investment fund, the genuine diversity of ownership condition in regulation 9A of the Authorised Investment Fund (Tax) Regulations 2006 (S.I. 2006/964),

"material provision" has the same meaning as in paragraph 2,

"non-UK tax" has the meaning given by section 187 of CTA 2010,

"offshore fund" has the same meaning as in section 354 of TIOPA 2010 (see section 355 of that Act),

"the overseas party" has the meaning given by paragraph 1(2),

"overseas pension scheme" has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act),

"participator" has the same meaning as in Part 10 of CTA 2010 (see section 454 of that Act),

"partnership" includes an entity established under the law of a country or territory outside the United Kingdom of a similar character to a partnership, and "member" of a partnership is to be construed accordingly,

"related individual" and "the resident party" have the meanings given by paragraph 1(2),

"tax advantage" includes—

(a) relief or increased relief from income tax or corporation tax,

(b) repayment or increased repayment of income tax or corporation tax,

(c) avoidance or reduction of a charge or an assessment to income tax or corporation tax,

(d) avoidance of a possible assessment to income tax or corporation tax,

(e) deferral of a payment of tax or advancement of a repayment of tax, and

(f) avoidance of an obligation to deduct or account for tax,

"tax period" has the meaning given by paragraph 5(7),

"the tax reduction" has the meaning given by paragraph 5(2), and

"trust" includes arrangements—

(a) which have effect under the law of a country or territory outside the United Kingdom, and

(b) under which persons acting in a fiduciary capacity hold and administer property on behalf of other persons,

and "beneficiaries", in relation to such arrangements, is to be construed accordingly.

Commencement

12 This Schedule has effect—

(a) for income tax purposes, in relation to any value transferred on or after 6 April 2019 as a result of a material provision, and

(b) for corporation tax purposes, in relation to any value transferred on or after 1 April 2019 as a result of a material provision.

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SCHEDULE 5

Section 17

NON-UK RESIDENT COMPANIES CARRYING ON UK PROPERTY BUSINESSES ETC

PART 1

EXTENSION OF SCOPE OF CHARGE

1 Section 5 of CTA 2009 (territorial scope of charge to corporation tax) is amended as follows.

2 In subsection (2) (circumstances in which non-UK resident company is within the charge)—

(a) omit "or" at the end of paragraph (a), and

(b) after paragraph (b) insert ",

(c) it carries on a UK property business, or

(d) it has other UK property income."

3 After subsection (3) insert—

"(3A) A non-UK resident company which carries on a UK property business is chargeable to corporation tax on income on all its profits that are—

(a) profits of that business, or

(b) profits arising from loan relationships or derivative contracts that the company is a party to for the purposes of that business.

(3B) A non-UK resident company which has other UK property income is chargeable to corporation tax on income on all its profits that—

(a) consist of that income, or

(b) are profits arising from loan relationships or derivative contracts that the company is a party to for the purposes of enabling it to generate that income."

4 In subsection (4) for "(2A) and (3)" substitute " and (2A) to (3B) ".

5 After subsection (4) insert—

"(5) In this Part "other UK property income" means income dealt with by any of the following Chapters of Part 4—

(a) Chapter 7 (rent receivable in connection with a UK section 39(4) concern);

(b) Chapter 8 (rent receivable for UK electric-line wayleaves);

(c) Chapter 9 (post-cessation receipts arising from a UK property business)."

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PART 2

SUPPLEMENTARY & CONSEQUENTIAL AMENDMENTS

FA 1998

6 (1) Paragraph 2 of Schedule 18 to FA 1998 (duty to give notice of chargeability) is amended as follows.

(2) After sub-paragraph (1) insert—

"(1A) But a company is not required to give notice under sub-paragraph (1) in respect of an accounting period if for the period —

(a) all the income on which it is chargeable to tax consists of payments on which it bears income tax by deduction, and

(b) the company has no chargeable gains."

(3) In sub-paragraph (2) for "The notice" substitute " A notice required to be given under this paragraph ".

FA 2004

7 After section 55 of FA 2004 insert—

"**55A Section 55: exception to duty to give notice**

"**55A** "**55A Section 55: exception to duty to give notice**

(1) A company is not required to give notice under section 55 of the beginning of an accounting period if it reasonably expects that—

(a) all the income on which it will be chargeable to corporation tax for the period will consist of payments on which it bears income tax by deduction, and

(b) it will have no chargeable gains for the period.

(2) Subsection (3) applies if—

(a) by reason of subsection (1) a company is not required to give notice under section 55 of the beginning of an accounting period ("the unreported period"), and

(b) a subsequent accounting period immediately follows the end of the unreported period.

(3) The subsequent accounting period is to be treated for the purposes of section 55 as if it does not immediately follow the end of a previous accounting period.

(4) If by reason of subsection (1) ceasing to apply a company becomes subject to the duty to give notice under section 55 of the beginning of an accounting period the notice must be given not later than three months after the date on which it becomes subject to that duty."

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ITTOIA 2005

8 In Part 3 of ITTOIA 2005 (property businesses), omit section 362 (effect of company starting or ceasing to be within charge to income tax in respect of UK property business).

ITA 2007

9 In section 5 of ITA 2007 (income tax and companies) in paragraph (b) for the words from "the income" to the end substitute " it is chargeable to corporation tax in respect of the income, or would be so chargeable but for an exemption. "

CTA 2009

10 CTA 2009 is amended as follows.

11 In section 3 (exclusion of charge to income tax) in subsection (1)(b) (non-UK resident companies) for the words from "and—" to the end substitute " and it is chargeable to corporation tax in respect of the income, or would be so chargeable but for an exemption ".

12 In section 18A (exemption for profits or losses of foreign permanent establishments) in subsection (2A) for the words from ", or would" to the end substitute "or, if the company were non-UK resident, would be—

(a) profits or losses of the company's trade of dealing in or developing UK land (see section 5B),
(b) profits or losses of the company's UK property business,
(c) profits consisting of the company's other UK property income, or
(d) profits or losses arising from loan relationships or derivative contracts that the company is a party to for the purposes of its UK property business or for the purposes of enabling it to generate other UK property income."

13 In section 19 (chargeable profits) for subsection (2A) substitute—

"(2A) But the company's "chargeable profits" do not include—

(a) profits of a trade of dealing in or developing UK land (see section 5B),
(b) profits of a UK property business,
(c) profits consisting of other UK property income, or
(d) profits arising from loan relationships or derivative contracts that the company is a party to for the purposes of its UK property business or for the purposes of enabling it to generate other UK property income."

14 In section 289 (effect of company starting or ceasing to be within charge to corporation tax) in subsection (1) for "a property business" substitute " an overseas property business ".

15 (1) Section 301 (calculation of non-trading profits and deficits from loan relationships: non-trading credits and debits) is amended as follows.

(2) In subsection (1) for "as follows" substitute " in accordance with subsections (4) to (7) ".

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(3) After subsection (1) insert—

"(1A) But in the case of a non-UK resident company the only non-trading credits and non-trading debits to be used are those in respect of loan relationships that the company is a party to for a purpose mentioned in section 5(3A)(b) or (3B)(b)."

16 In section 333 (company with loan relationship ceasing to be UK resident) in subsection (2)—

(a) after "owed" insert "—

(a)",

and

(b) at the end insert ",

(b) for the purposes of the company's trade of dealing in or developing UK land,

(c) for the purposes of the company's UK property business, or

(d) for the purposes of enabling the company to generate other UK property income (within the meaning given by section 5(5))."

17 (1) Section 334 (non-UK resident company ceasing to hold loan relationship for UK permanent establishment) is amended as follows.

(2) In the heading, for "UK permanent establishment" substitute " section 333(2) purposes ".

(3) In subsection (1) for the words from "the purposes" to "United Kingdom" substitute " section 333(2) purposes ".

(4) In subsection (3)(b) for "the purposes of the permanent establishment" substitute " section 333(2) purposes ".

(5) After subsection (4) insert—

"(5) An asset or liability ceases to be held or owed for section 333(2) purposes if and in so far as—

(a) it ceases to be held or owed for any purposes mentioned in section 333(2), and

(b) on doing so, it does not begin or continue to be held or owed for any of the other purposes so mentioned."

18 In section 574 (non-trading credits and debits to be brought into account under Part 5) after subsection (2) insert—

"(2A) But in the case of a non-UK resident company subsection (2) applies only in relation to those credits or debits in respect of derivative contracts that the company is a party to for a purpose mentioned in section 5(3A)(b) or (3B)(b)".

19 In section 609 (company with derivative contract ceasing to be UK resident) in subsection (2)—

(a) after "owed" insert "—

(a)",

and

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(b) at the end insert “,

(b) for the purposes of the company's trade of dealing in or developing UK land,

(c) for the purposes of the company's UK property business, or

(d) for the purposes of enabling the company to generate other UK property income (within the meaning given by section 5(5)).”

20 (1) Section 610 (non-UK resident company ceasing to hold derivative contract for UK permanent establishment) is amended as follows.

(2) In the heading, for “UK permanent establishment” substitute “ section 609(2) purposes ”.

(3) In subsection (1) for the words from “the purposes” to “United Kingdom” substitute “ section 609(2) purposes ”.

(4) In subsection (3)(b) for “the purposes of the permanent establishment” substitute “ section 609(2) purposes ”.

(5) After subsection (4) insert—

“(5) A right or liability ceases to be held or owed for section 609(2) purposes if and in so far as—

(a) it ceases to be held or owed for any purposes mentioned in section 609(2), and

(b) on doing so, it does not begin or continue to be held or owed for any of the other purposes so mentioned.”

21 (1) Section 697 (derivative contracts with non-UK residents: exceptions) is amended as follows.

(2) For subsection (2) substitute—

“(2) Section 696 does not apply if NR—

(a) is chargeable to corporation tax or income tax in respect of income arising from the derivative contract (or would be if there were any such income), and

(b) is a party to the derivative contract otherwise than as agent or nominee of another person.”

(3) In subsection (6) omit the definition of “relevant entity” and “, and” immediately before it.

22 In section 746 (“non-trading credits” and “non-trading debits”) in subsection (2) for paragraph (b) substitute—

“(b) section 793A (effect of election to reallocate charge within group),”.

23 (1) Section 792 (reallocation of charge within group) is amended as follows.

(2) Omit subsection (5).

(3) In subsection (6) for “makes further provision” substitute “ sets out further requirements ”.

(4) After subsection (6) insert—

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"(6A) Section 793A makes provision about the effect of elections under this section."

(5) In subsection (8) after "793" insert " , 793A ".

24 (1) Section 793 (further requirements about elections under section 792) is amended as follows.

(2) In subsection (1) for "or (3)" substitute " , (3), (3A) or (3B) ".

(3) In subsection (3), in the words before paragraph (a), after "if" insert " subsection (2) does not apply and "

(4) After subsection (3) insert—

"(3A) This subsection applies if neither of subsections (2) and (3) apply and at the relevant time—

(a) B carried on a trade of dealing in or developing UK land, and

(b) B was not exempt from corporation tax in respect of profits of that trade because of arrangements that have effect under section 2(1) of TIOPA 2010.

(3B) This subsection applies if none of subsections (2), (3) and (3A) apply and at the relevant time—

(a) B carried on a UK property business, and

(b) B was not exempt from corporation tax in respect of the income of its UK property business because of arrangements that have effect under section 2(1) of TIOPA 2010."

25 After section 793 insert—

"**793A Effect of election under section 792**

"**793A** "**793A Effect of election under section 792**

(1) This section applies if an election is made under section 792.

(2) If subsection (2) of section 793 applies to B the gain, or the part specified in the election, is treated as if it had accrued to B at the relevant time as a non-trading credit for the purposes of Chapter 6 (how credits and debits are given effect).

(3) If subsection (3) of section 793 applies to B the gain, or the part specified in the election, is treated—

(a) as if it had accrued to B at the relevant time as a non-trading credit for the purposes of Chapter 6, and

(b) as if it had accrued in respect of an asset held for the purposes of a permanent establishment of B in the United Kingdom.

(4) If subsection (3A) of section 793 applies to B the gain, or the part specified in the election, is treated for the purposes of Chapter 6 as if it had accrued to B at the relevant time as a credit in respect of an asset held for the purposes of B's trade of dealing in or developing UK land.

(5) If subsection (3B) of section 793 applies to B the gain, or the part specified in the election, is treated for the purposes of Chapter 6 as if it had accrued to

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B at the relevant time as a credit in respect of an asset held for the purposes of B's UK property business."

26 In section 795 (recovery of charge from another group company or controlling director) in subsection (4) omit the words from "but" to "establishment".

27 In section 863 (asset becoming chargeable intangible asset), in subsection (1)(b)—

(a) after "held" insert "—

(i)",

and

(b) after "establishment," insert—

"(ii) for the purposes of a trade carried on by the company of dealing in or developing UK land,

(iii) for the purposes of a UK property business carried on by the company, or

(iv) for the purposes of enabling the company to generate other UK property income (within the meaning given by section 5(5)),".

CTA 2010

28 CTA 2010 is amended as follows.

29 (1) Section 9 (non-UK resident company preparing return of accounts in currency other than sterling) is amended as follows.

(2) For subsection (1) substitute—

"(1) This section applies if a non-UK resident company within the charge to corporation tax prepares its return of accounts for a period of account in a currency other than sterling (the "accounts currency")."

(3) In subsection (4) omit from "of its" to "United Kingdom".

30 In section 107 (group relief: restriction on losses etc surrenderable by non-UK resident) in subsection (1) for "company" (in the second place it occurs) to the end substitute " company within the charge to corporation tax ".

31 In section 188BI (group relief for carried-forward losses: restriction on surrender of losses made when non-UK resident) in subsection (1) for "company" (in the second place it occurs) to the end substitute " company within the charge to corporation tax ".

TIOPA 2010

32 Part 10 of TIOPA 2010 (corporate interest restriction) is amended as follows.

33 (1) Section 415 (qualifying net group-interest expense: interpretation) is amended as follows.

(2) In subsection (1) for paragraph (b) substitute—

"(b) either—

(i) the condition in subsection (1A) is met, or

(ii) any of the conditions in subsection (2) is met in relation to the guarantee, indemnity or other financial assistance in question"."

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(3) After subsection (1) insert—

"(1A) The condition is that—

(a) the member in question is a company that has not been UK resident at any time before 29 October 2018,

(b) the financial assistance in question is provided before that date, and

(c) the financial assistance in question is in respect of a loan relationship, derivative contract or relevant arrangement or transaction (within the meaning of section 382(4)) to which the member in question is a party for the purposes of its UK property business."

34 In section 438 (exemption for interest payable to third parties etc) after subsection (5) insert—

"(5A) For the purposes of subsection (4) a guarantee, indemnity or other financial assistance in favour of the creditor is also ignored if—

(a) it is provided before 29 October 2018,

(b) the company concerned has not been UK resident at any time before that date, and

(c) the amount concerned is in respect of a loan relationship, derivative contract or relevant arrangement or transaction (within the meaning of section 382(4)) to which the member in question is a party for the purposes of its UK property business."

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISIONS

Commencement

35 This Schedule comes into force on 6 April 2020 ("the commencement date").

Transitional provisions

36 Where a period of account of a company begins before and ends on or after the commencement date, it is to be assumed for the purposes of the amendments made by this Schedule—

(a) that the period ("the straddling period of account") consists of two separate periods of account—

(i) the first beginning with the date on which the straddling period of account begins and ending with 5th April 2020, and

(ii) the second beginning with the commencement date and ending with the date on which the straddling period of account ends, and

(b) that separate accounts have been drawn up for each of those separate periods in accordance with generally accepted accounting practice.

37 (1) This paragraph applies if—

(a) in a tax year ending before the commencement date a company makes a loss in a UK property business that is within the charge to income tax,

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(b) relief for the purposes of income tax is not given to the company for an amount of the loss ("the unrelieved amount"), and

(c) on the commencement date the UK property business ceases to be within the charge to income tax and comes within the charge to corporation tax as a result of section 5(3A) of CTA 2009.

(2) Relief for the purposes of corporation tax is given to the company under this paragraph for the unrelieved amount.

(3) For this purpose—

(a) the unrelieved amount is carried forward to post-commencement accounting periods of the company (for so long as the company continues to carry on the UK property business), and

(b) the profits of any such accounting period that are mentioned in sub-paragraph (4) are to be reduced by the unrelieved amount (so far as that amount cannot be used under this paragraph to reduce the profits of an earlier period).

(4) The profits are—

(a) profits of the UK property business, and

(b) profits arising from loan relationships or derivative contracts that the company is a party to for the purposes of that business.

(5) In this paragraph "post-commencement accounting period" means an accounting period ending after the commencement date.

38 (1) This paragraph applies if—

(a) in the tax year 2019-20 a non-UK resident company is a partner in a firm which—

(i) carries on a trade, and

(ii) has untaxed income or relievable losses from a UK property business, and

(b) accordingly, the company is treated under section 854 of ITTOIA 2005 as having a notional business for the tax year.

(2) The basis period for the notional business for the tax year is taken to end with 5th April in that tax year (if it would not otherwise do so).

(3) In this paragraph "untaxed income" has the meaning given by section 854(6) of ITTOIA 2005.

39 (1) This paragraph applies if—

(a) on or after the commencement date a loss arises in connection with a loan relationship of a company,

(b) the loss is wholly or partly referable to a time before the commencement date ("the pre-commencement time"), and

(c) had the loss arisen at the pre-commencement time it would have been brought into account in accordance with Part 3 of ITTOIA 2005 in calculating the profits of the UK property business of the company.

(2) Section 327 (disallowance of imported losses etc) does not apply in relation to so much of the loss as is referable to the pre-commencement time.

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40 (1) This paragraph applies for an accounting period ("the loss period") of a non-UK resident company beginning on or after the commencement date if—

(a) apart from this paragraph, a loss arising in connection with a derivative contract of the company would by reason of this Schedule fall to be brought into account in accordance with Part 7 of CTA 2009,

(b) the loss is wholly or partly referable to a time before the commencement date when the derivative contract was not subject to corporation tax, and

(c) had the loss arisen at that time it would not have been brought into account in accordance with Part 3 of ITTOIA 2005 in calculating the profits of the UK property business of the company.

(2) The amounts brought into account for the loss period in accordance with Part 7 of CTA 2009 must be such as to secure that none of the loss referable to that time is treated as arising in the loss period or any other accounting period of the company.

(3) For the purposes of this section a loss is referable to a time when a contract is not subject to corporation tax so far as, at the time to which the loss is referable, the company would not have been chargeable to corporation tax on any profits arising from the contract.

(4) If the company was not a party to the contract at the time to which the loss is referable, subparagraph (3) applies as if the reference to the company were a reference to the person who at that time was in the same position as respects the contract as is subsequently held by the company.

(5) An amount which would be brought into account in accordance with Part 7 of CTA 2009 in respect of a derivative contract apart from this paragraph is treated for the purposes of section 699(1) of CTA 2009 (amounts brought into account under Part 7 excluded from being otherwise brought into account) as if it were so brought into account.

(6) Accordingly, that amount must not be brought into account for corporation tax purposes as respects the derivative contract either in accordance with Part 7 of CTA 2009 or otherwise.

41 (1) This paragraph applies for an accounting period ("the relevant period") of a non-UK resident company beginning on or after the commencement date if—

(a) a profit arising in connection with a loan relationship or derivative contract of the company ("the first instrument") falls by reason of this Schedule to be brought into account in the relevant period in accordance with Part 5 or Part 7 of CTA 2009,

(b) an amount of the profit ("the profit amount") is referable to a time before the commencement date when the first instrument was not subject to corporation tax,

(c) had the profit arisen at that time it would not have been brought into account in accordance with Part 3 of ITTOIA 2005 in calculating the profits of the UK property business of the company,

(d) at that time the first instrument and another loan relationship or derivative contract ("the second instrument") were in a hedging relationship with one another, and

(e) an amount of a loss ("the loss amount") arising in connection with the second instrument would (apart from this paragraph) be prevented by reason of paragraph 40 or section 327 of CTA 2009 from being brought into account in the relevant period accordance with Part 5 or Part 7 of CTA 2009.

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(2) So much of the loss amount as does not exceed the profit amount may be brought into account in the relevant period in accordance with Part 5 or Part 7 of CTA 2009.

(3) For the purposes of sub-paragraph (1) the first instrument and the second instrument are in a hedging relationship with one another in so far as one of them is intended to act as a hedge of the company's exposure to changes in the fair value of the other.

(4) In a case where the first instrument and the second instrument are in a hedging relationship with one another to a limited extent, subsection (2) has effect in relation to so much of the loss amount as is just and reasonable having regard to the extent of that hedging relationship.

(5) For the purposes of this paragraph a profit is referable to a time when the first instrument is not subject to corporation tax so far as, at the time to which the profit is referable, the company would not have been chargeable to corporation tax on any profits arising from the instrument.

(6) If the company was not a party to the first instrument at the time to which the profit is referable, subparagraph (5) applies as if the reference to the company were a reference to the person who at that time was in the same position as respects the instrument as is subsequently held by the company.

42 (1) Where—

(a) before the commencement date a company is chargeable to income tax on the profits of its UK property business,

(b) on the commencement date the company becomes chargeable to corporation tax on the profits arising from a derivative contract that it is a party to for the purposes of its UK property business, and

(c) there is a tax asymmetry in relation to the derivative contact,

the amounts to be brought into account in respect of the derivative contract for the purposes of Part 7 of CTA 2009 are to be adjusted in such manner as is just and reasonable having regard to the tax asymmetry.

(2) For the purposes of subparagraph (1) there is a tax asymmetry in relation to the derivative contract if—

(a) fair value amounts arising in relation to the derivative contract are brought into account in calculating for the purposes of income tax the profits or losses of the company's UK property business for tax years ending before the commencement date, but

(b) by reason of regulation 9 of the Disregard Regulations, fair value amounts arising in relation to the contract are not brought into account for the purposes of Part 7 of CTA 2009 for accounting periods of the company beginning on or after the commencement date.

(3) In this paragraph—

"fair value amount" means an amount representing a change in the fair value of a derivative contract which is recognised in determining a company's profit or loss for a period of account in accordance with generally accepted accounting practice;

"the Disregard Regulations" means the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256).

43 (1) This paragraph applies if—

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(a) an amount representing a change in the fair value of a derivative contract is recognised in determining a company's profit or loss for a period of account beginning before the commencement date, and

(b) the amount would have been brought into account in calculating for the purposes of income tax the profits or losses of the company's UK property business for a tax year ending before the commencement date but for its having been treated as an amount of a capital nature.

(2) In determining the amounts the company is to bring into account for the purposes of Part 7 of CTA 2009 for an accounting period beginning on or after the commencement date—

(a) the derivative contract is to be treated as being one in relation to which an election has effect under regulation 6A of the Disregard Regulations, and

(b) if regulation 7 or 8 of those Regulations applies in relation to the derivative contract, the amount referred to in subparagraph (1) is to be treated for the purposes of regulation 10 of those Regulations as being an amount that has previously been excluded from being brought into account for the purposes of Part 7 of CTA 2009 by regulation 7 or 8 (as the case may be).

(3) In this paragraph—

"the Disregard Regulations" means the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256);

"recognised" means recognised in accordance with generally accepted accounting practice.

44 (1) This paragraph applies if—

(a) before 1 January 2015 a company measures a relevant derivative contract at fair value,

(b) on the commencement date the company comes within the charge to corporation tax by reason of this Schedule, and

(c) the first relevant period of the company begins on or after the commencement date.

(2) The company is to be treated for the purposes of regulation 6A of the Disregard Regulations as if it was a new adopter.

(3) In this paragraph—

"the Disregard Regulations" means the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256), and

"the first relevant period" and "relevant derivative contract" have the meaning given by regulation 6A(5) of the Disregard Regulations.

45 (1) This paragraph applies if on the commencement date—

(a) an asset held by a non-UK resident company for the purposes of its UK property business becomes a chargeable intangible asset in relation to the company by reason of the business coming within the charge to corporation tax, or

(b) an asset held by a non-UK resident company for the purposes of enabling it to generate other UK property income becomes a chargeable intangible asset in relation to the company by reason of that income coming within the charge to corporation tax.

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(2) Part 8 of CTA 2009 applies as if—

(a) the company had acquired the asset immediately on the commencement date, and

(b) had done so for its accounting value at that time.

(3) In this paragraph—

"accounting value" and "chargeable intangible asset" have the meaning they have in Part 8 of CTA 2009, and

"other UK property income" has the meaning it has in Part 2 of CTA 2009.

46 (1) An election under section 792 of CTA 2009 (reallocation of degrouping charge within a group) may not be made if—

(a) subsection (3A) of section 793 applies to B, and

(b) the relevant time is before 5 July 2016.

(2) An election under section 792 of CTA 2009 may not be made if—

(a) subsection (3B) of section 793 applies to B, and

(b) the relevant time is before the commencement date.

(3) In this paragraph references to "B" and "the relevant time" must be read in accordance with section 792 of CTA 2009.

47 (1) This paragraph applies if—

(a) before the commencement date a company incurs expenditure for the purposes of a UK property business it is about to carry on,

(b) the company begins to carry on the business on or after the commencement date, and

(c) when the company begins to carry on the business it is non-UK resident.

(2) Subsection (7) of section 1147 of CTA 2009 (which enables a company to obtain relief for expenditure on contaminated or derelict land incurred prior to carrying on a UK property business) does not apply in relation to the expenditure.

48 Where on the commencement date—

(a) a non-UK resident company ceases to be within the charge to income tax and comes within the charge to corporation tax by reason of this Schedule, and

(b) an accounting period of the company begins in accordance with section 9(1)(a) of CTA 2009,

the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175) do not have effect in relation to that accounting period.

49 (1) This paragraph applies if on or after 29 October 2018 a company enters into an arrangement the main purpose or one of the main purposes of which is to secure for any person a tax advantage related to the coming into force of this Schedule.

(2) The tax advantage is to be counteracted by means of adjustments.

(3) The adjustments may be made (whether by an officer of Revenue and Customs or the person who would obtain the tax advantage) by way of an assessment, the modification of an assessment, an amendment or disallowance of a claim, or otherwise.

(4) In this paragraph—

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"arrangement" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"tax advantage" has the meaning given by section 1139 of CTA 2010.

50 (1) This paragraph applies if—

(a) a company enters into an arrangement of a kind mentioned in paragraph 49(1),

(b) the arrangements are effected by taking only ordinary commercial steps in accordance with a generally prevailing commercial practice,

(c) the tax advantage that the arrangements secure is the benefit of a relief expressly conferred by Part 10 of TIOPA 2010 (corporate interest restriction), and

(d) securing that tax advantage is wholly consistent with the policy objectives of that Part.

(2) If the arrangement is entered into on or after 29 October 2018, the tax advantage is not to be counteracted by means of adjustments under paragraph 49.

(3) In addition, the tax advantage is not to be counteracted by means of adjustments under section 461 of TIOPA 2010 irrespective of the date on which the arrangement was entered into.

SCHEDULE 6

Section 18

DIVERTED PROFITS TAX

Introduction

1 Part 3 of FA 2015 (diverted profits tax) is amended as follows.

Calculation of taxable diverted profits

2 (1) Section 82 (calculation of taxable diverted profits in section 80 or 81 case: introduction) is amended as follows.

(2) In subsection (3) for "(9)" substitute " (10) ".

(3) In subsection (7) (when the "actual provision condition" is met) in paragraph (a) omit "(ignoring Part 4 of TIOPA 2010 (transfer pricing))".

(4) After subsection (7) insert—

"(7A) For the purposes of subsection (7)(a) ignore any adjustment that is required to be made to the results of the material provision under Part 4 of TIOPA 2010 (transfer pricing)."

(5) After subsection (9) insert—

"(10) "Diverted profits" of the relevant company for the accounting period means an amount—

(a) in respect of which the company is chargeable to corporation tax for that period by reason of any adjustment required to be made to

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the results of the material provision under Part 4 of TIOPA 2010 (transfer pricing), and

(b) which, in a case where section 81 applies, is attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE”.”

3 In section 83 (section 80 or 81 cases where no taxable diverted profits arise) omit subsection (2).

4 In section 84 (section 80 or 81: calculation of profits by reference to the actual provision) in subsection (2) for the words from “the amount (if any)” to the end substitute “ an amount equal to so much of the diverted profits of the company for the accounting period as are not taken into account in an assessment to corporation tax included before the end of the review period in the company's company tax return for that accounting period. ”

5 (1) Section 85 (section 80 or 81: calculation of profits by reference to the relevant alternative provision) is amended as follows.

(2) In subsection (4) for paragraph (a) (but not the “and” immediately after it) substitute—

“(a) so much of the diverted profits (if any) of the company for the accounting period as are not taken into account in an assessment to corporation tax included before the end of the review period in the company's company tax return for that accounting period,”.

(3) In subsection (6) (meaning of “the notional additional amount”)—

(a) in the words before paragraph (a) omit “the amount by which”,

(b) in paragraph (a) before “amount” insert “ additional ”,

(c) at the end of paragraph (a) for “exceeds” substitute “ less ”, and

(d) in paragraph (b)(i) for the words from “the application” to the end substitute “ any adjustment required to be made to the results of the material provision (whether under Part 4 of TIOPA 2010 (transfer pricing) or otherwise), ”.

(4) After subsection (6) insert—

“(7) In calculating the additional amount mentioned in paragraph (a) of subsection (6) no account is to be taken of any adjustment required to be made to the results of the material provision under Part 4 of TIOPA 2010 or otherwise.”

6 (1) Section 88 (calculation of taxable diverted profits in section 86 case: introduction) is amended as follows.

(2) After subsection (5A) insert—

“(5B) In calculating the notional PE profits no account is to be taken of any adjustment within subsection (5C).

(5C) An adjustment is within this subsection if—

(a) it is an adjustment required to be made under Part 4 of TIOPA 2010 to the results of any provision made or imposed between the foreign company and the avoided PE,

(b) it is taken into account in an assessment to corporation tax included in a company tax return of the avoided PE, and

(c) the time when it is first taken into account as mentioned in paragraph (b) is after the end of the review period.”

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(3) In subsection (9)(a) omit "(ignoring Part 4 of TIOPA 2010 (transfer pricing)".

(4) After subsection (9) insert—

"(9A) For the purposes of subsection (9)(a) ignore any adjustment that would be required to be made to the results of the material provision under Part 4 of TIOPA 2010 in calculating what would have been the notional PE profits for the accounting period."

7 After section 111 insert—

"**111A Adjustment required to be made to the material provision**

"**111A** "**111A Adjustment required to be made to the material provision**

A reference in section 82 or 88 to an adjustment required to be made under Part 4 of TIOPA 2010 (transfer pricing) to the results of any provision includes a reference to an adjustment required to be made under any other enactment to the results of the provision if and to the extent that, but for that other enactment, the adjustment would have been required to be made under that Part."

8 The amendments made by paragraphs 2 to 7 have effect in relation to accounting periods beginning on or after 29 October 2018.

Extension of period for issuing a preliminary notice

9 (1) Section 93 (preliminary notice) is amended as follows.

(2) In subsection (5) (period for issuing a notice) for the words from ", a preliminary notice" to the end substitute "—

(a) a preliminary notice may not be issued in respect of an accounting period on the basis that section 80 or 81 applies more than six months after the last day on which an amendment of the company tax return for the accounting period could be made, and

(b) a preliminary notice may not be issued in respect of an accounting period on the basis that section 86 applies more than 24 months after the end of that accounting period."

(3) After subsection (5) insert—

"(5A) For the purposes of subsection (5)(a) no account is to be taken of any exception to paragraph 15(4) of Schedule 18 to FA 1998 (period for amending a company tax return)."

(4) The amendments made by this paragraph do not have effect in relation to a preliminary notice if the period during which it may be issued (but for the amendments) expires before this Act is passed.

Relief from corporation tax

10 (1) After section 100 insert—

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"100A Relief from corporation tax

"100A "100A Relief from corporation tax

(1) This section applies where a charging notice or supplementary charging notice is issued to a company for an accounting period and any of the following events occurs—

(a) the period of 30 days mentioned in subsection (2) of section 102 ends without notice of an appeal against the notice being given in accordance with that subsection,

(b) an appeal against the notice is finally determined otherwise than by the notice being cancelled, or

(c) an appeal against the notice is withdrawn.

(2) The company is not chargeable to corporation tax for the accounting period in respect of any amount within subsection (3).

(3) An amount is within this subsection if—

(a) the company failed before the end of the review period to take the amount into account in an assessment to corporation tax included in the company tax return for the accounting period, and

(b) that failure gave rise to, or to any of, the taxable diverted profits in respect of which the notice imposes a charge to diverted profits tax."

(2) The amendment made by this paragraph has effect in relation to accounting periods beginning on or after 1 April 2015.

Extension of the review period

11 (1) In section 101 (HMRC review of charging notice)—

(a) in subsection (2) (meaning of "review period") for "12 months" substitute " 15 months ", and

(b) in subsection (13) (events that bring the review period to an end early) for "12 months" substitute " 15 months ".

(2) The amendments made by this paragraph do not have effect in relation to a review period that, but for the amendments, expires before 29 October 2018.

Extension of period for amendment of company tax return

12 After section 101 insert—

"101A Amendment of CT return during review period: section 80 or 81 case

"101A "101A Amendment of CT return during review period: section 80 or 81 case

(1) This section applies where a charging notice is issued to a company by reason of section 80 or 81 applying in relation to it for an accounting period.

(2) At any time during the first 12 months of the review period, the company may amend its company tax return for the accounting period so as to reduce the taxable diverted profits arising to it in the accounting period.

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101B Amendment of CT return during review period: section 86 case

101B 101B Amendment of CT return during review period: section 86 case

(1) This section applies where a charging notice is issued to a company ("the foreign company") by reason of section 86 applying in relation to it for an accounting period.

(2) At any time during the first 12 months of the review period, the avoided PE may amend a company tax return made by it so as to reduce the taxable diverted profits arising to the foreign company in the accounting period."

SCHEDULE 7

Section 22

PAYMENT OF CGT EXIT CHARGES

CGT exit charge payment plans

1 In TMA 1970, after section 59BA insert—

"**59BB CGT exit charge payment plans**

"**59BB "59BB CGT exit charge payment plans**

Schedule 3ZAA contains provision for the payment in instalments of capital gains tax to which liability arises by virtue of section 25 or 80 of the 1992 Act."

2 After Schedule 3ZA to TMA 1970 insert—

"SCHEDULE 3ZAA

Section 59BB

CGT EXIT CHARGE PAYMENT PLANS

Introduction

1 (1) This Schedule makes provision for certain persons who are liable to pay an exit charge under section 25 or 80 of the 1992 Act to agree with HMRC to pay the charge in instalments.

(2) An agreement under this Schedule is called a "CGT exit charge payment plan".

Eligibility

2 (1) This paragraph applies where a person resident in an EEA state outside the United Kingdom is liable to pay an exit charge for a tax year by virtue of section 25(1) or (3) of the 1992 Act (deemed disposals by non-residents).

(2) The person is eligible to enter into a CGT exit charge payment plan in relation to any one or more of the assets to which the exit charge relates if—

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(a) at the time of the event giving rise to the exit charge, the person had a right to freedom of establishment, or

(b) at any time after that event, the person carries on a trade in an EEA state other than the United Kingdom through a branch or agency and the asset or assets is or are—

(i) used in or for the purposes of that trade, or

(ii) used or held for the purposes of the branch or agency.

3 (1) This paragraph applies where the relevant trustees of a settlement are liable to pay an exit charge for a tax year by virtue of section 80 of the 1992 Act (charge on ceasing to be resident in the UK).

(2) The relevant trustees are eligible to enter into a CGT exit charge payment plan in relation to any one or more of the assets to which the exit charge relates if—

(a) at the time the trustees of the settlement ceased to be resident in the United Kingdom for the purposes of that section, they had a right to freedom of establishment,

(b) immediately before that time, the trustees of the settlement used the asset or assets for an economically significant activity carried on in the United Kingdom, and

(c) immediately after that time, those trustees—

(i) become resident in another EEA state for the purposes of the 1992 Act, and

(ii) use the asset or assets for an economically significant activity carried on there.

Tax to which a plan relates

4 (1) A CGT exit charge payment plan may relate to—

(a) the whole of the exit charge attributable to the asset or assets to which the plan relates (the "deferrable exit charge"), or

(b) only part of the deferrable exit charge.

(2) In this Schedule—

"deferred exit charge" means the amount of the exit charge to which a plan relates;

"taxpayer", in relation to a plan, means the person eligible under paragraph 2 or 3 to enter into the plan.

(3) For the purposes of this Schedule the exit charge attributable to an asset is such proportion of the exit charge as any gain accruing to the taxpayer in respect of the asset by virtue of section 25(1) or (3) or 80 of the 1992 Act in the tax year bears to the total gains to which the exit charge relates.

Payment by instalments

5 A CGT exit charge payment plan must provide for the deferred exit charge to be payable in 6 equal instalments where—

(a) the 1st instalment is due on the day on which payment of the exit charge is (apart from the plan) due and payable under section 59B, and

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(b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.

Entering into a plan

6 (1) To enter into a CGT exit charge payment plan, the taxpayer must apply to HMRC.

(2) An application for a CGT exit charge payment plan must—

(a) be made on or before the date specified in section 59B as the date by which the exit charge is payable, and

(b) contain details of all the matters which are required by this Schedule to be specified in the plan.

(3) A CGT exit charge payment plan is entered into when—

(a) the taxpayer agrees to pay the deferred exit charge, and any interest on it, in accordance with the plan, and

(b) an officer of Revenue and Customs agrees to accept payment of the deferred exit charge in accordance with the plan.

(4) A CGT exit charge payment plan is void if—

(a) an event giving rise to the exit charge is part of arrangements the main purpose of which, or one of the main purposes of which, is to defer the payment by the taxpayer of the exit charge, or

(b) any information furnished by the taxpayer in connection with the plan does not fully and accurately disclose all facts and considerations material to the decision of the officer of Revenue and Customs to accept payment in accordance with the plan.

Contents of a plan

7 (1) If the taxpayer is eligible under paragraph 2, a CGT exit charge payment plan must specify—

(a) the EEA state in which the person entering into the plan is resident, and

(b) if the person has ceased to carry on a trade in the United Kingdom through a branch or agency there, the date on which the person ceased to do so.

(2) If the taxpayer is eligible under paragraph 3, a CGT exit charge payment plan must specify—

(a) the date on which the trustees of the settlement became not resident in the United Kingdom for the purposes of section 80 of the 1992 Act, and

(b) the EEA state in which those trustees became resident.

(3) A CGT exit charge payment plan must specify—

(a) the amount of the exit charge which, in the taxpayer's opinion, the taxpayer is liable to pay under section 25 or (as the case may be) section 80 of the 1992 Act in respect of the tax year, and

(b) the amount of the deferred exit charge.

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(4) A CGT exit charge payment plan may contain appropriate provision regarding security for HMRC if an officer of Revenue and Customs considers that there would be a serious risk to collection of any amount of deferred exit charge without it.

Effect of a plan

8 (1) This paragraph applies where a CGT exit charge payment plan is entered into by the taxpayer.

(2) The deferred exit charge remains due and payable under section 59B (payment of income tax and capital gains tax: assessments other than simple assessments).

(3) However, the Commissioners for Her Majesty's Revenue and Customs—

(a) may not seek payment of any of the deferred exit charge otherwise than in accordance with the plan, and

(b) may make repayments in respect of any of the deferred exit charge paid, or any amount paid on account of the deferred exit charge, before the plan is entered into.

(4) The deferred exit charge carries interest in accordance with Part 9 as if the plan had not been entered into; and each time a payment is made under the plan, it is to be paid together with any interest payable on it.

(5) The taxpayer is liable to penalties for late payment of the deferred exit charge only if the taxpayer fails to make payments in accordance with the plan (see item 3C of the Table at the end of paragraph 1 of Schedule 56 to the Finance Act 2009).

(6) Any of the deferred exit charge which is for the time being unpaid may be paid at any time before it becomes payable under the plan together with interest payable on it to the date of payment.

(7) If—

(a) the taxpayer becomes bankrupt under the law of England and Wales or Northern Ireland or the taxpayer's estate is sequestrated under the law of Scotland,

(b) an event corresponding to an event in paragraph (a) occurs under the law of an EEA state outside the United Kingdom, or

(c) the taxpayer becomes resident in a country or territory that is not an EEA state,

the outstanding balance of the deferred exit charge is payable on the date on which the next instalment would otherwise have been due under the plan.

Supplementary

9 If, for the purposes of any double taxation arrangements, a person is treated at any time as resident in a territory other than an EEA state, the person is also to be treated as resident there at that time for the purposes of this Schedule.

10 In this Schedule—

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"deferrable exit charge" has the meaning given by paragraph 4(1)(a);

"deferred exit charge" has the meaning given by paragraph 4(2);

"double taxation arrangements" means arrangements made by two or more territories with a view to affording relief from double taxation;

"economically significant activity" has the meaning given by section 13A(4) of the 1992 Act (reading references to a company as references to trustees);

"exit charge" means—

(a) for the purposes of paragraph 2, any amount of capital gains tax which a person is liable to pay for a tax year which the person would not be liable to pay if gains arising by virtue of section 25 of the 1992 Act in the tax year were ignored;

(b) for the purposes of paragraph 3, any amount of capital gains tax which the relevant trustees are liable to pay for a tax year which they would not be liable to pay if gains arising by virtue of section 80 of the 1992 Act in the tax year were ignored;

"right to freedom of establishment" means a right protected by—

(a) Article 49 of the Treaty on the Functioning of the European Union, or

(b) Article 31 of the EEA agreement;

"taxpayer" has the meaning given by paragraph 4(2);

"trade" includes a profession or vocation."

Penalties

3 (1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended as follows.

(2) In the Table at the end of paragraph 1, after entry 3B insert—

"3C	Capital gains tax	Amount payable under a CGT exit charge payment plan entered into in accordance with Schedule 3ZAA to TMA 1970	The later of— (a) the date falling 30 days after the date specified in section 59B of TMA 1970 as the date by which the amount is due to be paid, and (b) the date on which the amount is payable under the plan."

(3) In paragraph 3(1)(a), after "3B" insert " , 3C ".

4 In section 107A of TMA 1970 (relevant trustees), in subsection (3)(c)(i), after "1," insert " 3C, ".

5 In paragraph 5(3) of Schedule 11 to F(No.3)A 2010 (penalties for failure to make payments on time), omit "items 1, 3" in both places.

CT exit charge payment plans

6 (1) In sections 59FA, 109B and 109E of and Schedule 3ZB to TMA 1970 (including any headings of, and in, those provisions)—

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(a) for "an exit charge payment plan", in each case it occurs, substitute " a CT exit charge payment plan ",

(b) for "exit charge payment plan", in each case where it occurs without "an" before it, substitute " CT exit charge payment plan " (but this does not apply to paragraph 10(2A) or 11(1) of Schedule 3ZB to TMA 1970 as respectively inserted and substituted by Schedule 8 to this Act), and

(c) for "exit charge payment plans" in each case it occurs, substitute " CT exit charge payment plans ".

(2) In Schedule 56 to FA 2009 (penalties), in the Table at the end of paragraph 1, in entry 6ZA, in the third column, for "an exit charge payment plan" substitute " a CT exit charge payment plan ".

Commencement

7 The amendments made by paragraphs 1 and 2 have effect in relation to amounts of capital gains tax which a person is liable to pay by virtue of section 25(1) or (3) or 80 of TCGA 1992 in relation to events occurring on or after 6 April 2019.

SCHEDULE 8

Section 23

CORPORATION TAX EXIT CHARGES

PART 1

CT EXIT CHARGE PAYMENT PLANS

1 Schedule 3ZB to TMA 1970 (CT exit charge payment plans) is amended as follows.

2 In paragraph 1 (circumstances in which plan may be entered into: company ceasing to be resident in UK)—

(a) in subparagraph (1)(b) for "another" substitute " a relevant ",

(b) in subparagraph (5) for "an" substitute " a relevant ",

(c) in subparagraph (6) for "other" substitute " relevant ", and

(d) in subparagraph (7) at the end insert ";

"relevant EEA state" means an EEA state that is—

(a) a member of the European Union, or

(b) a party to an agreement with the United Kingdom that provides for mutual assistance equivalent to that provided for by Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes."

3 (1) Paragraph 4 (circumstances in which plan may be entered into: non-UK resident companies with UK permanent establishments) is amended as follows.

(2) In subparagraph (4) (meaning of "PE qualifying event")—

(a) omit "and" at the end of paragraph (b), and

(b) after paragraph (c) insert ", and

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(d) immediately after the event—

(i) the asset or liability is held or owed by the company for the purposes of a permanent establishment of the company in a relevant EEA state, or

(ii) the asset or liability is held or owed by the company otherwise than for the purposes of a permanent establishment of the company and the company is resident in a relevant EEA state.”

(3) In subparagraph (6)—

(a) for “and” substitute “ , ”, and

(b) after “ “eligible company”” insert “ and “relevant EEA state” ”.

4 In paragraph 8(1) (entering into a plan)—

(a) in paragraph (a) for the words from “the standard” to the end substitute “ paragraphs 11 to 14 ”, and

(b) in paragraph (c) for “paragraphs 10 to 12” substitute “ paragraph 10 ”.

5 (1) Paragraph 10 (contents of plan) is amended as follows.

(2) In subparagraph (1)(b) before “EEA state” insert “ relevant ”.

(3) After subparagraph (2) insert—

“(2A) In either case a CT exit charge payment plan entered into by a company must specify requirements as to the ongoing provision of information by the company to Her Majesty's Revenue and Customs in relation to the exit charge assets and liabilities.”

(4) In subparagraph (3) for paragraph (c) substitute—

“(c) the amount of ECPP tax attributable to each exit charge asset or liability.”

(5) Omit subparagraphs (4) and (5).

6 For paragraphs 11 to 17, and the italic heading before those paragraphs, substitute—

“The payment method

11 (1) Where a CT exit charge payment plan is entered into the ECPP tax is due in 6 instalments of equal amounts as follows—

(a) the first instalment is due on the first day after the period of 9 months beginning immediately after the end of the migration accounting period, and

(b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.

(2) But see paragraphs 12, 13 and 14 for circumstances in which all or part of the outstanding balance of the ECPP tax becomes due otherwise than by those instalments.

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All of outstanding balance due

12 (1) Where an event mentioned in subparagraph (2) occurs, the outstanding balance of the ECPP tax is due on the date on which the next instalment of that tax would otherwise have been due.

(2) The events are—

(a) the company becoming insolvent or entering administration,

(b) the appointment of a liquidator,

(c) an event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) or (b),

(d) the company ceasing to be resident in a relevant EEA state and, on so ceasing, not becoming resident in another relevant EEA state, or

(e) the company failing to pay any amount of the ECPP tax for a period of 12 months after the date on which the amount becomes due.

All of outstanding balance attributable to particular exit charge asset or liability due

13 (1) This paragraph applies where—

(a) a trigger event occurs in relation to an exit charge asset or liability during the instalments period, and

(b) a trigger event has not previously occurred in relation to that asset or liability during that period.

(2) A trigger event occurs in relation to a TCGA or trading stock exit charge asset or an intangible exit charge asset if the company—

(a) disposes of the asset, or

(b) ceases to hold the asset for the purposes of a business carried on by the company in a relevant EEA state and, on so ceasing, does not begin to hold it for the purposes of another such business.

(3) A trigger event occurs in relation to a financial exit charge asset or liability if the company—

(a) ceases to be a party to the loan relationship or derivative contract in question, or

(b) ceases to be a party to the loan relationship or derivative contract in question for the purposes of a business carried on by the company in a relevant EEA state and, on so ceasing, does not begin to be a party to it for the purposes of another such business.

(4) On the occurrence of the trigger event an amount of the ECPP tax is due.

(5) The amount due is—

$$(A - B) \times \frac{O}{T}$$

Where—

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"A" is the amount of ECPP tax attributable to the exit charge asset or liability (see paragraph 10(6)),

"B" is the amount of ECPP tax that has previously become due under paragraph 14 by reason of a partial trigger event occurring in relation to the exit charge asset or liability,

"O" is the amount of ECPP tax that is outstanding at the time of the trigger event, and

"T" is the amount of ECPP tax.

(6) In this paragraph and paragraph 14 "the instalments period" means the period—

(a) beginning immediately after—

(i) the company ceases to be resident in the United Kingdom (in the case of a Part 1 company), or

(ii) the occurrence of the PE qualifying event in respects of the asset or liability concerned (in the case of a Part 2 company), and

(b) ending with the day on which the final instalment of the ECPP tax is due under paragraph 11.

Part of outstanding balance attributable to particular exit charge asset or liability due

14 (1) This paragraph applies if—

(a) a partial trigger event occurs in relation to an exit charge asset or liability during the instalments period, and

(b) a trigger event has not previously occurred in relation to that asset or liability during that period.

(2) A partial trigger event occurs in relation to a TCGA or trading stock exit charge asset if the company disposes of part (but not all) of the asset.

(3) A partial trigger event occurs in relation to a financial exit charge asset or liability if there is a disposal of a right or liability under the loan relationship or derivative contract in question which amounts to a related transaction (as defined in section 304 or 596 of CTA 2009 as the case may be).

(4) A partial trigger event occurs in relation to an intangible exit charge asset if there is a transaction which results in a reduction in the accounting value of the asset but not in the asset ceasing to be recognised in the company's balance sheet.

(5) On the occurrence of the partial trigger event an amount of the outstanding ECPP tax is due.

(6) The amount due is the amount that is just and reasonable having regard to the amount that would have been due had a trigger event occurred in relation to the exit charge asset or liability instead.

(7) In this paragraph "trigger event" has the same meaning as in paragraph 13."

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7 In Schedule 56 to FA 2009 (penalty for failure to make payments on time) in paragraph 4 (amount of penalty in respect of certain late payments) in subparagraph (1) for "item 5, 6 or 6ZZA" substitute " any of items 5 to 6ZA ".

8 The amendments made by paragraphs 1 to 6 have effect in relation to accounting periods ending on or after 1 January 2020.

PART 2

REPEAL OF CERTAIN POSTPONEMENT PROVISIONS

9 (1) Section 187 of TCGA 1992 (postponement of charge on deemed disposal under section 185) is repealed.

(2) The following amendments have effect in consequence of that repeal.

(3) In section 185(1) of TCGA 1992 (deemed disposal of assets on company ceasing to be resident in UK) for "and section 187 apply" substitute " applies ".

(4) In Schedule 3ZB to TMA 1970 (CT exit charge payment plans)—

(a) in paragraph 2(3) (meaning of "exit charge provisions" in Part 1) omit paragraph (b), and

(b) in paragraph 3 (interpretation: exit charge assets and liabilities)—

(i) in subparagraph (2)(a) omit ", (b)", and

(ii) in subparagraph (2)(c)(ii) omit "or (b)".

(5) The amendments made by this paragraph have effect in relation to a company in a case where section 185 of TCGA 1992 applies to the company by reason of its ceasing to be resident in the United Kingdom on or after 1 January 2020.

10 (1) Sections 860 to 862 of CTA 2009 (postponement of gain on deemed realisation under section 859) are repealed.

(2) The following amendments have effect in consequence of that repeal.

(3) In section 859 of CTA 2009 (asset ceasing to be chargeable intangible asset: deemed realisation at market value) omit subsection (3).

(4) In Schedule 3ZB to TMA 1970 (CT exit charge payment plans)—

(a) in paragraph 2(3) (meaning of "exit charge provisions" in Part 1)—

(i) at the end of paragraph (e) insert " and ", and

(ii) omit paragraph (g) and the "and" immediately before it, and

(b) in paragraph 3 (interpretation: exit charge assets and liabilities) in subparagraph (2)(c)(i) omit "or (g)".

(5) The amendments made by this paragraph have effect in relation to a company in a case where section 859 of CTA 2009 applies to the company by reason of its ceasing to be resident in the United Kingdom on or after 1 January 2020.

PART 3

TREATMENT OF ASSETS SUBJECT TO EU EXIT CHARGES

11 (1) After section 184I of TCGA 1992 insert—

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"Assets subject to EU exit charges

184J Asset subject to EU exit charge on becoming chargeable asset

184J 184J Asset subject to EU exit charge on becoming chargeable asset

(1) This section applies if—

(a) an asset becomes a chargeable asset in relation to a company by reason of an event specified in subsection (2), and

(b) on the occurrence of that event the company becomes subject to an EU exit charge in relation to the asset.

(2) The events are—

(a) the company becoming resident in the United Kingdom, and

(b) in the case of a company that is not resident in the United Kingdom, the asset beginning to be held for the purposes of a trade carried on by the company in the United Kingdom through a permanent establishment.

(3) The company is to be treated for the purposes of this Act as if it had acquired the asset for its market value at the time it became a chargeable asset in relation to the company.

(4) For the purposes of this section an asset is a "chargeable asset" in relation to a company at any time if any gain on its disposal by the company at that time would be chargeable to corporation tax.

(5) "EU exit charge" means a charge to tax under the law of a member State in accordance with Article 5(1) of Directive (EU) 2016/1164 of the European Parliament and of the Council of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market."

(2) The amendment made by this paragraph has effect in relation to assets that become chargeable assets on or after 1 January 2020.

12 (1) Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.

(2) In section 863 (asset becoming chargeable intangible asset) after subsection (2) insert—

"(3) But subsection (2)(b) is subject to section 863A."

(3) After section 863 insert—

"**863A Asset becoming chargeable intangible asset: EU exit charge**

"**863A "863A Asset becoming chargeable intangible asset: EU exit charge**

(1) This section applies if—

(a) an asset becomes a chargeable intangible asset in relation to a company by reason of an event specified in section 863(1)(a) or (b), and

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(b) on the occurrence of that event the company becomes subject to an EU exit charge in respect of the asset.

(2) This Part applies as if the company had acquired the asset for its market value at the time it became a chargeable intangible asset in relation to the company.

(3) "EU exit charge" means a charge to tax under the law of a member State in accordance with Article 5(1) of Directive (EU) 2016/1164 of the European Parliament and of the Council of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market."

(4) The amendments made by this paragraph have effect in relation to assets that become chargeable intangible assets on or after 1 January 2020.

SCHEDULE 9

Section 25

INTANGIBLE FIXED ASSETS: RESTRICTIONS ON GOODWILL AND CERTAIN OTHER ASSETS

1 Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.

2 In section 711 (overview of Part) in subsection (8) after paragraph (f) (but before the following "and") insert—

"(fa) Chapter 15A (debits in respect of goodwill and certain other assets),".

3 In section 715 (application of Part to goodwill) in subsection (2) for the words from "section 816A" to the end substitute " Chapter 15A (debits in respect of goodwill and certain other assets)). "

4 In section 746 ("non-trading credits" and "non-trading debits") in subsection (2) for paragraph (ba) substitute—

"(ba) sections 879C(3), 879I(3), 879K(5) and 879O(3)(b) (debits in respect of goodwill and certain other assets treated as non-trading debits),".

5 Omit section 816A (restrictions on goodwill and certain other assets).

6 After section 879 insert—

"CHAPTER 15A

DEBITS IN RESPECT OF GOODWILL AND CERTAIN OTHER ASSETS

Introduction

879A Introduction

879A 879A Introduction

(1) This Chapter contains special rules about the debits to be brought into account by a company for tax purposes in respect of relevant assets.

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(2) In this Chapter "relevant asset" means—

(a) goodwill in a business or part of a business,

(b) an intangible fixed asset that consists of information which relates to customers or potential customers of a business or part of a business,

(c) an intangible fixed asset that consists of a relationship (whether contractual or not) between a person carrying on a business and one or more customers of that business or part of that business,

(d) an unregistered trade mark or other sign used in the course of a business or part of a business, or

(e) a licence or other right in respect of an asset within any of paragraphs (a) to (d).

Requirement to write down at a fixed rate

879B Requirement to write down at a fixed rate

879B 879B Requirement to write down at a fixed rate

(1) This section applies if a company acquires or creates a relevant asset on or after 1 April 2019.

(2) The company is to be treated as having made an election under section 730 to write down the cost of the asset for tax purposes at a fixed rate.

(3) In its application in relation to the asset, section 731 (writing down at fixed rate: calculation) has effect as if in subsection (1)(a) for "4%" there was substituted " 6.5% ".

(4) The Treasury may by regulations amend subsection (3) so as to alter the percentage substituted for 4%.

Restrictions on debits: pre-FA 2019 relevant assets

879C Restrictions on debits: pre-FA 2019 relevant assets

879C 879C Restrictions on debits: pre-FA 2019 relevant assets

(1) This section applies in respect of a relevant asset of a company if it is a pre-FA 2019 relevant asset.

(2) No debits in respect of the asset are to be brought into account by the company for tax purposes under Chapter 3 (debits in respect of intangible fixed assets) or Chapter 15 (adjustments on change of accounting policy).

(3) Any debit in respect of the asset that is brought into account by the company for tax purposes under Chapter 4 (realisation of intangible fixed assets) is treated for the purposes of Chapter 6 as a non-trading debit.

(4) Sections 879D to 879H set out the cases in which a relevant asset of a company is a pre-FA 2019 relevant asset for the purposes of this Chapter.

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879D Pre-FA 2019 relevant asset: the first case

879D 879D Pre-FA 2019 relevant asset: the first case

For the purposes of this Chapter a relevant asset of a company is a pre-FA 2019 relevant asset if—

(a) the company acquired or created the asset during the period beginning with 8 July 2015 and ending with 31 March 2019, and

(b) the asset was a chargeable intangible asset in relation to the company at any time during the period beginning with 29 October 2018 and ending with 31 March 2019.

879E Pre-FA 2019 relevant asset: the second case

879E 879E Pre-FA 2019 relevant asset: the second case

(1) For the purposes of this Chapter a relevant asset of a company ("C") is a pre-FA 2019 relevant asset if—

(a) another company acquired or created the asset during the period beginning with 8 July 2015 and ending with 31 March 2019,

(b) it was a chargeable intangible asset in relation to that other company at any time during the period beginning with 29 October 2018 and ending with 31 March 2019, and

(c) C acquired the asset on or after 1 April 2019 otherwise than in case A or case B from a person who was a related party in relation to C.

(2) Case A is where—

(a) C acquired the asset from a company that was within the charge to corporation tax at the time of the acquisition, and

(b) the asset was not a pre-FA 2019 relevant asset in the hands of that company immediately before the acquisition.

(3) Case B is where C acquired the asset from a person ("the intermediary") who acquired the asset on or after 1 April 2019 from a third person—

(a) who was not at the time of the intermediary's acquisition a related party in relation—

(i) to the intermediary, or

(ii) if the intermediary was not a company, to a company in relation to which the intermediary was a related party, and

(b) who is not, at the time of the acquisition by C, a related party in relation to C.

(4) References in this section to one person being (or not being) a related party in relation to another person are to be read as including references to the participation condition being met (or, as the case may be not being met) as between those persons.

(5) References in subsection (4) to a person include a firm in a case where, for section 1259 purposes, references in this section to a company are read as references to the firm.

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(6) In subsection (5) "section 1259 purposes" means the purposes of determining under section 1259 the amount of profits or losses to be allocated to a partner in a firm.

(7) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (4) as it applies for the purpose of section 147(1)(b) of TIOPA 2010.

879F Pre-FA 2019 relevant asset: the third case

879F 879F Pre-FA 2019 relevant asset: the third case

(1) For the purposes of this Chapter a relevant asset of a company ("C") is a pre-FA 2019 relevant asset if—
  (a) the relevant asset was created on or after 29 October 2018,
  (b) C acquired the relevant asset on or after 1 April 2019 from a person ("the transferor") who was a related party in relation to C at the time of the acquisition,
  (c) the value of the relevant asset derives in whole or in part from another asset ("the other asset"), and
  (d) the other asset meets the preserved status condition (see section 879G).

(2) But if only part of the value of the relevant asset derives from the other asset—
  (a) the relevant asset is to be treated for the purposes of this Chapter as if it were two separate assets—
    (i) one representing the part of the value of the relevant asset that does so derive, and
    (ii) the other representing the part of the value of the relevant asset that does not so derive, and
  (b) subsection (1) applies only in relation to the separate asset representing the part of the value of the relevant asset that does so derive.

(3) For the purposes of this section the cases in which the value of a relevant asset may be derived from another asset include any case where—
  (a) assets have been merged or divided,
  (b) assets have changed their nature, or
  (c) rights or interests in or over assets have been created or extinguished.

(4) Section 879G supplements this section.

879G The preserved status condition etc

879G 879G The preserved status condition etc

(1) For the purposes of section 879F the other asset meets the preserved status condition if subsection (2) or (3) applies.

(2) This subsection applies if the other asset—

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(a) was acquired or created by a company during the period beginning with 8 July 2015 and ending with 31 March 2019, and

(b) was a chargeable intangible asset in the hands of that company at any time during the period beginning with 29 October 2018 and ending with 31 March 2019 when—

(i) that company and C were related parties, or

(ii) that company and the transferor were related parties.

(3) This subsection applies if the other asset was a pre-FA 2019 relevant asset in the hands of a company at any time during the period beginning with 1 April 2019 and ending with the acquisition mentioned in section 879F(1)(b) when—

(a) that company and C were related parties, or

(b) that company and the transferor were related parties.

(4) It does not matter for the purposes of section 879F(1)(a) who created the relevant asset.

(5) Any apportionment necessary for the purposes of section 879F(2) must be made on a just and reasonable basis.

(6) Section 879E(4) to (7) applies for the purposes of section 879F and this section.

(7) Expressions used in this section have the same meaning as in section 879F.

879H Pre-FA 2019 relevant asset: the fourth case

879H 879H Pre-FA 2019 relevant asset: the fourth case

(1) For the purposes of this Chapter a relevant asset of a company is a pre-FA 2019 relevant asset if—

(a) the company acquired the asset on or after 1 April 2019 directly or indirectly in consequence of, or otherwise in connection with, a disposal of a relevant asset by another person, and

(b) the asset disposed of would have been a pre-FA 2019 relevant asset in the hands of the company had the person transferred it to the company at the time of the disposal.

(2) For the purposes of this section it does not matter whether—

(a) the asset disposed of is the same asset as the acquired asset,

(b) the acquired asset is acquired at the time of the disposal, or

(c) the acquired asset is acquired by merging assets or otherwise.

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Restrictions on debits: no business or no qualifying IP assets acquired

879I Restrictions on debits: no business or no qualifying IP assets acquired

879I 879I Restrictions on debits: no business or no qualifying IP assets acquired

(1) This section applies in respect of a relevant asset of a company if the company acquires the asset on or after 1 April 2019 otherwise than as part of the acquisition of a business.

(2) This section also applies in respect of a relevant asset of a company if—
  (a) the company acquires the asset on or after 1 April 2019 as part of the acquisition of a business, and
  (b) the company does not acquire any qualifying IP assets as part of the acquisition of the business for use on a continuing basis in the course of the business.

(3) No debits in respect of the asset are to be brought into account by the company for tax purposes under Chapter 3 (debits in respect of intangible fixed assets) or Chapter 15 (adjustments on change of accounting policy).

(4) Any debit in respect of the asset that is brought into account by the company for tax purposes under Chapter 4 (realisation of intangible fixed assets) is treated for the purposes of Chapter 6 as a non-trading debit.

879J Meaning of qualifying IP asset

879J 879J Meaning of qualifying IP asset

(1) In section 879I "qualifying IP asset", in relation to a company, means an intangible fixed asset that meets the following two conditions.

(2) The first condition is that the asset is—
  (a) a patent, registered design, copyright or design right, plant breeders' right, or right under section 7 of the Plant Varieties Act 1997,
  (b) a right under the law of a country or territory outside the United Kingdom corresponding or similar to a right within paragraph (a), or
  (c) a licence or other right in respect of anything within paragraph (a) or (b).

(3) The second condition is that in the hands of the company the asset—
  (a) is not to any extent excluded from this Part by Chapter 10, and
  (b) is not a pre-FA 2002 asset (see section 881).

(4) The reference in subsection (2)(c) to a licence or other right does not include a licence or other right that permits the use of computer software but does not permit its manufacture, adaptation or supply.

(5) The Treasury may by regulations amend the meaning of qualifying IP asset for the purposes of this Chapter.

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Restrictions on debits: acquisition from individual or firm

879K Restrictions on debits: acquisition from individual or firm

879K 879K Restrictions on debits: acquisition from individual or firm

(1) This section applies in respect of a relevant asset of a company if—
- (a) the company acquires the asset on or after 1 April 2019 directly or indirectly from an individual or firm ("the transferor"),
- (b) the related party condition is met, and
- (c) the third party acquisition condition is not met.

(2) The related party condition is met if—
- (a) in a case where the transferor is an individual, the transferor is a related party in relation to the company at the time of the acquisition;
- (b) in a case where the transferor is a firm, any individual who is a member of the transferor is a related party in relation to the company at that time.

(3) The third party acquisition condition is met if—
- (a) in a case where the relevant asset is goodwill—
  - (i) the transferor acquired all or part of the relevant business in one or more third party acquisitions as part of which the transferor acquired goodwill, and
  - (ii) the relevant asset is acquired by the company as part of an acquisition of all the relevant business;
- (b) in a case where the relevant asset is not goodwill—
  - (i) the transferor acquired the relevant asset in a third party acquisition, and
  - (ii) the relevant asset is acquired by the company as part of an acquisition of all the relevant business.

(4) No debits in respect of the asset are to be brought into account by the company for tax purposes under Chapter 3 (debits in respect of intangible fixed assets) or Chapter 15 (adjustments on change of accounting policy).

(5) Any debit in respect of the asset that is brought into account by the company for tax purposes under Chapter 4 (realisation of intangible fixed assets) is treated for the purposes of Chapter 6 as a non-trading debit.

879L Meaning of relevant business and third party acquisition

879L 879L Meaning of relevant business and third party acquisition

(1) This section applies for the purposes of section 879K(3).

(2) "Relevant business" means—
- (a) in a case where the relevant asset is within paragraph (e) of subsection (2) of section 879A, the business or (as the case may be) the part of the business mentioned in the paragraph of that subsection within which the licensed asset falls, and

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(b) in any other case, the business or (as the case may be) the part of the business mentioned in the paragraph of that subsection within which the relevant asset falls.

(3) The transferor acquires something in a "third party acquisition" if—

(a) the transferor acquires it from a company ("C") and, at the time of that acquisition—

(i) if the transferor is an individual, the transferor is not a related party in relation to C, or

(ii) if the transferor is a firm, no individual who is a member of the transferor is a related party in relation to C, or

(b) the transferor acquires it from a person ("P") who is not a company and, at the time of that acquisition—

(i) if the transferor is an individual, P is not connected with the transferor, or

(ii) if the transferor is a firm, no individual who is a member of the transferor is connected with P.

(4) But an acquisition is not a "third party acquisition" if—

(a) its main purpose, or one of its main purposes, is for any person to obtain a tax advantage (within the meaning of section 1139 of CTA 2010), or

(b) it occurs during the period beginning with 8 July 2015 and ending with 31 March 2019.

(5) In this section "connected" has the same meaning as in Chapter 12 (see section 842).

Partial restrictions on debits

879M When the partial restrictions apply: qualifying IP assets

879M 879M When the partial restrictions apply: qualifying IP assets

(1) Section 879O (the partial restrictions on debits) applies in respect of a relevant asset ("the asset concerned") of a company if—

(a) the company acquires the asset concerned on or after 1 April 2019 as part of the acquisition of a business,

(b) the company also acquires qualifying IP assets as part of the acquisition of the business for use on a continuing basis in the course of the business, and

(c) the amount in subsection (3) is less than 1.

(2) But section 879O does not apply in respect of the asset concerned if either of the following sections applies in respect of it—

(a) section 879C (restrictions on debits: pre-FA 2019 relevant assets);

(b) section 879K (restrictions on debits: acquisition from individual or firm).

(3) The amount is—

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$$\frac{A \times N}{B}$$

where—

A is the expenditure incurred by the company for or in connection with the acquisition of the qualifying IP assets mentioned in subsection (1)(b),

B is the expenditure incurred by the company for or in connection with the acquisition of the asset concerned and any other relevant assets acquired with the business, and

N is 6.

(4) The Treasury may by regulations amend the meaning of N.

(5) In this section—

"expenditure" means expenditure that is—

(a) capitalised for accounting purposes, or

(b) recognised in determining the profit or loss of the company concerned without being capitalised for accounting purposes,

subject to any adjustments under this Part or Part 4 of TIOPA 2010;

"qualifying IP asset" has the same meaning as in section 879I (see section 879J).

879N When the partial restrictions apply: acquisition from individual or firm

879N 879N When the partial restrictions apply: acquisition from individual or firm

(1) Section 879O (the partial restrictions on debits) also applies in respect of a relevant asset of a company if—

(a) the company acquires the asset on or after 1 April 2019 directly or indirectly from an individual or firm ("the transferor"),

(b) the related party condition is met,

(c) the third party acquisition condition is met, and

(d) the amount in subsection (6) is less than 1.

(2) But section 879O does not apply in respect of the relevant asset if either of the following sections applies in respect of it—

(a) section 879C (restrictions on debits: pre-FA 2019 relevant assets);

(b) section 879I (restrictions on debits: no business or no qualifying IP assets acquired).

(3) The related party condition is met if—

(a) in a case where the transferor is an individual, the transferor is a related party in relation to the company at the time of the acquisition;

(b) in a case where the transferor is a firm, any individual who is a member of the transferor is a related party in relation to the company at that time.

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(4) The third party acquisition condition is met if—

(a) in a case where the relevant asset is goodwill—

(i) the transferor acquired all or part of the relevant business in one or more third party acquisitions as part of which the transferor acquired goodwill, and

(ii) the relevant asset is acquired by the company as part of an acquisition of all the relevant business;

(b) in a case where the relevant asset is not goodwill—

(i) the transferor acquired the relevant asset in a third party acquisition, and

(ii) the relevant asset is acquired by the company as part of an acquisition of all the relevant business.

(5) Section 879L (meaning of relevant business and third party acquisition) applies for the purposes of this section.

(6) The amount is—

$$\frac{A}{B}$$

where—

A is the relevant accounting value of third party acquisitions (see subsections (7) to (9)), and

B is the expenditure incurred by the company for or in connection with the acquisition of the relevant asset that is—

(a) capitalised by the company for accounting purposes, or

(b) recognised in determining the company's profit or loss without being capitalised for accounting purposes,

subject to any adjustments under this Part or Part 4 of TIOPA 2010.

(7) In a case in which the relevant asset is goodwill, the relevant accounting value of third party acquisitions is the notional accounting value of the goodwill mentioned in subsection (4)(a)(i) ("the previously acquired goodwill").

(8) In a case in which the relevant asset is not goodwill, the relevant accounting value of third party acquisitions is the notional accounting value of the relevant asset.

(9) The "notional accounting value" of the previously acquired goodwill, or the relevant asset, is what its accounting value would have been in GAAP-compliant accounts drawn up by the transferor—

(a) immediately before the relevant asset was acquired by the company, and

(b) on the basis that the relevant business was a going concern.

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879O The partial restrictions on debits

879O 879O The partial restrictions on debits

(1) Where this section applies in respect of a relevant asset of a company, the following restrictions have effect.

(2) If a debit in respect of the relevant asset is to be brought into account by the company for tax purposes under a provision of Chapter 3 (debits in respect of intangible fixed assets) or Chapter 15 (adjustments on change of accounting policy), the amount of that debit is—

$$D \times \mathrm{RA}$$

where—

D is the amount of the debit that would be brought into account disregarding this section (and, accordingly, for the purposes of any calculation of the tax written-down value of the relevant asset needed to determine D, this section's effect in relation to any debits previously brought into account is to be disregarded), and

RA is the relevant amount (see subsection (6)).

(3) If, but for this section, a debit in respect of any of the relevant assets would be brought into account by the company for tax purposes under a provision of Chapter 4 (realisation of intangible fixed assets), the following two debits are to be brought into account under that provision instead—

(a) a debit determined in accordance with subsection (4), and

(b) a debit determined in accordance with subsection (5), which is to be treated for the purposes of Chapter 6 as a non-trading debit ("the non-trading debit").

(4) The amount of the debit determined in accordance with this subsection is—

$$D \times \mathrm{RA}$$

where—

D is the amount of the debit that would be brought into account under Chapter 4 disregarding this section (and, accordingly, for the purposes of any calculation of the tax written down value of the relevant asset needed to determine D, this section's effect in relation to any debits previously brought into account is to be disregarded), and

RA is the relevant amount (see subsection (6)).

(5) The amount of the non-trading debit is—

$$D - \mathrm{TD}$$

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where—

D is the amount of the debit that would be brought into account under Chapter 4 disregarding this section (but, for the purposes of any calculation of the tax written-down value of the relevant asset needed to determine D, this section's effect in relation to any debits previously brought into account is not to be disregarded), and

TD is the amount of the debit determined in accordance with subsection (4).

(6) In this section the "relevant amount" means—

(a) in a case where this section applies in respect of the relevant asset by reason only of section 879M, the amount in subsection (3) of that section;

(b) in a case where this section applies in respect of the relevant asset by reason only of section 879N, the amount in subsection (6) of that section;

(c) in a case where this section applies in respect of the relevant asset by reason of both section 879M and 879N, the amount found by multiplying the amount in subsection (3) of section 879M by the amount in subsection (6) of section 879N.

Supplementary

879P Date of acquisition of relevant asset

879P 879P Date of acquisition of relevant asset

(1) A company that acquires a relevant asset in pursuance of an unconditional obligation under a contract is to be treated for the purposes of this Chapter as having acquired the asset on the date on which the company became subject to that obligation or (if later) the date on which that obligation became unconditional.

(2) An obligation is unconditional if it may not be varied or extinguished by the exercise of a right (whether under contract or otherwise)."

7 (1) The amendments made by this Schedule have effect in relation to accounting periods beginning on or after 1 April 2019.

(2) For the purposes of sub-paragraph (1), an accounting period beginning before, and ending on or after, 1 April 2019 is to be treated as if so much of the accounting period as falls before that date, and so much of the accounting period as falls on or after that date, were separate accounting periods.

SCHEDULE 10

Section 27

CORPORATION TAX RELIEF FOR CARRIED-FORWARD LOSSES

Restrictions on deductions from profits

1 CTA 2010 is amended as follows.

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2 In section 188DD (group relief for carried-forward losses: claimant company's relevant maximum for overlapping period) omit subsection (4).

3 In section 188ED (group relief for carried-forward losses: claimant company's relevant maximum for overlapping period)—

(a) omit subsection (4), and

(b) in subsection (5) for "(4)" substitute " (3) ".

4 In section 269ZB (restriction on deductions from trading profits) in subsection (8) for paragraph (b) substitute—

"(b) any amount specified for the period under section 269ZC(5)(a) (non-trading profits deductions allowance)."

5 In section 269ZC (restriction on deductions from non-trading profits) in subsection (6) for paragraph (b) substitute—

"(b) any amount specified for the period under section 269ZB(7)(a) (trading profits deductions allowance)."

6 (1) Section 269ZD (restriction on deductions from total profits) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (b)—

(i) at the end of sub-paragraph (i) insert " and ", and

(ii) omit sub-paragraph (iii) and the "and" immediately before it, and

(b) in the second sentence omit "and section 269ZE".

(3) In subsection (4)(a) after "period" insert " (see section 269ZFA) ".

(4) Omit subsection (5).

(5) For subsection (7) substitute—

"(7) Subsection (2) does not apply in relation to a company for an accounting period where the amount given by paragraph (1) of step 1 in section 269ZF(3) is not greater than nil."

7 Omit section 269ZE (restriction on deductions from total profits: insurance companies).

8 After section 269ZF insert—

"**269ZFA "Relevant profits"**

"**269ZFA** "**269ZFA "Relevant profits"**

(1) A company's "relevant profits" for an accounting period are—

(a) the company's qualifying profits for the accounting period, less

(b) the company's deductions allowance for the accounting period (see section 269ZD(6)).

(2) A company's "qualifying profits" for an accounting period are—

(a) the amount given by paragraph (1) of step 1 in section 269ZF(3) in determining the company's qualifying trading profits and qualifying non-trading profits for the accounting period, less

(b) the amount given by paragraph (1) of step 2 in section 269ZF(3) in determining those profits for the accounting period."

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9 After section 269ZFA (as inserted by paragraph 8) insert—

"Modifications for certain insurance companies

269ZFB Modifications for certain insurance companies

269ZFB 269ZFB Modifications for certain insurance companies

(1) This section has effect for determining the taxable total profits of a company for an accounting period if the company—
  (a) is an insurance company, and
  (b) carries on basic life assurance and general annuity business in the period.

(2) A reference in section 269ZD(7) and section 269ZFA(2) to the amount given by a paragraph of a step in section 269ZF(3) is to be read as a reference to the amount that would be so given if—
  (a) section 269ZF(4)(a) did not require income referable to a company's basic life assurance and general annuity business to be ignored unless it falls within, and is dealt with under, Part 9A of CTA 2009 by reason of an election under section 931R of that Act, and
  (b) section 269ZF(4)(d) required only the policyholders' share of any I-E profit (as determined in accordance with section 103 of FA 2012) to be ignored.

(3) In this section—

"basic life assurance and general annuity business" has the meaning given by section 57 of FA 2012, and

"insurance company" has the meaning given by section 65 of that Act."

10 In section 269ZJ (exclusion of shock losses from restrictions) omit subsection (4).

11 In section 269ZQ (power to amend) in subsection (2)(b) for "124E" substitute " 124C ".

12 In section 269ZV (group allowance allocation statement: requirements and effects) after subsection (5) insert—

"(5A) In its application in relation to a listed company that is the ultimate parent (see section 269ZZB(3)) of each other company in the group, subsection (5) has effect as if after "the group" in paragraph (b) of the definition of DAP there was inserted "and was not a member of any other group".

13 In section 269CC (restrictions on deductions by banking companies: management expenses etc) in subsection (7) (how to determine "relevant maximum") in Step 1 for "269ZD(5)" substitute " 269ZFA ".

14 In section 269CN (restrictions on deductions by banking companies: definitions) in the definition of "relevant profits" for "269ZD(5)" substitute " 269ZFA ".

15 In section 304(7) (certain deductions in respect of losses made in a ring fence trade to be ignored for the purposes of the restriction on deductions from trading profits) in paragraph (b) for "total" substitute " trade ".

16 FA 2012 is amended as follows.

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17 In section 124 (carry forward of pre-1 April 2017 BLAGAB trade losses against subsequent profits) in subsection (5) omit "(but see also section 124D)".

18 In section 124A (carry forward of post-1 April 2017 BLAGAB trade losses against subsequent profits) in subsection (5) omit "(but see also section 124D)".

19 In section 124C (further carry forward against subsequent profits of post-1 April 2017 loss not fully used) in subsection (6) omit "(but see also section 124D)".

20 Omit sections 124D and 124E (restriction on deductions from BLAGAB trade profits).

Terminal losses: straddling periods

21 For section 45G of CTA 2010 substitute—

"**45G Section 45F: accounting period falling partly within 3 year period**

"**45G "45G Section 45F: accounting period falling partly within 3 year period**

(1) This section applies if—
  (a) a company ceases to carry on a trade in an accounting period ("the terminal period"), and
  (b) a previous accounting period of the company ("the straddling period") falls partly within the period of 3 years ending with the end of the terminal period.

(2) The sum of any deductions under section 45F from the profits of the trade of the straddling period is not to exceed an amount equal to the overlapping proportion of those profits (calculated before making those deductions).

(3) The sum of—
  (a) any deductions under section 45F from the profits of the trade of the straddling period, and
  (b) any deductions under that section from the total profits of the straddling period in respect of losses made in the trade,

  must not exceed an amount equal to the overlapping proportion of the total profits of the straddling period (calculated before making those deductions).

(4) The overlapping proportion is the same as the proportion that the part of the straddling period falling within the period of 3 years mentioned in subsection (1)(b) bears to the whole of the straddling period."

Group relief for carried-forward losses

22 CTA 2010 is amended as follows.

23 In section 188BG(3) (types of loss that may not be surrendered by a Solvency 2 insurance company)—
  (a) omit "or" at the end of paragraph (b), and
  (b) after paragraph (c) insert "or
    (d) a BLAGAB trade loss carried forward to the surrender period under section 124A(2) or 124C(3) of FA 2012,".

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24 (1) Section 188DD (claimant company's relevant maximum for overlapping period in case of claim under section 188CB) is amended as follows.

(2) In subsection (3)—

(a) for "relevant" (in both places) substitute " qualifying ", and

(b) for "section 269ZD(5)" (in both places) substitute " subsection (3A) ".

(3) After subsection (3) insert—

"(3A) The claimant company's "qualifying profits" for the claim period are—

(a) the amount given by paragraph (1) of step 1 in section 269ZF(3) in determining the company's qualifying trading profits and qualifying non-trading profits for the period, less

(b) the amount given by paragraph (1) of step 2 in section 269ZF(3) in determining those profits for the period."

25 (1) Section 188ED (claimant company's relevant maximum for overlapping period in case of claim under section 188CC) is amended as follows.

(2) In subsection (3)—

(a) for "relevant" (in both places) substitute " qualifying ", and

(b) for "section 269ZD(5)" (in both places) substitute " subsection (3A) ".

(3) After subsection (3) insert—

"(3A) The claimant company's "qualifying profits" for the claim period are—

(a) the amount given by paragraph (1) of step 1 in section 269ZF(3) in determining the company's qualifying trading profits and qualifying non-trading profits for the period, less

(b) the amount given by paragraph (1) of step 2 in section 269ZF(3) in determining those profits for the period."

Transferred trades

26 CTA 2010 is amended as follows.

27 In section 357JI (Northern Ireland losses: transfers of trade without a change of ownership) in subsection (2) for the words from the beginning to "that section" substitute " Sections 943A to 944C (which modify the application of Chapter 2 of Part 4) have effect as if the references in those sections ".

28 In section 676 (disallowance of trading loss on change in ownership of company: company reconstructions)—

(a) in subsection (2) for the words from "section 944(3)" to "successor company)" substitute " Chapter 1 of Part 22 ",

(b) in subsection (4)(a) after "45" insert " , 45A, 45B, 303B, 303C or 303D ", and

(c) in subsection (4)(b) for "944(3)" substitute " Chapter 1 of Part 22 ".

29 In section 676AF (restriction on use of carried-forward post-1 April 2017 trade losses)—

(a) the existing provision becomes subsection (1), and

(b) after that subsection insert—

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"(2) A loss made by another company ("the predecessor company") in an accounting period beginning before the change in ownership may not be deducted from affected profits of an accounting period ending after the change in ownership under any of the provisions mentioned in paragraphs (a) to (c) of subsection (1) (as applied by virtue of Chapter 1 of Part 22 (transfers of trades))."

30 In section 676BC (disallowance of relief for trade losses)—

(a) in subsection (1) omit "by the company",

(b) in subsection (4), in the words before paragraph (a), after "made" insert " by the company ", and

(c) after subsection (4) insert—

"(5) A loss made by another company ("the predecessor company") in an accounting period beginning before the change in ownership may not be deducted as a result of section 45A, 45F or 303C (as applied by Chapter 1 of Part 22 (transfers of trades)) from so much of the total profits of an accounting period of the company ending after the change in ownership as represents the relevant gain."

Deduction buying

31 (1) In section 730C of CTA 2010 (disallowance of deductible amounts: relevant claims)—

(a) in subsection (2) omit paragraph (aa), and

(b) in subsection (3A) for "paragraphs (a) to (e)" substitute " paragraph (a) or (b) ".

(2) In Schedule 4 to F(No.2)A 2017 (relief for carried-forward losses) omit paragraph 172.

Commencement

32 (1) The amendments made by this Schedule have effect in relation to accounting periods beginning on or after the relevant date (see subparagraph (3)).

(2) For the purposes of the amendments made by this Schedule, where a company has an accounting period beginning before the relevant date and ending on or after that date ("the straddling period")—

(a) so much of the straddling period as falls before the relevant date, and so much of that period as falls on or after that date, are to be treated as separate accounting periods, and

(b) where it is necessary to apportion an amount for the straddling period to the two separate accounting period, it is to be apportioned—

(i) in accordance with section 1172 of CTA 2010 (time basis), or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(3) The "relevant date" is—

(a) 1 April 2017, in relation to the amendments made by paragraphs 24 and 25 of this Schedule,

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(b) 6 July 2018, in relation to the amendments made by paragraphs 1 to 11, 13 and 14 and 16 to 20 of this Schedule, and

(c) 1 April 2019, in relation to the other amendments made by this Schedule.

SCHEDULE 11

Section 28

CORPORATE INTEREST RESTRICTION

Introductory

1 Part 10 of TIOPA 2010 (corporate interest restriction) is amended as follows.

Tax-interest amounts: amounts capitalised in intangible fixed assets

2 In Chapter 3 (tax-interest amounts), after section 391 insert—

"391A Amounts capitalised in carrying value of intangible fixed assets

"391A "391A Amounts capitalised in carrying value of intangible fixed assets

In determining for the purposes of this Part whether an amount is a tax-interest expense amount or tax-interest income amount, section 906(1) of CTA 2009 (priority of intangible fixed asset rules) does not apply in respect of any matter which may be brought into account in accordance with Part 5 or 7 of that Act."

Carry forward of interest allowance: new holding company

3 After section 395 insert—

"395A Carry forward of interest allowance: new holding company

"395A "395A Carry forward of interest allowance: new holding company

(1) This section applies if—

(a) a company ("C") ceases to be the ultimate parent of a worldwide group ("the old group") because of a qualifying takeover, and

(b) another company ("N") becomes the ultimate parent of a worldwide group (" the new group ") as a result of the takeover.

(2) For this purpose there is a qualifying takeover if there is a change in the ownership of C which is disregarded for the purposes of Chapters 2 to 6 of Part 14 of CTA 2010 as a result of section 724A of that Act where—

(a) C is the other company referred to as C in that section, and

(b) N is the new company referred to as N in that section.

(3) For the purposes of this Chapter, the interest allowance of the new group is determined as if periods of account of the old group which ended before the beginning of the first period of account of the new group were periods of account of the new group."

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Carry forward of excess debt cap: new holding company

4 After section 400 insert—

"**400A Carry forward of excess debt cap: new holding company**

"**400A** "**400A Carry forward of excess debt cap: new holding company**

(1) This section applies if—

(a) a company ("C") ceases to be the ultimate parent of a worldwide group ("the old group") because of a qualifying takeover, and

(b) another company ("N") becomes the ultimate parent of a worldwide group (" the new group ") as a result of the takeover.

(2) For this purpose there is a qualifying takeover if there is a change in the ownership of C which is disregarded for the purposes of Chapters 2 to 6 of Part 14 of CTA 2010 as a result of section 724A of that Act where—

(a) C is the other company referred to as C in that section, and

(b) N is the new company referred to as N in that section.

(3) In determining in accordance with section 400 the group's fixed ratio debt cap or group ratio debt cap for its first period of account, its excess debt cap generated in the immediately preceding period of account is taken to be that of the old group for the period of account of the old group ending immediately before the qualifying takeover."

Adjusted net group-interest expense: capitalised interest

5 Section 410 (net group-interest expense), after subsection (5) insert—

"(5A) If, on the assumption that subsections (3) and (5) applied to relevant assets, an amount would, in accordance with subsection (3) or (5), have been treated as included in A or B in subsection (1)—

(a) as an amount attributable to the capitalised expense, or

(b) as an amount attributable to the capitalised income,

none of that amount is to be included in A or B in that subsection."

6 (1) Section 413 (adjusted net group-interest expense) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a), for "an asset or liability" substitute " a non-financial asset or non-financial liability ", and

(b) in paragraph (b), after "an amount that" insert " , in the case of a non-financial asset, ".

(3) In subsection (4)—

(a) in paragraph (a), for "an asset or liability" substitute " a non-financial asset or non-financial liability ", and

(b) in paragraph (b), after "an amount that" insert " , in the case of a non-financial asset, ".

(4) For subsection (5) substitute—

"(5) For the purposes of subsections (3)(a) and (b) and (4)(a) and (b)—

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(a) an asset is a "non-financial asset" if it is not a financial asset for accounting purposes or it is a share in a company,

(b) a liability is a "non-financial liability" if it is not a financial liability for accounting purposes or it is in respect of a share issued by a company, and

(c) references to amounts brought into account in determining the carrying value of a non-financial asset or non-financial liability do not include amounts so brought into account as a result of writing off any part of an amount which was itself so brought into account;

and in paragraphs (a) and (b) "share" has the meaning given by section 476(1) of CTA 2009."

7 (1) Section 423 (capitalised interest brought into account for tax purposes in accordance with GAAP) is amended as follows.

(2) After subsection (2) insert—

"(2A) Section 413 has effect, in the case of a GAAP-taxable asset that is a relevant asset, as if—

(a) the definition of "upward adjustment" included so much of its carrying value written down in the group's financial statements for the relevant period of account as is attributable to a relevant expense amount brought into account in the group's financial statements in determining its carrying value, and

(b) the definition of "downward adjustment" included so much of the reduction of its carrying value written down in the group's financial statements for the relevant period of account as is attributable to a relevant income amount brought into account in the group's financial statements in determining its carrying value.

(2B) For the purposes of subsection (2A) it does not matter whether the relevant expense or income amount is brought into account in determining the asset's carrying value in the group's financial statements for the relevant period of account or an earlier period."

(3) In subsection (3), for "But subsection (2)(b) of this section is of no effect where" substitute " But subsections (2)(b) and (2A) of this section are of no effect so far as ".

(4) In subsection (4), at the end insert " (and, for the purposes of this subsection, an asset is a GAAP-taxable asset even if an election under section 730 of CTA 2009 is, or could be, made in respect of it) ".

Adjusted net group-interest expense: impairment debts and credits and connected companies

8 (1) Section 413 (meaning of "adjusted net group-interest expense") is amended as follows.

(2) In subsection (3)(d)(i)—

(a) for "or 323A" substitute " , 323A, 358 or 359 ", and

(b) omit "(cases where credits not required to be brought into account)".

(3) In subsection (4)(d)(i)—

(a) after "section 323A" insert " or 354 ", and

(b) omit "(cases where credits not required to be brought into account)".

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Interest allowance (alternative calculation) election: unpaid employees' remuneration

9 After section 424 insert—

"**424A Unpaid employees' remuneration**

"**424A** "**424A Unpaid employees' remuneration**

(1) Where an interest allowance (alternative calculation) election has effect in relation to a period of account of a worldwide group, this Chapter applies in relation to the period subject to this section.

(2) The definition of "the group's profit before tax" in section 416(2) has effect as if references to amounts that are recognised in the financial statements of the group for the period, as items of profit or loss, excluded amounts so recognised in respect of employees' remuneration that are not paid before the end of the period of 9 months immediately following the end of the period of account.

(3) If—

(a) an amount is, as a result of subsection (2), excluded from the financial statements of the group for the period of account, and

(b) the amount is paid in a later period of account of the group in relation to which an interest allowance (alternative calculation) election has effect,

the definition of "the group's profit before tax" in section 416(2) has effect as if references to amounts that are recognised in the financial statements of the group for the later period of account, as items of profit or loss, included the amount that is paid in that later period.

(4) Section 1289 of CTA 2009 (unpaid remuneration: supplementary) applies for the purposes of this section as it applies for the purposes of section 1288 of that Act."

Interest allowance (alternative calculation) election: changes in accounting policy

10 (1) Section 426 (changes in accounting policy in cases where interest allowance (alternative calculation) election has effect) is amended as follows.

(2) In subsection (3)—

(a) after "means" insert " the following provisions as modified by subsection (4) ", and

(b) after paragraph (a) insert—

"(ab) sections 261 and 262 of that Act (property profits);".

(3) For subsection (4) substitute—

"(4) The provisions mentioned in subsection (3)—

(a) are to have effect for the purposes of this section as if their application were limited to cases where there is a change of accounting policy and as if any election had been made under the provisions, and

(b) are to have effect subject to any modifications necessary for the purposes of this section."

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Interest allowance (non-consolidated investment) election

11 In section 427 (group interest and group-EBITDA), after subsection (5) insert—

"(5A) Any increase to be made as a result of subsection (4) or (5) is to be made as part of a single calculation required by section 413(1) or 414(1) (so that the amount produced by that calculation is subject to section 413(2) or 414(2))."

Public infrastructure

12 In section 433 (meaning of "qualifying infrastructure company"), in subsection (5), after paragraph (c) insert—

"(ca) assets held for the purposes of a pension scheme under which benefits are provided to, or in respect of, persons employed for the purpose of the carrying on of qualifying infrastructure activities by the company or another associated qualifying infrastructure company,

(cb) assets in respect of deferred tax so far as attributable to qualifying infrastructure activities carried on by the company or another associated qualifying infrastructure company,".

13 In section 439 (exemption in respect of certain pre-13 May 2016 loan relationships), in subsection (3), after paragraph (b) insert—

", but ignoring amounts that represent the reimbursement of expenses incurred by C or the other company."

Real Estate Investment Trusts

14 (1) Section 452 (Real Estate Investment Trusts) is amended as follows.

(2) In subsection (4), at the end insert " (and, accordingly, the profits mentioned in section 534(1) or (2) of CTA 2010 are not calculated for the purposes of this Part in accordance with section 599 of that Act) ".

(3) After subsection (4) insert—

"(4A) An amount charged on the residual business company as a result of section 543 of CTA 2010 (excessive property financing costs) is treated for the purposes of this Part as if it met condition A, B, C or D for the purposes of section 385 (tax-interest income amounts)."

(4) For subsection (5) substitute—

"(5) The allocated disallowance for the property rental business company (if any) for the accounting period—

(a) is to be taken into account in calculating the profits of the property rental business for the purposes of section 530 of CTA 2010 (condition as to distribution of profits), but

(b) must be limited to such amount as secures that neither subsection (3)(b) nor subsection (5) of that section (distribution of profits not required if would result in unlawful distribution) applies."

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Interest restriction returns

15 In—

(a) paragraph 1(4)(a) of Schedule 7A (period for appointing a group's reporting company), and

(b) paragraph 2(4)(a) of that Schedule (period for revoking appointment),

for "six months" substitute " 12 months ".

16 In paragraph 7(5) of Schedule 7A (meaning of "the filing date")—

(a) for paragraph (b) substitute—

"(b) if an appointment of a reporting company under paragraph 4 or 5 has effect in relation to the period of account, the end of the period of 3 months beginning with the day on which the appointment was made,", and"

(b) after that paragraph insert—

"whichever is the later"

17 (1) In paragraph 7 of Schedule 7A (submission of interest restriction returns), after sub-paragraph (5) insert—

"(5A) For an extension of the filing date in the case of a takeover, see paragraph 7A."

(2) After that paragraph insert—

"7A (1) This paragraph applies if—

(a) a period of account ("the affected period") of a worldwide group ("the old group") ends solely as a result of the ultimate parent of the old group becoming a member of a different worldwide group, and

(b) the time at which that happens is within 12 months of the beginning of the affected period.

(2) For the purposes of this Part of this Act the filing date in relation to the affected period of the old group is whichever is the later of—

(a) the date given by paragraph 7(5), and

(b) the end of the period of 24 months beginning with the affected period."

18 In paragraph 20 of Schedule 7A (required contents of interest restriction return: full returns and abbreviated returns), after sub-paragraph (5) insert—

"(5A) In addition to the matters required to be included in an interest restriction return in accordance with sub-paragraph (3) or (5), the return must include such other specified information as may reasonably be required for the purposes of this Part of this Act.

(5B) In sub-paragraph (5A) "specified" means specified in a notice published by Her Majesty's Revenue and Customs (and different information may be specified for different purposes)."

Consequential amendments

19 In section 411 (definitions of "relevant expense amount" and "relevant income amount"), omit subsection (4).

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20 In section 494(1) (other interpretation), after "interest restriction return" insert—

""pension scheme" has the meaning given by section 150(1) of FA 2004;".

21 In Part 7 of Schedule 11 (index of defined expressions used in Part 10 of TIOPA 2010), at the appropriate place insert—

"pension scheme (in Part 10)	section 494(1)"

Commencement

22 (1) The amendments made by paragraphs 2, 5 to 11 and 14(2) and (4) have effect in relation to periods of account of worldwide groups that begin on or after 1 January 2019.

(2) In this paragraph "period of account" and "worldwide group" have the same meaning as in Part 10 of TIOPA 2010.

23 The amendments made by paragraphs 3 and 4 have effect in relation to any change in ownership taking place on or after 29 October 2018.

24 Part 10 of TIOPA 2010 has effect, and is to be deemed always to have had effect, with the amendments made by paragraphs 12, 13, 14(3) and 19 to 21.

25 The amendment made by paragraph 17 has effect where the affected period ends on or after 29 October 2018.

26 The amendment made by paragraph 18 has effect in relation to any interest restriction return submitted on or after 1 April 2019.

Transitional provision in case of interest allowance (alternative calculation) elections

27 (1) This paragraph applies if—

(a) an interest allowance (alternative calculation) election has been made before 7 November 2018 with effect in relation to any period of account of a worldwide group ending before that date, and

(b) the election would, but for this paragraph, have been irrevocable as a result of paragraph 16(3)(b) of Schedule 7A to TIOPA 2010.

(2) If the appointment of a reporting company has effect in relation to the first period of account of the group beginning on or after 7 November 2018, the reporting company may revoke the election so that it ceases to have effect in relation to that period of account and subsequent periods of account of the group.

(3) The revocation—

(a) must be made before the end of the period of 3 months beginning with the day on which this Act is passed, and

(b) must be made by notice in writing given to an officer of Revenue and Customs (and, accordingly, paragraph 12(2) of Schedule 7A to TIOPA 2010 does not apply to the revocation).

(4) Expressions used in this paragraph have the same meaning as in Part 10 of TIOPA 2010.

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SCHEDULE 12

Section 29

ELIMINATING TAX MISMATCH FOR CERTAIN DEBT

Loan relationships with qualifying link

1 After section 352A of CTA 2009 insert—

"**352B Eliminating tax mismatch for loan relationships with qualifying link**

"**352B** "**352B Eliminating tax mismatch for loan relationships with qualifying link**

(1) This section applies if—

(a) section 349 applies in respect of a loan relationship of a company for an accounting period (application of amortised cost basis to connected companies relationships),

(b) the company is a party to another loan relationship ("the external loan relationship") in respect of which that section does not apply for the period,

(c) the external loan relationship is a debtor relationship dealt with in its accounts on the basis of fair value accounting, and

(d) the external loan relationship has a qualifying link with one or more other loan relationships of the company.

(2) For this purpose the external loan relationship has "a qualifying link" with one or more other loan relationships of the company if—

(a) each of those other loan relationships of the company is a loan relationship in respect of which section 349 applies for the accounting period, and

(b) taking those other loan relationships together, the money received by the company under the external loan relationship is wholly or mainly used to lend money under those other loan relationships.

(3) The credits and debits which are to be brought into account for the purposes of this Part in respect of the external loan relationship for the period are to be determined on an amortised cost basis of accounting.

(4) If a company has a hedging relationship between—

(a) a relevant contract ("the hedging instrument"), and

(b) the liability representing the external loan relationship,

it is to be assumed in applying the amortised cost basis of accounting for the purposes of subsection (3) that the hedging instrument has where possible been designated for accounting purposes as a fair value hedge of that loan relationship."

2 In section 465B of CTA 2009 (meaning of "tax-adjusted carrying value"), in subsection (9), after paragraph (k) insert—

"(ka) section 352B (eliminating tax mismatch for loan relationships with qualifying link),".

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Commencement and transitional provisions

3 (1) The amendments made by this Schedule have effect for accounting periods beginning on or after 1 January 2019.

(2) An accounting period beginning before and ending on or after 1 January 2019 is to be treated for the purposes of any provision made by this Schedule as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.

4 (1) This paragraph applies in relation to an accounting period of a company beginning on 1 January 2019 ("the 2019 period") to bring in credits or debits in respect of a loan relationship which is the external loan relationship for the purposes of section 352B of CTA 2009 so far as they would not otherwise be brought into account.

(2) If there is a difference between—

(a) the tax-adjusted carrying value of the liability representing the external loan relationship at the end of the accounting period of the company ending on 31 December 2018, and

(b) the tax-adjusted carrying value of that liability at the beginning of the 2019 period,

a credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of Part 5 of CTA 2009 for the 2019 period in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.

(3) Section 465B of CTA 2009 (meaning of "tax-adjusted carrying value") applies for the purposes of this paragraph as it applies for the purposes of Part 5 of that Act.

Power to amend section 352B of CTA 2009

5 (1) The Treasury may by regulations amend section 352B of CTA 2009.

(2) The power conferred by this paragraph may not be exercised after 31 December 2019.

(3) The regulations may contain incidental, supplementary, consequential and transitional provision and savings.

(4) The consequential provision that may be made by the regulations includes provision amending any provision made by or under any Act.

(5) The regulations may contain retrospective provision.

SCHEDULE 13

Section 32

ANNUAL INVESTMENT ALLOWANCE: PERIODS STRADDLING 1 JANUARY 2019 OR 1 JANUARY 2021

Chargeable periods which straddle 1 January 2019

1 (1) This paragraph applies in relation to a chargeable period which begins before 1 January 2019 and ends on or after that date ("the first straddling period").

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(2) The maximum allowance under section 51A of CAA 2001 for the first straddling period is the sum of the maximum allowances that would be found if the following were treated as separate chargeable periods—
  (a) so much of the first straddling period as falls before 1 January 2019;
  (b) so much of the first straddling period as falls on or after that date.

(3) But, so far as concerns expenditure incurred before 1 January 2019, the maximum allowance under section 51A of CAA 2001 for the first straddling period is what would be the maximum allowance if the modification made by section 32(1) were not made.

Chargeable periods which straddle 1 January 2021

2 (1) This paragraph applies in relation to a chargeable period ("the second straddling period") which begins before 1 January 2021 and ends on or after that date.

(2) The maximum allowance under section 51A of CAA 2001 for the second straddling period is the sum of the maximum allowances that would be found if the following were treated as separate chargeable periods—
  (a) so much of the second straddling period as falls before 1 January 2021;
  (b) so much of the second straddling period as falls on or after that date.

(3) But, so far as concerns expenditure incurred on or after 1 January 2021, the maximum allowance under section 51A of CAA 2001 for the second straddling period is the maximum allowance, calculated in accordance with sub-paragraph (2), for the period mentioned in paragraph (b) of that sub-paragraph.

Operation of annual investment allowance where restrictions apply

3 (1) Paragraphs 1 and 2 apply for the purpose of determining the maximum allowance under section 51K of CAA 2001 (operation of annual investment allowance where restrictions apply) in a case where one or more chargeable periods in which the relevant AIA qualifying expenditure is incurred are chargeable periods within paragraph 1(1) or 2(1).

(2) There is to be taken into account for that purpose only chargeable periods of one year or less (whether or not they are chargeable periods within paragraph 1(1) or 2(1)), and, if there is more than one such period, only that period which gives rise to the greatest maximum allowance.

(3) Sub-paragraph (4) applies to a chargeable period if—
  (a) it is longer than one year, and
  (b) any part of the chargeable period is within the period of two years beginning with 1 January 2019.

(4) For the purposes of sub-paragraph (2) the chargeable period (the "relevant period") is to be divided into two periods, as follows—
  (a) a chargeable period of one year ending when the relevant period ends, and
  (b) a chargeable period consisting of so much of the relevant period as is not within paragraph (a).

(5) Nothing in this paragraph affects the operation of sections 51M and 51N of CAA 2001.

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SCHEDULE 14

Section 36

LEASES: CHANGES TO ACCOUNTING STANDARDS ETC

PART 1

FINANCE LEASES: AMENDMENTS AS A RESULT OF CHANGES TO ACCOUNTING STANDARDS

1 (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.

(2) In section 67 (plant or machinery treated as owned by person entitled to benefit of contract, etc), in subsection (2B), for the words from "falls (or would fall)" to the end substitute "—

(a) falls (or would fall) to be treated by that person in accordance with generally accepted accounting practice as a finance lease, or

(b) if that person is a lessee under a right-of-use lease, would fall to be treated in that person's accounts as a finance lease were that person required under generally accepted accounting practice to determine whether the lease falls to be so treated."

(3) In section 70E (disposal events and disposal values), in subsection (2D)(a), after "finance charges" insert " , or interest expenses, ".

(4) In section 70YA (changes in accountancy classification of long funding leases)—

(a) in subsection (1)(b), for "or an operating lease" substitute " , an operating lease or a right-of-use lease ",

(b) in subsection (4)—

(i) for "or an operating lease" substitute " , an operating lease or a right-of-use lease ", and

(ii) for "and (6)" substitute " to (6A) ",

(c) in subsection (5)—

(i) omit the "and" at the end of paragraph (a), and

(ii) after paragraph (b) insert "and

(c) the change of classification is not a relevant change of classification.",

(d) in subsection (6)—

(i) omit the "and" at the end of paragraph (a), and

(ii) after paragraph (b) insert "and

(c) the change of classification is not a relevant change of classification.",

(e) after subsection (6) insert—

"(6A) Case 3 is where—

(a) immediately before the relevant time, the lease is a right-of-use lease which is a long funding finance lease, and

(b) at the relevant time, the lease becomes one which—

(i) is not a right-of use lease, and

(ii) falls (or would fall) to be treated in the relevant accounts in accordance with generally accepted

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accounting practice as not being a finance lease.", and

(f) after subsection (10) insert—

"(11) In this section—

"relevant change of classification" means a change of accountancy classification as a result of the person adopting a different accounting standard or a change to an accounting standard, and

"accounting standard" means any accounting standard issued or recognised by—

(a) the Accounting Standards Board (or successor body), or

(b) the International Accounting Standards Board (or successor body)."

(5) In section 70YI (general definitions), in subsection (1)—

(a) for the definition of "long funding finance lease" substitute—

"" "long funding finance lease" means—

(a) in relation to any person, a long funding lease that meets the finance lease test by virtue of section 70N(1)(a), or

(b) in relation to a lessee, a right-of-use lease which is a long funding lease—

(i) that meets the lease payments test in section 70O or the useful economic life test in section 70P, but

(ii) is not a lease that, before a relevant change of classification, was a long funding operating lease;", and

(b) at the appropriate places insert—

""relevant change of classification" has the meaning given by section 70YA(11);";

""right-of-use lease", in relation to a lessee, means a lease in respect of which, under generally accepted accounting practice—

(a) a right-of-use asset falls (or would fall) at the commencement date of the lease to be recognised for accounting purposes in the accounts of the lessee, or

(b) a right-of-use asset would fall to be so recognised but for the lessee granting a sublease of the leased asset,

and, in determining whether a lease falls within paragraph (a) or (b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the lessee's accounts for the period also applied at the commencement date of the lease;".

(6) In section 228J (anti-avoidance: plant or machinery subject to further operating lease), in subsection (7)—

(a) for paragraph (a) substitute—

"(a) the lease—

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(i) falls, under generally accepted accounting practice, to be treated in that person's accounts as a finance lease or loan, or

(ii) if that person is a lessee under a right-of-use lease, would fall to be treated in that person's accounts as a finance lease were that person required under generally accepted accounting practice to determine whether the lease falls to be so treated,", and

(b) in paragraph (b), for the words from "fall" to the end substitute "—

(i) fall, under generally accepted accounting practice, to be treated as a finance lease or loan, or

(ii) if that person is a lessee under a right-of-use lease, would fall to be treated in that person's accounts as a finance lease were that person required under generally accepted accounting practice to determine whether the arrangements fall to be so treated."

2 (1) ITTOIA 2005 is amended as follows.

(2) In section 148G (lessee under long funding finance lease: limit on deductions), in subsection (2), after "finance charges" insert " , or interest expenses, ".

(3) After that section insert—

"**148GA Lessee under long funding finance leases: right-of-use leases**

"**148GA** "**148GA Lessee under long funding finance leases: right-of-use leases**

(1) This section applies if—

(a) for the whole or part of any period of account, a person carrying on a trade, profession or vocation is the lessee of any plant or machinery under a right-of-use lease that is a long funding finance lease,

(b) there is a change in the amounts payable under the lease, and

(c) as a result of the change and in accordance with generally accepted accounting practice—

(i) a remeasurement of the lease liability is shown in the person's accounts for the period of account, or

(ii) a deduction is shown in those accounts other than as an interest expense under the lease or an amount of depreciation, or an impairment, in respect of the right-of-use asset arising from the lease.

(2) In calculating the profits of the person's trade, vocation or profession for the period of account, the amount deducted in respect of amounts payable under the lease (after taking account of any limitation as a result of section 148G) is to be increased or decreased so as to take account of the remeasurement or deduction mentioned in subsection (1)(c).

(3) No adjustment is to be made under subsection (2) if the remeasurement or deduction results in the person being treated by section 70D of CAA 2001 (long funding finance lease: additional expenditure: allowances for lessee)

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as having incurred further capital expenditure on the provision of the plant or machinery."

3 In section 809BZN of ITA 2007 (finance arrangements: exceptions), after subsection (9) insert—

"(9A) A finance arrangement code does not apply if the arrangement is a right-of-use lease—

(a) under which the relevant person is a lessee, and

(b) which, were that person required under generally accepted accounting practice to determine whether the lease falls to be treated in the accounts of that person as a finance lease or loan, would not fall to be so treated.

(9B) In subsection (9A) "right-of-use lease" has the same meaning as in Part 2 of CAA 2001 (see section 70YI(1) of that Act)."

4 (1) CTA 2010 is amended as follows.

(2) In section 288 (sale and lease-back)—

(a) in subsection (5), for sub-paragraph (a) substitute—

"(a) falls, in accordance with generally accepted accounting practice, to be treated in the accounts of the lessee—

(i) as a finance charge, or

(ii) as an interest expense where any such expenditure would fall to be treated in those accounts as a finance charge if the lessee were required under generally accepted accounting practice to determine whether that expenditure should be so treated,

(aa) if the lease is a right-of-use lease which is a long funding finance lease, falls, in accordance with generally accepted accounting practice, to be treated in the accounts of the lessee as an interest expense, or", and

(b) in subsection (9), for the definition of "long funding operating lease" substitute—

""long funding finance lease", "long funding operating lease" and "right-of-use lease" have the meanings given in Part 2 of CAA 2001 (see section 70YI(1) of that Act),".

(3) In section 331 (meaning of "financing costs" etc)—

(a) in subsection (3), after paragraph (d) insert—

"(da) if the company is the lessee under a right-of-use lease which is a long funding finance lease, any costs falling, in accordance with generally accepted accounting practice, to be treated in the accounts of the company as interest expenses,",

(b) in subsection (4)(a), after "finance charge" insert " , or an interest expense, ",

(c) for subsection (6) substitute—

"(6) In this section "finance lease" means a lease which—

(a) under generally accepted accounting practice—

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(i) falls (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or loan, or

(ii) is comprised in arrangements which fall (or would fall) to be so treated, or

(b) if the lease is a right-of-use lease—

(i) would fall to be treated in those accounts as a finance lease, or

(ii) is comprised in arrangements which would fall to be so treated,

were the lessee or person connected with the lessee required under generally accepted accounting practice to determine whether the lease falls, or arrangements fall, to be so treated.", and

(d) in subsection (9)—

(i) omit the "and" at the end of the definition of "exchange gains" and "exchange losses", and

(ii) after that definition insert—

""lease" means any arrangements which provide for an asset to be leased or otherwise made available by a person to another person ("the lessee"), and

"long funding finance lease", "long funding operating lease" and "right-of-use lease" have the meanings given in Part 2 of CAA 2001 (see section 70YI(1) of that Act)."

(4) In section 377 (lessee under long funding finance lease: limit on deductions), in subsection (3), after "as finance charges" insert " , or interest expenses, ".

(5) After that section insert—

"**377A Lessee under long funding finance leases: right-of-use leases**

"**377A** "**377A Lessee under long funding finance leases: right-of-use leases**

(1) This section applies if—

(a) for the whole or part of any period of account, a company is the lessee of any plant or machinery under a right-of-use lease that is a long funding finance lease,

(b) there is a change in the amounts payable under the lease, and

(c) as a result of the change and in accordance with generally accepted accounting practice—

(i) a remeasurement of the lease liability is shown in the person's accounts for the period of account, or

(ii) a deduction is shown in those accounts other than as an interest expense under the lease or an amount of depreciation, or an impairment, in respect of the right-of-use asset arising from the lease.

(2) In calculating the company's profits for the period of account, the amount deducted in respect of amounts payable under the lease (after taking account of any limitation as a result of section 377) is to be increased or decreased

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so as to take account of the remeasurement or deduction mentioned in subsection (1)(c).

(3) No adjustment is to be made under subsection (2) if the remeasurement or deduction results in the company being treated by section 70D of CAA 2001 (long funding finance lease: additional expenditure: allowances for lessee) as having incurred further capital expenditure on the provision of the plant or machinery."

(6) In section 381 (interpretation of Chapter 2 of Part 9), in subsection (2), for the definition of "long funding finance lease" substitute—

""long funding finance lease" means—

(a) in relation to any person, a long funding lease that meets the finance lease test as a result of section 70N(1)(a) of that Act, or

(b) in relation to a lessee, a right-of-use lease (see section 70YI(1) of that Act) which is a long funding lease—

(i) that meets the lease payments test in section 70O of that Act or the useful economic life test in section 70P of that Act, but

(ii) is not a lease that, before a relevant change of classification (see section 70YA(11) of that Act), was a long funding operating lease;".

(7) In section 437 (interpretation of the sales of lessors Chapters)—

(a) for subsection (4) substitute—

"(4) "Finance lease" means—

(a) in relation to any person, a lease that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated in the accounts of that person as a finance lease or loan, or

(b) in relation to a lessee under a right-of-use lease, a lease that would fall to be treated in the accounts of the lessee as a finance lease if the lessee were required under generally accepted accounting practice to determine whether the lease falls to be so treated.", and

(b) in subsection (6), for "and "long funding operating lease"" substitute ", "long funding operating lease" and "right-of-use lease"".

(8) In section 544 (meaning of "property profits" and "property financing costs"), after subsection (5) insert—

"(5A) In subsection (5) "finance lease" means—

(a) in relation to any person, a lease that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated in the accounts of that person as a finance lease or loan, or

(b) in relation to a lessee under a right-of-use lease, a lease that would fall to be treated in the accounts of the lessee as a finance lease if the lessee were required under generally accepted accounting practice to determine whether the lease falls to be so treated.

(5B) In subsection (5A)(b) "right-of-use lease" has the meaning given in Part 2 of CAA 2001 (see section 70YI(1) of that Act)."

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(9) In section 771 (finance arrangements: exceptions), after subsection (9) insert—

"(9A) A finance arrangement code does not apply if the arrangement is a right-of-use lease—

(a) under which the relevant person is a lessee, and

(b) which, were that person required under generally accepted accounting practice to determine whether the lease falls to be treated in the accounts of that person as a finance lease or loan, would not fall to be so treated.

(9B) In subsection (9A) "right-of-use lease" has the meaning given in Part 2 of CAA 2001 (see section 70YI(1) of that Act)."

5 In section 494 of TIOPA 2010 (corporate interest restriction: other interpretation), in subsection (1)—

(a) for the definition of "finance lease" substitute—

""finance lease", in relation to a company or a worldwide group, a lease which—

(a) in accordance with generally accepted accounting practice, falls (or would fall) to be treated, in the accounts of the company or the financial statements of the group, as a finance lease or loan, or

(b) is a right-of-use lease that would fall to be treated in those accounts or financial statements as a finance lease if the company or group were required to determine for accounting purposes whether the lease falls to be so treated;", and

(b) insert at the appropriate place—

""right-of-use lease" means a lease in respect of which, under generally accepted accounting practice—

(a) a right-of-use asset falls (or would fall) at the commencement of the lease to be recognised for accounting purposes in the accounts of the lessee, or

(b) a right-of-use asset would fall to be so recognised but for the lessee granting a sublease of the leased asset,

and, in determining whether a lease falls within paragraph (a) or (b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the lessee's accounts for the period also applied at the commencement of the lease;".

Commencement

6 (1) The amendments made by this Part of this Schedule have effect in relation to periods of account beginning on or after 1 January 2019.

(2) But, for the purposes of Chapter 7 of Part 10 of TIOPA 2010 (corporate interest restriction: group-interest and group-EBITDA), the amendments made by paragraph 5 have effect in relation to periods of account of a worldwide group (within the meaning given by section 480 of that Act) beginning on or after 1 January 2019.

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PART 2

LONG FUNDING LEASES

Amendments to Part 2 of CAA 2001

7 Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.

Meaning of "short lease"

8 (1) In section 70I ("short lease")—
(a) in subsections (2) and (9)(d), for "5" substitute " 7 ", and
(b) omit subsections (3) to (8).

(2) In section 70YF (the "term" of a lease)—
(a) in subsection (5)(b), for "5" substitute " 7 ",
(b) in subsection (6), for "5" substitute " 7 ", and
(c) omit subsection (7).

(3) In section 220 (allocation of expenditure to a chargeable period), in subsection (4)(c), for "5" substitute " 7 ".

The lease payments test: interest rate implicit in lease

9 (1) Section 70O (the lease payments test) is amended as follows.

(2) In subsection (4), for paragraph (b) substitute—
"(b) if a rate cannot be determined in accordance with paragraph (a), the interest rate implicit in the lease is taken to be 1% above LIBOR."

(3) After that subsection insert—

"(5) For this purpose—
(a) LIBOR means the London interbank offered rate at the relevant time for deposits for a term of 12 months in the applicable currency,
(b) the relevant time is the inception of the lease, and
(c) the applicable currency is the currency in which payments under the lease are payable."

Commencement

10 The amendments made by this Part of this Schedule have effect in relation to leases entered into on or after 1 January 2019.

PART 3

CHANGES TO ACCOUNTING STANDARDS AND TAX ADJUSTMENTS

Repeal of section 53 of FA 2011

11 (1) In FA 2011, omit section 53 (leases and changes to accounting standards).

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(2) The amendment made by this paragraph has effect in relation to periods of account beginning on or after 1 January 2019.

(3) But, for the purposes of Chapter 7 of Part 10 of TIOPA 2010 (corporate interest restriction: group-interest and group-EBITDA), the amendment made by this paragraph has effect in relation to periods of account of a worldwide group (within the meaning given by section 480 of that Act) beginning on or after 1 January 2019.

Transitional provisions following repeal of section 53 of FA 2011: introductory

12 (1) This paragraph and paragraphs 13 to 17 modify the effect of the change of basis provisions in relation to periods of account of a lessee beginning on or after 1 January 2019 if the lease is one—

(a) in respect of which, under generally accepted accounting practice, a right-of-use asset falls (or would fall) to be recognised for accounting purposes in the accounts of the lessee for any period of account (whether beginning before or on or after that date), and

(b) which would not fall to be treated in those accounts as a finance lease if the lessee were required under generally accepted accounting practice to determine whether the lease would fall to be treated in those accounts as a finance lease.

(2) In this Part of this Schedule, "the change of basis provisions" means—

(a) Chapter 17 of Part 2 and Chapter 7 of Part 3 of ITTOIA 2005 (adjustment income), and

(b) Chapter 14 of Part 3 and sections 261 and 262 of CTA 2009 (adjustment on change of basis).

Cases where asset first recognised for period of account beginning on or after 1 January 2019

13 (1) This paragraph applies if the right-of-use asset falls (or would fall) to be first recognised for accounting purposes in the accounts of the lessee for the first period of account beginning on or after 1 January 2019 ("the first period of account").

(2) Any adjustment income or adjustment expense, or any receipt or expense, treated by any of the change of basis provisions as arising in consequence of a change of accounting policy that results in the right-of-use asset being first recognised for accounting purposes is to be treated as arising over a period ("the spreading period") determined in accordance with the following steps—

Step 1 Find for each lease the amount by which the credits exceed the debits (or vice-versa). For this purpose, the credits and the debits are the amounts which, under generally accepted accounting practice—

(a) are taken to equity as adjustments in the accounts of the lessee for the first period of account, and

(b) are in consequence of the change of accounting policy that results in the right-of-use asset being first recognised for accounting purposes in those accounts.

Step 2 Calculate for each lease the percentage ("the relevant percentage") that—

(a) the amount found under Step 1 for the lease bears to

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(b) the total of all amounts found under Step 1 (treating such amounts as positive amounts).

Step 3 Find for each lease the period which results from applying the relevant percentage to the term of the lease that remains unexpired as at the date on which the first period of account begins. For this purpose, the term of a lease is to be determined in accordance with generally accepted accounting practice as it applies for the first period of account.

Step 4 Calculate the sum of all periods found under Step 3.

Step 5 The spreading period is the period equal to the sum calculated under Step 4 beginning with the day on which the first period of account begins.

(3) An amount to be treated as arising in any period falling wholly or partly in the spreading period is to be determined in proportion to the number of days of the period falling within the spreading period.

(4) This paragraph is subject to paragraphs 15 and 16 (transfers of leases and cessation of activities).

Cases where asset first recognised for an earlier period of account

14 (1) This paragraph applies if the right-of-use asset falls (or would fall) to be first recognised for accounting purposes in the accounts of the lessee for a period of account earlier than the first period of account.

(2) The change of basis provisions and this Part of this Schedule have effect—

(a) as if there were a change of accounting policy with respect to the accounts of the lessee for the first period of account, and

(b) as if the right-of-use asset falls (or would fall) to be first recognised for accounting purposes in those accounts.

(3) In this paragraph "the first period of account" has the same meaning as in paragraph 13.

Certain cases where there is a transfer of a lease

15 (1) This paragraph applies if—

(a) before the whole of an amount has been treated by paragraph 13 as arising to the lessee, there is a transfer of a lease or part of a lease from the lessee to another person,

(b) the transferee is connected to the lessee,

(c) immediately after the transfer, the transferee carries on activities the profits of which are chargeable to income tax or corporation tax, and

(d) the transfer is not one where it is reasonable to suppose that the transfer is, or arrangements of which the transfer is part are, designed to avoid tax.

(2) The amount is to continue to be dealt with in accordance with paragraph 13 but is to be treated as arising to the transferee over so much of the spreading period as falls on or after the date on which the transfer takes place.

(3) If, following the transfer, it is necessary to apportion between more than one person an amount treated by paragraph 13 or this paragraph as arising, the apportionment is to be made on a just and reasonable basis.

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(4) In this paragraph—

"connected" is to be read in accordance with sections 993 and 994 of ITA 2007 and sections 1122 and 1123 of CTA 2010, and

"the spreading period" has the same meaning as in paragraph 13.

Cases where lessee permanently ceases to carry on activities

16 (1) Sub-paragraph (2) applies if—

(a) before the whole of an amount has been treated by paragraph 13 as arising, the lessee permanently ceases to carry on activities the profits of which are chargeable to income tax or corporation tax, and

(b) the whole of the amount so far as not treated by paragraph 13 as arising is not treated by paragraph 15(2) as arising to a transferee.

(2) The amount so far as not otherwise treated as arising—

(a) is to be treated as arising to the lessee, and

(b) is to be brought into account in calculating the profits of the lessee,

immediately before the cessation.

Application of paragraphs 12 to 16 to lease portfolios

17 (1) This paragraph applies if a lessee, in accordance with generally accepted accounting practice, prepares accounts by reference to a portfolio of leases having similar characteristics rather than by reference to the individual leases.

(2) Paragraphs 12 to 14 and 16 apply to the portfolio (subject to any necessary modifications) in the same way as they apply to a lease.

(3) If there is a transfer of the portfolio (or an individual lease within the portfolio), paragraph 15 applies to the transfer (subject to any necessary modifications) in the same way as it applies to the transfer of a lease.

Corporate interest restriction: changes of accounting policy

18 (1) In section 426 of TIOPA 2010 (changes of accounting policy), in subsection (3), after paragraph (e) insert—

"(f) paragraphs 12 to 17 of Schedule 14 to FA 2019 (transitional provision following the repeal of section 53 of FA 2011) so far as they have effect in relation to adjustments under Chapter 14 of Part 3 of CTA 2009 or sections 261 and 262 of that Act."

(2) The amendment made by this paragraph has effect in relation to periods of account of a worldwide group (within the meaning given by section 480 of TIOPA 2010) beginning on or after 1 January 2019.

Corporate interest restriction: treatment of certain adjustments

19 (1) Sub-paragraph (2) applies if—

(a) an amount is brought into account for corporation tax purposes for a period of account beginning on or after 1 January 2019 as a receipt or expense treated by any of the change of accounting policy provisions as arising to a company which is a lessee,

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(b) the receipt or expense is treated as arising to the company in consequence of a change of accounting policy relating to a lease in respect of which the company is the lessee,

(c) under the old accounting policy, the lease fell to be treated as a finance lease in the accounts of the company, and

(d) under the new accounting policy, the lease would fall to be treated as a right-of-use lease in those accounts but for—

(i) the short term of the lease, or

(ii) the low value of the leased asset.

(2) For the purposes of Part 10 of TIOPA 2010 (corporate interest restriction)—

(a) if the amount is brought into account as an expense, "tax-interest expense amount" (see section 382 of that Act) does not include that amount;

(b) if the amount is brought into account as a receipt, "tax-interest income amount" (see section 385 of that Act) does not include that amount.

(3) This paragraph has effect in relation to adjustments to which the financial statements of a worldwide group are treated by section 426 of TIOPA 2010 (changes in accounting policy) as subject in the same way as it has effect in relation to adjustments made under the change of accounting policy provisions by a company and accordingly—

(a) if the amount is brought into account as an expense, "relevant expense amount" (see section 411(1) of that Act) does not include that amount;

(b) if the amount is brought into account as a receipt, "relevant income amount" (see section 411(2) of that Act) does not include that amount.

(4) In this paragraph—

"the change of accounting policy provisions" means Chapter 14 of Part 3 and sections 261 and 262 of CTA 2009 (adjustment on change of basis), and

"right-of-use lease" has the meaning given by section 494 of TIOPA 2010 (other interpretation).

SCHEDULE 15

Section 37

OIL ACTIVITIES: TRANSFERABLE TAX HISTORY

PART 1

ELECTION TO TRANSFER TAX HISTORY

Entitlement to make a TTH election

1 This Schedule applies if, on or after 1 November 2018, the OGA gives consent for a company (the "seller") to sell an interest in a UK oil licence to another company (the "purchaser").

2 (1) On or after the licence transfer date, the seller and purchaser may jointly make a TTH election in respect of an interest ("the TTH asset") in a transferred oil field (the "TTH oil field").

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(2) A "TTH election" is an election for—

(a) an amount of the seller's ring fence profits (the "total TTH amount") to be treated, in accordance with the provisions of this Schedule, as if it were an amount of the purchaser's profits (instead of the seller's profits), and

(b) a corresponding amount of the seller's adjusted ring fence profits to be so treated for the purpose of Chapter 6 of Part 8 of CTA 2010 (supplementary charge).

PART 2

THE TOTAL TTH AMOUNT

The total TTH amount

3 (1) The total TTH amount may comprise—

(a) an amount representing the seller's eligible ring fence profits for the reference accounting period, and

(b) amounts representing the seller's eligible ring fence profits for so many of the preceding accounting periods ending on or after 17 April 2002 as the seller and purchaser may determine.

(2) Sub-paragraph (1) is subject to—

(a) paragraph 4 (limits on total TTH amount),

(b) paragraph 11 (consecutive accounting periods), and

(c) paragraph 12 (the transferred profits amount for an accounting period).

(3) See—

(a) paragraph 13 for the meaning of "eligible ring fence profits", and

(b) paragraph 102 for the meaning of "reference accounting period" in relation to the seller.

Limits on total TTH amount

4 The total TTH amount must not exceed the lower of—

(a) the uplifted decommissioning costs estimate in relation to the TTH asset, and

(b) the total amount of the seller's eligible ring fence profits for the period—

(i) beginning with 17 April 2002, and

(ii) ending at the end of the reference accounting period.

The "uplifted decommissioning costs estimate"

5 To determine the "uplifted decommissioning costs estimate" in relation to the TTH asset—

(a) determine the transferred proportion of the net cost amount (see paragraphs 6 and 7),

(b) allocate the relevant proportion of the amount determined under paragraph (a) to the TTH asset (see paragraph 8),

(c) adjust the allocated amount in accordance with paragraph 9, and

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(d) double the adjusted amount.

6 (1) The "net cost amount" is the appropriate DSA estimate of the decommissioning costs for the TTH oil field.

(2) A "DSA estimate" is an estimate approved for the purposes of a qualifying decommissioning security agreement.

(3) If there is only one qualifying decommissioning security agreement relating to the TTH oil field, the "appropriate DSA estimate" is the most recent DSA estimate approved for the purposes of that agreement within the relevant period.

(4) If there is more than one qualifying decommissioning security agreement relating to the TTH oil field, the "appropriate DSA estimate" is the lowest of the DSA estimates approved for the purposes of any of those agreements within the relevant period.

(5) For the purposes of sub-paragraphs (3) and (4), the "relevant period" is the period of 12 months ending with—

(a) the date on which the TTH election is made, or

(b) in a case where the hive down condition (see paragraph 56(5)) is met, the date on which the seller and the purchaser cease to be associated with one another.

7 The "transferred proportion" of the net cost amount is the proportion of the decommissioning costs for the TTH oil field that, under the qualifying decommissioning security agreement for the purposes of which the appropriate DSA estimate is approved, is allocated to—

(a) the seller, in the case of an agreement entered into before the sale of the interest in the UK oil licence concerned, or

(b) the purchaser, in the case of an agreement entered into on or after that date.

8 In paragraph 5(b), the "relevant proportion" means—

(a) the proportion that the interest in the TTH oil field which is the TTH asset bears to—

(i) the seller's other interests in the TTH oil field, if paragraph 7(a) applies, or

(ii) the purchaser's other interests in the TTH oil field, if paragraph 7(b) applies, or

(b) if the proportion cannot reasonably be determined in accordance with paragraph (a), such other proportion determined on a just and reasonable basis.

9 (1) To adjust the allocated amount for the purposes of paragraph 5(c)—

(a) disregard the adjustments listed in sub-paragraph (2) made, for the purposes of calculating the net cost amount, in accordance with the terms of the decommissioning security agreement, and

(b) if, in making that calculation in accordance with those terms, the relevant proportion of the estimate of the decommissioning costs is increased by an amount to take account of inflation, disregard the amount (if any) by which the increase exceeds the standard inflation adjustment amount.

(2) The adjustments to be disregarded are—

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(a) any discount applied by reference to the period of time expected to elapse before the decommissioning costs are payable in relation to the TTH oil field, and

(b) any adjustment made for the purposes of taking account of the risk that the decommissioning costs for the TTH oil field will exceed the estimate of those costs.

(3) The "standard inflation adjustment amount" means the amount (if any) by which the relevant proportion of the estimate of the decommissioning costs for the TTH oil field would be increased if an adjustment for the purposes of taking account of inflation were made on the basis specified by Her Majesty's Revenue and Customs for the purposes of this paragraph.

10 (1) A "decommissioning security agreement" is an agreement entered into for the purpose of—

(a) determining the costs of decommissioning an oil field, and

(b) providing security for—

(i) the performance of obligations under an abandonment programme for the purposes of section 38A of the Petroleum Act 1998 (whether or not such a programme has been approved at the time the agreement is entered into), or

(ii) the costs of decommissioning plant or machinery which is, or forms part of, a relevant onshore installation.

(2) A decommissioning security agreement is "qualifying" for the purposes of this Schedule if—

(a) the seller is a party to the agreement,

(b) at least one of the parties is not associated with the seller, and

(c) the estimate approved for the purposes of the agreement is a reasonable estimate of the decommissioning costs for the oil field.

(3) In a case where the corporate restructuring condition (see paragraph 56(2)) is met, sub-paragraph (2)(a) has effect as if the reference to the seller were a reference to a party to the third party election (as defined in that paragraph).

(4) In sub-paragraph (1)—

"abandonment programme" has the meaning given by section 29 of the Petroleum Act 1998, and

"relevant onshore installation" has the same meaning as in section 163 of CAA 2001 (see subsection (3C) of that section).

(5) See paragraph 98 of this Schedule and section 271 of CTA 2010 for further provision about the meaning of "associated companies".

Consecutive accounting periods

11 (1) The total TTH amount may not include an amount representing the eligible ring fence profits for a particular accounting period (other than the reference accounting period) unless it also includes an amount representing the eligible ring fence profits for the next following qualifying accounting period.

(2) An accounting period is "qualifying" for the purposes of this Schedule if the seller has eligible ring fence profits for that period.

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The transferred profits amount

12 (1) The transferred profits amount for an accounting period, other than the earliest period, must be an amount equal to the amount of the seller's eligible ring fence profits for the period.

(2) The transferred profits amount for the earliest period must be an amount equal to the amount of the seller's eligible ring fence profits for that period, so far as that amount does not exceed the TTH balance for the earliest period.

(3) The "TTH balance" for the earliest period is an amount equal to—
(a) the total TTH amount, less
(b) the transferred profits amounts for each later accounting period.

(4) In this paragraph, "earliest period" means the earliest accounting period for which there is a transferred profits amount.

"Eligible ring fence profits"

13 Ring fence profits of an accounting period are "eligible" for the purposes of a TTH election if, as at the date the TTH election is made—
(a) corporation tax is charged on the profits of that period at the main ring fence profits rate,
(b) neither section 279B nor section 279C of CTA 2010 (marginal relief) applies in relation to the seller in that period,
(c) the seller's liability to corporation tax in respect of the profits has been discharged in full, and
(d) the total TTH amount for any other TTH election made by the seller (whether made with the purchaser or with another person) does not include an amount representing those profits.

14 In determining, for the purposes of this Schedule, the amount of the seller's eligible ring fence profits for an accounting period that falls partly before 17 April 2002, the amount of the seller's eligible ring fence profits for that period is to be reduced by the proportion which the part of the accounting period falling before that date bears to the whole of the accounting period.

PART 3

EFFECT OF A TTH ELECTION ON THE SELLER

Application of this Part

15 This Part applies if—
(a) the seller and the purchaser have jointly made a TTH election in respect of the TTH asset, and
(b) the TTH election has been approved by an officer of Revenue and Customs (see paragraphs 61 and 62).

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Effect of a TTH election: corporation tax

16 (1) Sub-paragraphs (2) and (3) apply if the seller makes a loss in a trade in an accounting period.

(2) For the purposes of section 37(3)(b) of CTA 2010 (including for the purposes of that provision as it has effect under the other trade loss relief provisions), the seller's total profits of a pre-transfer accounting period are treated as being—

(a) the seller's total profits for that period, less

(b) the transferred profits amount for that period.

(3) For the purposes of section 42 of CTA 2010, the seller's profits of a ring fence trade of a pre-transfer accounting period are treated as being—

(a) the seller's ring fence profits for that period, less

(b) the transferred profits amount for that period.

17 The transferred profits amount for an accounting period is to be disregarded for the purposes of the application of any provision of the Corporation Tax Acts by reference to which the seller would (apart from this paragraph) be entitled to relief from, or a repayment of, corporation tax.

18 (1) Paragraphs 16 and 17 are subject to this paragraph.

(2) If, on or after the licence transfer date, the seller's eligible ring fence profits for a pre-transfer accounting period are reduced to an amount which is lower than the transferred profits amount for that period—

(a) the seller is treated as incurring a loss in a ring fence trade, of an amount equal to the difference, for the accounting period, and

(b) paragraph 17 does not apply to the difference.

Effect of a TTH election: supplementary charge

19 Paragraphs 20 and 21 apply in relation to an accounting period for which there is a transferred profits amount.

20 (1) The transferred adjusted ring fence profits amount for the accounting period is to be disregarded for the purposes of any provision of the Corporation Tax Acts by reference to which the seller would (apart from this paragraph) be entitled to a repayment of supplementary charge.

(2) The "transferred adjusted ring fence profits amount" is—

(a) in the case of an accounting period other than the earliest period, the amount of the seller's eligible adjusted ring fence profits for the period;

(b) in the case of the earliest period, an amount equal to the transferred proportion of the seller's eligible adjusted ring fence profits for the period.

21 (1) For the purposes of the application of any provision of Part 4 or Part 8 of CTA 2010 in relation to the seller—

(a) the amount of each ARFP component, or (in the case of the earliest period) an amount equal to the transferred proportion of each ARFP component, for the accounting period is to be disregarded, and

(b) in the case of the earliest period, references in those provisions to an ARFP component for the accounting period are to be treated as references to the retained proportion of that ARFP component for the period.

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(2) "ARFP component", in relation to an accounting period, means—
- (a) the financing costs for the period that are left out of account for the purposes of the assumption mentioned in section 330(3) of CTA 2010, and
- (b) the amount of any reduction of the seller's adjusted ring fence profits by reference to the cumulative total amount of activated allowance for the period under any of the following provisions of CTA 2010—
  - (i) section 332E (investment allowance),
  - (ii) section 356D (onshore allowance), and
  - (iii) section 356JG (cluster area allowance).

(3) See paragraph 17 for provision about disregarding the transferred profits amount for an accounting period.

(4) Sub-paragraph (1) does not apply in relation to the application of any provision for the purposes of determining the seller's eligible adjusted ring fence profits for an accounting period for the purposes of this Schedule.

22 (1) For the purposes of paragraphs 20(2) and 21(1)—
- (a) "earliest period" has the meaning given by paragraph 12(4),
- (b) the "transferred proportion" is the same as the proportion that the transferred profits amount for the accounting period bears to the seller's ring fence profits amount for the period, and
- (c) the "retained proportion" is the same as the proportion that the retained profits amount for the accounting period bears to the seller's ring fence profits amount for the period.

(2) In sub-paragraph (1)(c), "retained profits amount" means the amount of the difference between the amount of the seller's ring fence profits for the earliest period and the transferred profits amount for that period.

(3) For the purposes of this Schedule, adjusted ring fence profits of an accounting period are "eligible" if—
- (a) an amount is charged on the profits under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades), and
- (b) as at the TTH election is made, the seller's liability to tax under that section in respect of the adjusted ring fence profits has been discharged in full.

PART 4

EFFECT OF A TTH ELECTION ON THE PURCHASER

Application of this Part

23 This Part applies if—
- (a) the seller and the purchaser have jointly made a TTH election in respect of the TTH asset,
- (b) the TTH election has been approved by an officer of Revenue and Customs (see paragraphs 61 and 62),
- (c) the winning of oil from the TTH oil field has permanently ceased, and
- (d) in a post-acquisition accounting period (the "loss period")—

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(i) the purchaser makes a loss in a ring fence trade,

(ii) the loss is a decommissioning loss, and

(iii) the purchaser holds, for the loss period, an activated TTH amount (see Parts 5 and 6).

24 In paragraph 23(d)(ii), "decommissioning loss" means a loss in respect of which—

(a) a claim for relief under section 37 of CTA 2010 is made by the purchaser by virtue of section 39 or 40 of that Act (relief for trade losses: terminal losses and ring fence trades), or

(b) relief is given under section 42 of CTA 2010 (ring fence trades: further extension of period for relief).

Effect of trade loss relief provisions

25 (1) The total activated TTH amount held by the purchaser for the loss period is to be applied in accordance with sub-paragraph (2)(b) or (3)(b).

(2) The purchaser's total profits of a pre-acquisition accounting period are to be treated, for the purposes of section 37(3)(b) of CTA 2010 (including for the purposes of that provision as it has effect under the other trade loss relief provisions) as being the total of—

(a) the amount of the purchaser's total profits for that period, and

(b) if and so far as the loss in respect of which relief is claimed exceeds the amount mentioned in paragraph (a), the activated transferred profits amount for that period.

(3) The purchaser's profits of a ring fence trade of a pre-acquisition accounting period are to be treated for the purposes of section 42 of CTA 2010, as being the total of—

(a) the purchaser's profits of a ring fence trade for that period, and

(b) if and so far as the loss in respect of which relief is claimed exceeds the amount mentioned in paragraph (a), the activated transferred profits amount for that period.

(4) The "activated transferred profits amount" for a pre-acquisition accounting period means the amount allocated to the period under paragraph 44 for the purposes of the application of this paragraph in relation to the loss period.

(5) See paragraphs 38 to 42 for provision about the "total activated TTH amount".

Repayment of supplementary charge

26 (1) This paragraph applies where, in respect of a loss period, an activated transferred profits amount for a pre-acquisition accounting period is to be applied in accordance with paragraph 25(2)(b) or (3)(b).

(2) A repayment of tax to be determined as if—

(a) an amount had been charged under section 330(1) of CTA 2010 in respect of the activated ARFP amount for the pre-acquisition accounting period,

(b) that amount had been charged on, and paid by, the purchaser (instead of the seller), and

(c) the transferred adjusted ring fence profits amount for the pre-acquisition accounting period were recalculated in accordance with paragraph 50.

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(3) See paragraph 53 for provision about the "activated ARFP amount".

27 (1) In this Schedule, references to the transferred adjusted ring fence profits amount for a pre-acquisition accounting period of the purchaser are references to—

(a) the transferred adjusted ring fence profits amount (see paragraph 20(2)) for the accounting period of the seller which coincides with the pre-acquisition accounting period of the purchaser, or

(b) if there is no coinciding accounting period of the seller, the overlapping proportion of the transferred adjusted ring fence profits amount for each accounting period of the seller that overlaps with the pre-acquisition accounting period of the purchaser.

(2) The overlapping proportion, in relation to an accounting period of the seller, is the same as the proportion that the part of the seller's accounting period that overlaps with the pre-acquisition accounting period of the purchaser bears to the whole of the seller's accounting period.

Supplementary provision: repayment and enquiries

28 For the purposes of section 59D(2) of TMA 1970 (repayment of excess corporation tax), the following amounts paid by the seller are treated as having been paid by the purchaser—

(a) the amount of corporation tax in respect of an activated transferred profits amount, for a pre-acquisition accounting period, that is applied in accordance with 25(2)(b) or (3)(b), and

(b) the amount of supplementary charge in respect of the transferred adjusted ring fence profits amount for that accounting period.

29 (1) An enquiry under Part 4 of Schedule 18 to FA 1998 into a tax return for the accounting period in which the claim under section 37 of CTA 2010 in respect of a decommissioning loss in a loss period is made (see paragraphs 23 and 24), or an enquiry into the claim under Schedule 1A to TMA 1970, extends to—

(a) the decommissioning expenditure amount attributable to the TTH oil field for any accounting period,

(b) the tracked profit or loss amount attributable to the TTH asset for any accounting period, and

(c) whether a TTH activation event has occurred in relation to the TTH asset.

(2) See Part 5 for provision about "the decommissioning expenditure amount" and a TTH activation event, and paragraphs 64 and 65 for provision about the "tracked profit and loss amount".

PART 5

TTH ACTIVATION

TTH activation event

30 (1) A TTH activation event occurs in relation to the TTH asset if—

(a) the winning of oil from the TTH oil field has permanently ceased, and

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(b) at the end of a post-acquisition accounting period of the purchaser, the total decommissioning expenditure amount exceeds the total net profits amount.

(2) The "total decommissioning expenditure amount" is the relevant proportion of the total of the decommissioning expenditure amounts (see paragraph 31) attributable to the TTH oil field, in respect of which an allowance or allocation is made to the purchaser, for—

(a) the period mentioned in sub-paragraph (1)(b), and

(b) each preceding accounting period which is a post-acquisition accounting period.

(3) The "total net profits amount" is the aggregate of the tracked profit or loss amounts (see paragraphs 64 and 65) attributable to the TTH asset for—

(a) the period mentioned in sub-paragraph (1)(b), and

(b) each preceding accounting period which is a post-acquisition accounting period.

(4) But if the aggregate of the tracked profit or loss amounts attributable to the TTH asset for the periods mentioned in sub-paragraph (3)(a) and (b) is a negative amount, the total net profits amount is nil.

(5) In this paragraph, "the relevant proportion" means the proportion that the interest in the TTH oil field which is the TTH asset bears to the purchaser's other interests in the TTH oil field or, if the proportion cannot reasonably be determined on that basis, such other proportion determined on a just and reasonable basis.

Decommissioning expenditure amount

31 The "decommissioning expenditure amount" attributable to the TTH oil field for an accounting period, is the total of each of the following amounts attributable to the field for the post-acquisition accounting period—

(a) the special allowance amount,

(b) the post-cessation expenditure amount, and

(c) the restoration expenditure amount.

32 (1) The "special allowance amount" for an accounting period is the amount of a special allowance made under section 164 of CAA 2001 (general decommissioning expenditure incurred before cessation of ring fence trade) for that period.

(2) A special allowance amount is attributable to the TTH oil field so far as the expenditure in respect of which the allowance is made is expenditure incurred on decommissioning plant or machinery brought into use for the purposes of oil-related activities carried on wholly or partly in direct connection with the field.

33 (1) The "post-cessation expenditure amount" for an accounting period is the amount that, under section 165(3)(a) of CAA 2001 (general decommissioning expenditure after ceasing ring fence trade), is allocated to the appropriate pool for that period.

(2) A post-cessation expenditure amount is attributable to the TTH oil field so far as the general decommissioning expenditure in respect of which the amount is allocated is expenditure incurred on decommissioning plant or machinery brought into use for the purposes of oil-related activities carried on wholly or partly in direct connection with the field.

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34 (1) The "restoration expenditure amount" for an accounting period is the amount that is treated as qualifying expenditure under section 416ZA of CAA 2001 (ring fence trades: expenditure on site restoration) for that period.

(2) A restoration expenditure amount is attributable to the TTH oil field if the qualifying expenditure is incurred in relation to the field.

35 For the purposes of paragraphs 32(2), 33(2) and 34(2), expenditure for an accounting period is to be apportioned between the TTH oil field and other oil fields (or parts of oil fields) on a just and reasonable basis.

PART 6

ALLOCATION OF ACTIVATED TTH AMOUNT

Application of this Part

36 This Part of this Schedule applies if a TTH activation event occurs in relation to the TTH asset.

37 In this Schedule—

(a) "first activation period" means the first post-acquisition accounting period of the purchaser in which a TTH activation event occurs, and

(b) "post-activation period" means a subsequent accounting period of the purchaser.

"Total activated TTH amount"

38 The "total activated TTH amount" held by the purchaser for a loss period which is the first activation period is the lower of—

(a) the amount by which, at the end of that period, the total decommissioning expenditure amount exceeds the total net profits amount (see paragraph 30), and

(b) the total TTH amount.

39 The "total activated TTH amount" held by the purchaser for a loss period which is a post-activation period is the lower of—

(a) the adjusted activated TTH amount (see paragraphs 40 to 42), and

(b) the closing balance of the total TTH amount for the immediately preceding accounting period (see paragraph 49).

40 (1) This paragraph applies if, in relation to a post-activation period—

(a) the relevant proportion of the decommissioning expenditure amount attributable to the TTH oil field for that period, exceeds

(b) the tracked profit or loss amount attributable to the TTH asset for that period.

(2) The "additional activated TTH amount" for the post-activation period is an amount equal to the excess.

(3) For the purposes of paragraph 39, the adjusted activated TTH amount is the total of—

(a) the closing balance of activated TTH for the immediately preceding accounting period, and

(b) the additional activated TTH amount for the post-activation period.

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(4) In this paragraph and in paragraph 41, "relevant proportion" has the same meaning as in paragraph 30(5).

41 (1) This paragraph applies if, in relation to a post-activation period—

(a) the tracked profit or loss amount attributable to the TTH asset for that period, exceeds

(b) the relevant proportion of the decommissioning expenditure amount attributable to the TTH oil field for that period.

(2) The "TTH reduction amount" for the post-activation period is an amount equal to the excess.

(3) If the TTH reduction amount is less than the closing balance amount, the adjusted activated TTH amount for the purposes of paragraph 39 is an amount equal to the difference.

(4) If the TTH reduction amount is equal to, or greater than, the closing balance amount, the adjusted activated TTH amount for the purposes of paragraph 39 is nil.

(5) In this paragraph, references to the "closing balance amount" are references to the closing balance of activated TTH for the accounting period immediately preceding the post-activation period.

42 If neither paragraph 40 nor paragraph 41 applies in relation to a post-activation period, the "adjusted activated TTH amount" for the purposes of paragraph 39 is—

(a) an amount equal to the closing balance of activated TTH for the immediately preceding accounting period, if it is greater than nil, or

(b) nil, if the closing balance of activated TTH for the immediately preceding accounting period is nil or a negative amount.

Allocation of activated TTH to an accounting period

43 Paragraph 44 applies for the purposes of paragraph 25 (effect of trade loss relief provisions in relation to the purchaser).

44 The total activated TTH amount for a loss period is to be allocated, for the purposes of the application of paragraph 25 in relation to that loss period, to pre-acquisition accounting periods of the purchaser as follows—

Step 1 Take the most recent pre-acquisition accounting period for which there is an unused transferred profits amount which is greater than nil.

Step 2 Allocate to that pre-acquisition accounting period an amount equal to the lower of—

(a) the unused transferred profits amount, and

(b) the total activated TTH amount held by the purchaser for the loss period.

Step 3 Allocate to the next most recent pre-acquisition accounting period an amount equal to the lower of—

(a) the transferred profits amount for that period, and

(b) the available activated TTH amount for the loss period.

Step 4 Repeat Step 3 (taking later pre-acquisition accounting periods before earlier ones) until the amount given by paragraph (a) or (b) is nil.

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Transferred profits amount for a pre-acquisition accounting period

45 (1) In this Schedule, references to the transferred profits amount for a pre-acquisition accounting period of the purchaser are references to—

(a) the transferred profits amount for the accounting period of the seller which coincides with the pre-acquisition accounting period of the purchaser, or

(b) if there is no coinciding accounting period of the seller, the overlapping proportion of the transferred profits amount for each accounting period of the seller that overlaps with the pre-acquisition accounting period of the purchaser.

(2) The overlapping proportion, in relation to an accounting period of the seller, is the same as the proportion that the part of the seller's accounting period that overlaps with the pre-acquisition accounting period of the purchaser bears to the whole of the seller's accounting period.

"Unused transferred profits amount"

46 (1) This paragraph applies for the purposes of Steps 1 and 2 of paragraph 44.

(2) If the loss period is the first activation period, the reference to the "unused transferred profits amount" for a pre-acquisition accounting period is a reference to the transferred profits amount for that period.

(3) If the loss period is a post-activation period, the reference to the "unused transferred profits amount" for a pre-acquisition accounting period is a reference to the amount equal to—

(a) the transferred profits amount for the pre-acquisition accounting period, less

(b) the total of the amounts applied for the pre-acquisition accounting period in accordance with paragraph 25, for the purposes of the application of that paragraph in relation to the first activation period or an earlier post-activation period.

"Available activated TTH amount"

47 (1) This paragraph applies for the purposes of allocating an amount to a pre-acquisition accounting period under Step 3 of paragraph 44.

(2) The "available activated TTH amount" held by the purchaser for the loss period, is an amount equal to—

(a) the total activated TTH amount for the period, less

(b) the total of the activated transferred profits amounts allocated under paragraph 44 to later pre-acquisition accounting periods.

(3) In sub-paragraph (2)(b) the reference to "later pre-acquisition accounting periods" is a reference to pre-acquisition accounting periods that begin after the period mentioned in sub-paragraph (1).

"Closing balance of activated TTH"

48 (1) The closing balance of activated TTH for the first activation period, or a post-activation period in relation to which paragraph 40, 41(3) or 42 applies, the closing balance of activated TTH for the period is—

(a) the total activated TTH amount held by the purchaser for that period, less

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(b) the amount applied in accordance with paragraph 25 for that period.

(2) If paragraph 41(4) applies in relation to a post-activation period, the closing balance of activated TTH for the period is the negative amount determined by deducting—
(a) the TTH reduction amount for that period, from
(b) the closing balance of activated TTH for the immediately preceding accounting period.

"Closing balance of the total TTH amount"

49 The closing balance of the total TTH amount for an accounting period is—
(a) the total TTH amount, less
(b) the total of the amounts (if any) applied in accordance with paragraph 25 for that accounting period and earlier accounting periods.

PART 7

SUPPLEMENTARY CHARGE: RECALCULATION OF ADJUSTED RING FENCE PROFITS

Recalculation: steps

50 (1) This paragraph applies for the purposes of recalculating the transferred adjusted ring fence profits amount for the pre-acquisition accounting period mentioned in paragraph 26(1) (for the purposes of paragraph 26(2)(c)).

(2) The recalculated transferred adjusted ring fence profits amount for the period is the aggregate of—
(a) the reduced ARFP amount for the pre-acquisition period (see paragraphs 51 and 52), and
(b) the adjusted finance cost amount for the loss period mentioned in paragraph 26(1) (see paragraph 55).

(3) But if the amount given by taking the steps in sub-paragraph (2) is a negative amount, the recalculated transferred adjusted ring fence profits amount is nil.

"Reduced ARFP amount"

51 (1) To determine the "reduced ARFP amount" for a pre-acquisition accounting period—
(a) take the activated ARFP amount for the period, and
(b) reduce that amount by the amount applied, in relation to the loss period mentioned in paragraph 26(1), in accordance with paragraph 25(2)(b) or (3)(b) for the pre-acquisition accounting period.

(2) This paragraph is subject to paragraph 52.

52 (1) This paragraph (instead of paragraph 51) applies if the percentage specified in section 330(1) of CTA 2010 for the pre-acquisition accounting period mentioned in paragraph 26(1) is greater than 20%.

(2) To determine the "reduced ARFP amount" for the pre-acquisition accounting period—
(a) calculate the total of—

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(i) the activated ARFP amount for the period, and

(ii) the ARFP uplift amount for the period (see paragraph 54),

(b) reduce the amount given by paragraph (a) by the amount applied, in relation to the loss period mentioned in paragraph 26(1), in accordance with paragraph 25(2)(b) or (3)(b) for the pre-acquisition accounting period.

"Activated ARFP amount"

53 (1) The "activated ARFP amount" for a pre-acquisition accounting period is the amount equal to—

$$(A / T) \times \text{ARFP}$$

where—

A is the amount applied, in relation to the loss period, in accordance with paragraph 25(2)(b) or (3)(b) for the pre-acquisition accounting period,

T is the unused transferred profits amount for that period, and

(2) In sub-paragraph (1), "unused transferred profits amount" has the same meaning as it has for the purposes of Steps 1 and 2 of paragraph 44 (see paragraph 46).

(3) Sub-paragraph (4) applies if, in respect of an earlier loss period—

(a) an activated transferred profits amount for the pre-acquisition accounting period mentioned in paragraph 26(1) is applied in accordance with paragraph 25(2)(b) or (3)(b), and

(b) a corresponding repayment is determined under paragraph 26(2) (an "earlier repayment").

(4) The amount of the transferred adjusted ring fence profits for the pre-acquisition accounting period is treated, for the purposes of sub-paragraph (1), as being reduced by an amount equal to the total of the activated ARFP amounts for that period for the purposes of each earlier repayment.

"ARFP uplift amount"

54 The "ARFP uplift amount" for a pre-acquisition accounting period is the amount equal to—

"Adjusted finance cost amount"

55 The "adjusted finance cost amount" for a loss period is the amount equal to—

PART 8

TTH ELECTIONS: CONDITIONS AND PROCEDURE

Election conditions: associated companies

56 (1) A TTH election may only be made if—

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(a) the seller and purchaser are not associated with one another on the licence transfer date,
(b) the corporate restructuring condition is met, or
(c) the hive down condition is met.

(2) The "corporate restructuring condition" is met for the purposes of a TTH election if —
(a) the seller and purchaser are associated with one another on the licence transfer date, and
(b) either—
(i) a third party election is made in respect of the TTH asset within the permitted period, or
(ii) a hive down election is made in respect of the TTH asset within the permitted period.

(3) For the purposes of sub-paragraph (2)(b)(i)—
(a) a "third party election" is an election made between two companies that are not associated with one another, and
(b) the "permitted period" in relation to a third party election in respect of the TTH asset is—
(i) the period of 90 days ending with the licence transfer date referred to in sub-paragraph (2)(a), or
(ii) the period of 90 days beginning with that date.

(4) For the purposes of sub-paragraph (2)(b)(ii)—
(a) a "hive down election" is an election in respect of which the hive down condition is met, and
(b) the "permitted period" in relation to a hive down election in respect of the TTH asset is the period of 180 days ending with the licence transfer date referred to in sub-paragraph (2)(a).

(5) The "hive down" condition is met for the purposes of a TTH election if the seller and purchaser—
(a) are associated with one another on the licence transfer date, but
(b) before the end of the period of 90 days beginning with that date, the purchaser ceases to be associated with—
(i) the seller, and
(ii) any other company that is associated with the seller.

(6) See paragraph 98 of this Schedule and section 271 of CTA 2010 for further provision about the meaning of "associated companies".

Election conditions: decommissioning relief agreements

57 (1) If the seller is a party to a decommissioning relief agreement, a TTH election may only be made if the agreement provides for the total TTH amount to be disregarded when determining the reference amount.

(2) In this Schedule, "decommissioning relief agreement" and "reference amount" have the meaning given by section 80(2) of FA 2013.

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Timing of election

58 (1) A TTH election in respect of a TTH asset may not be made—
(a) before the licence transfer date, or
(b) after the end of the period of 90 days beginning with that date or, if later, 1 June 2019.

(2) Paragraph 3 of Schedule 1A to TMA 1970 (amendment of claims and elections) does not apply in relation to a TTH election (but see paragraph 74 (amounts discovered to be incorrect)).

Content

59 (1) The election must contain such information and declarations as an officer of Revenue and Customs may reasonably require.

(2) The officer may, in particular, require information and declarations as to—
(a) the TTH asset to which the election relates,
(b) the amount of the seller's taxable profits that are represented by the total TTH amount and each transferred profits amount,
(c) the rate of tax chargeable on those taxable profits, and the amount of tax paid,
(d) any decommissioning security agreement which relates to the TTH oil field and the seller, and any estimate of the decommissioning costs for the field determined for the purposes of any such agreement, and
(e) any decommissioning relief agreement to which the seller is a party (see paragraph 57).

Timing of an enquiry: cases where the corporate restructuring condition is met

60 (1) This paragraph applies if—
(a) a TTH election is made, and
(b) the corporate restructuring condition or the hive down condition is met in relation to that election.

(2) Paragraph 5(2)(a) of Schedule 1A to TMA 1970 (power to enquire into claims: time limits) has effect in relation to the election as if the reference in that provision to the day on which the claim was made were a reference to—
(a) in a case where the corporate restructuring condition is met by reference to paragraph 56(2)(b)(i), the day on which the third party election was made;
(b) in a case where the corporate restructuring condition is met by reference to paragraph 56(2)(b)(ii), the day on which the seller and purchaser cease to be associated with one another;
(c) in a case where the hive down condition is met, the day on which the seller and the purchaser ceased to be associated with one another.

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PART 9

TTH ELECTIONS: APPROVAL

Approval notice

61 An officer of Revenue and Customs may approve the TTH election by giving notice in writing (an "approval notice") to the seller and the purchaser.

Deemed approval

62 (1) If no approval notice or enquiry notice is given, in respect of the TTH election, before the end of the period mentioned in paragraph 5(2) of Schedule 1A to TMA 1970 (time limit for opening an enquiry), the election is deemed to have been approved by an officer of Revenue and Customs at the end of that period.

(2) In sub-paragraph (1), the reference to an "enquiry notice" is a reference to a notice under paragraph 5(1) of Schedule 1A to TMA 1970 (intention to enquire into a claim or election).

Conditions of approval

63 The purchaser is required, as a condition of the approval of the election—

(a) to comply with the profit tracking requirements in relation to—

(i) the accounting period in which the interest in a UK oil licence, referred to in paragraph 1, is acquired by the purchaser, and

(ii) each subsequent accounting period; and

(b) to keep and preserve records, in accordance with such requirements as may be specified by an officer of Revenue and Customs, for the purposes of giving effect to this Schedule.

Profit tracking requirements

64 (1) The purchaser complies with the profit tracking requirements in relation to an accounting period if the purchaser's company tax return for the period is accompanied by a statement of the tracked profit or loss amount for the period.

(2) The "tracked profit or loss amount" for an accounting period is the amount of profit or loss that is attributable to the TTH asset, excluding the relevant proportion of the decommissioning expenditure amount attributable to the TTH oil field, for that period.

(3) In sub-paragraph 64(2), "relevant proportion" has the same meaning as in paragraph 30 (see paragraph 30(5)).

65 (1) For the purposes of determining the tracked profit or loss amount for an accounting period—

(a) just and reasonable apportionments are to be made of the receipts, expenses, assets and liabilities of—

(i) the purchaser, and

(ii) any other company that is associated with the purchaser and has an interest in the TTH asset (including an interest in a share in the oil won and saved in the TTH oil field), and

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(b) for the purposes of paragraph (a), an officer of Revenue and Customs may require that financing costs for an accounting period are to be apportioned on such basis as the officer may reasonably specify before the beginning of that period.

(2) In this paragraph "financing costs" has the meaning it has for the purposes of section 330 of CTA 2010 (see section 331 of that Act).

Senior tracking officers

66 (1) The purchaser's senior tracking officer must—

(a) take reasonable steps to ensure that the tracked profit and loss amount attributable to a TTH asset for each tracking period is determined in accordance with paragraph 65, and

(b) provide the Commissioners for Her Majesty's Revenue and Customs with a certificate as to compliance with paragraph (a).

(2) For each tracking period, the purchaser must notify the Commissioners for Revenue and Customs of the name of each person who was its senior tracking officer at any time during the period.

(3) The certificate under sub-paragraph (1)(b), and the notice under sub-paragraph (2), must be given—

(a) in the form and manner specified by an officer of Revenue and Customs, and

(b) on or before the filing date for the purchaser's tax return for the tracking period (see paragraph 14 of Schedule 18 to FA 1998).

(4) In this Part, "tracking period", in relation to the TTH asset, means each accounting period in relation to which the purchaser is required under paragraph 63(a) to comply with the profit tracking requirements.

67 (1) The purchaser's "senior tracking officer" is the officer of the purchaser or of an associated company who, in the purchaser's reasonable opinion, has overall responsibility for the purchaser's financial accounting arrangements.

(2) In this section, "officer", in relation to a company, means—

(a) a director,

(b) a manager,

(c) a secretary, and

(d) any other person managing or purporting to manage any of the company's affairs.

68 (1) The senior tracking officer is liable to a penalty of £5,000 if the officer, without reasonable excuse—

(a) fails to comply with paragraph 66(1)(a) at any time in a tracking period, or

(b) fails to provide a certificate in accordance with paragraph 66(1)(b) and (3).

(2) The senior tracking officer is not liable to more than one penalty under paragraph 68(1)(a) in respect of the TTH asset and the same tracking period.

(3) If the purchaser, without reasonable excuse, fails to give a notice in accordance with paragraph 66(2) and (3), the purchaser is liable to a penalty of £5,000.

(4) If (but for this sub-paragraph) more than one person would be liable for a penalty under sub-paragraph 68(1)(a) or (b) in respect of the TTH asset and a tracking period,

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only the person who became the senior tracking officer latest in the tracking period is liable to such a penalty.

69 (1) Where a senior tracking officer, or the purchaser, becomes liable for a penalty under paragraph 68—
(a) Her Majesty's Revenue and Customs may assess the penalty, and
(b) if they do so, they must notify the person liable for the penalty.

(2) An assessment of a penalty under this Part for a failure in respect of a tracking period may not be made—
(a) more than 6 months after the failure first comes to the attention of an officer of Revenue and Customs, or
(b) more than 6 years after the filing date for the purchaser's tax return for the tracking period (see paragraph 14 of Schedule 18 to FA 1998).

(3) See paragraph 94 for provision about appeals against a penalty under paragraph 68.

70 (1) A penalty under paragraph 68 must be paid—
(a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 69 was issued, or
(b) if a notice of appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.

(2) A penalty under this Schedule may be enforced as if it were income tax charged in an assessment and due and payable or, in the case of the purchaser, corporation tax charged in an assessment and due and payable.

PART 10

TTH ELECTIONS: EFFECTIVE DATE AND WITHDRAWAL

Effective date of a TTH election

71 (1) A TTH election in respect of a TTH asset—
(a) has effect, if it is approved in accordance with paragraph 61 or 62, from the licence transfer date,
(b) continues to have effect indefinitely in relation to seller, and
(c) continues to have effect in relation to the purchaser unless it is withdrawn in accordance with the provisions of this Schedule.

(2) References in this Schedule to the "effective date of a TTH election" are to be construed in accordance with sub-paragraph (1)(a).

Withdrawal of a TTH election by an officer of Revenue and Customs

72 (1) A TTH election ceases to have effect in relation to the purchaser if—
(a) the purchaser, without reasonable excuse, persistently fails to comply with either of the conditions mentioned in paragraph 63, and
(b) an officer of Revenue and Customs gives notice to the purchaser of the withdrawal of the election.

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(2) If notice is given under sub-paragraph (1), the TTH election ceases to have effect in relation to the purchaser for the accounting period in which the notice is given and each subsequent accounting period.

(3) A notice given under sub-paragraph (1) does not affect any relief given by reference to paragraph 25 or 26 for a loss period ending before the notice is given.

(4) See paragraph 94 for provision about appeals against a decision to withdraw an election under this paragraph.

PART 11

TTH ELECTIONS: INACCURACIES

Penalties for errors

73 If a document provided for the purposes of making a TTH election contains an inaccuracy which is, or results in, an overstatement of the total TTH amount, Schedule 24 to FA 2007 has effect as if—

(a) the seller (and not the purchaser) is treated as giving the document to Her Majesty's Revenue and Customs,

(b) the inaccuracy is treated (so far as would not otherwise be the case) as leading to a false or inflated claim to repayment of tax, and

(c) "the potential lost revenue" in respect of the inaccuracy is an amount equal to 10% of the amount by which the total TTH amount is overstated.

Amendment of TTH election: amounts discovered to be incorrect

74 (1) This paragraph applies if an officer of Revenue and Customs discovers that a TTH election incorrectly states an amount that affects, or may affect—

(a) the amount which may be applied in accordance with paragraph 25 (effect of trade loss relief provisions), or

(b) the amount of a repayment determined by reference to paragraph 26 (supplementary charge: repayment of tax).

(2) The officer—

(a) may amend the TTH election to correct that amount, subject to paragraph 75, and

(b) must give notice to the purchaser of an amendment under paragraph (a).

(3) But the power to amend the TTH election under this paragraph may only be exercised if, at the time the election was approved (see paragraphs 61 and 62), an officer of Revenue and Customs could not have been reasonably expected, on the basis of the information made available to the officer before that time, to be aware that the amount stated was incorrect.

(4) An amendment under this paragraph may not be made more than 12 months after information that, in the opinion of an officer of Revenue and Customs, justifies the correction of the TTH election, comes to the officer's attention.

(5) An amendment under this paragraph is to be ignored for the purposes of the application of Part 3 of this Schedule (effect of a TTH election on the seller).

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(6) If, on or after the licence transfer date, the seller's total profits for a pre-transfer accounting period are reduced, the statement of the total profits (or a statement of an amount determined by reference to the total profits) is not to be regarded as incorrect for the purposes of this paragraph (but see paragraph 18).

(7) See paragraph 94 for provision about appeals against a decision under this paragraph.

75 (1) This paragraph applies if, before the correction under paragraph 74 is made, an activated transferred profits amount for a pre-acquisition accounting period has been applied in accordance with paragraph 25(2)(b) or (3)(b).

(2) An amendment made under paragraph 74(2) may not—

(a) reduce the transferred profits amount for that pre-acquisition accounting period to an amount which is less than the amount that has been applied, in respect of loss periods ending before the determination is made, in accordance with paragraph 25 for the pre-acquisition accounting period, or

(b) reduce the total TTH amount to an amount which is less than the total of the amounts that have been applied in accordance with paragraph 25 in respect of loss periods ending before the determination is made.

PART 12

CHARGEABLE GAINS

Transferred tax history is not to be regarded as an asset

76 Where the seller and the purchaser jointly make a TTH election in respect of the TTH asset, the transfer of tax history is not to be treated as—

(a) the disposal or acquisition of an asset for the purposes of TCGA 1992, or

(b) the disposal or acquisition of an intangible fixed asset for the purposes of Part 8 of CTA 2009.

Consideration for transferred tax history to be treated as consideration for the licence interest

77 The amount or value of any consideration for the transfer of tax history is to be treated as part of the consideration for the licence interest for the purposes of—

(a) computing the chargeable gain or allowable loss accruing on the disposal (or on any subsequent disposal) of the licence interest (see section 8 of TCGA 1992), and

(b) computing the disposal value of the licence interest, on its disposal, for the purposes of Part 5 of CAA 2001 (mineral extraction allowances).

Market value of the licence interest: value of transferred tax history to be taken into account

78 Any value attributable to the transfer of tax history is to be taken into account in determining the market value of the licence interest for the purposes of—

(a) section 17 of TCGA 1992 (disposals and acquisitions treated as being made at market value);

(b) Part 5 of CAA 2001, if the disposal value of the licence interest for the purposes of that Part is the market value of the licence interest at the time of that disposal (see section 423 of CAA 2001).

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Licence swaps: references to disposal include references to transfer of tax history

79 For the purposes of the application of sections 195A to 196 of TCGA 1992 (oil licence swaps) in relation to the disposal of the licence interest by the seller to the purchaser, references in those sections to the disposal are treated as including references to the transfer of tax history.

Interpretation of this Part

80 (1) References in this Part to "the transfer of tax history" are references to—

(a) the seller, in consequence of the TTH election, ceasing to be entitled to take the transferred profits for an accounting period into account for certain corporation tax purposes in the circumstances specified in Part 3 of this Schedule, and

(b) the purchaser, in consequence of the TTH election, acquiring an entitlement, in the circumstances specified in Part 4 of this Schedule, to apply an amount of the transferred profits for the purposes of the trade loss relief provisions and to a corresponding repayment of supplementary charge.

(2) References in this Part to "the licence interest" are references to the interest in a UK oil licence referred to in paragraph 1.

PART 13

ONWARD SALE

Application of paragraphs 83 to 90

81 This Part applies if—

(a) the purchaser (referred to in this Part as "the first purchaser") and the seller jointly make a TTH election (the "first TTH election") in respect of an interest (the "first TTH asset") in the TTH oil field,

(b) the first purchaser subsequently sells to another company ("the second purchaser") an interest in a UK oil licence which applies to the area which includes the TTH oil field, and

(c) the first purchaser and the second purchaser jointly make a TTH election (the "subsequent TTH election") in respect of an interest (the "subsequent TTH asset") in the TTH oil field.

82 (1) Sub-paragraph (2) applies if—

(a) the first purchaser has an interest in the UK oil licence referred to in paragraph 1, in addition to the interest in that licence acquired from the seller, and

(b) the UK oil licence referred to in paragraph 81(b) is the same UK oil licence referred to in paragraph 1.

(2) Interests in the licence acquired later by the first purchaser are treated, for the purposes of this Part, as being transferred to the second purchaser before interests in the licence acquired earlier by the first purchaser.

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Original TTH amount treated as eligible ring fence profits

83 (1) This Schedule applies, for the purposes of the subsequent TTH election, as if the original TTH amount for all relevant accounting periods were an amount of the first purchaser's eligible ring fence profits for that period.

(2) Sub-paragraph (1) is subject to paragraphs 85 to 88.

(3) In this Part of this Schedule, "relevant accounting period" means a pre-acquisition accounting period of the first purchaser for which there is, immediately before the effective date of the subsequent TTH election, an unused transferred profits amount.

(4) In this Part of this Schedule, references to the "original TTH amount" mean, in relation to a relevant accounting period—

(a) the unused transferred profits amount for that period, or

(b) if the first TTH asset is not the same as the subsequent TTH asset, the relevant proportion of that amount for that period.

(5) For the purposes of sub-paragraph (4)(b), the "relevant proportion" is the proportion that the subsequent TTH asset bears to the first TTH asset or, if the proportion cannot reasonably be determined on that basis, such other proportion determined on a just and reasonable basis.

(6) In this paragraph, references to the unused transferred profits amount for an accounting period are references to—

(a) the transferred profits amount, in relation to the first TTH election, for that period, less

(b) the total of the amounts applied for that period in accordance with paragraph 25, for the purposes of the application of that paragraph in relation to a loss period of the first purchaser.

84 The original TTH amount for each relevant accounting period ceases to be treated, for the purposes of the first TTH election, as a transferred profits amount for that period in relation to the first purchaser.

Original TTH amount transferred before eligible ring fence profits (subject to opt-out)

85 (1) Paragraphs 86 and 87 apply in relation to the subsequent TTH election, subject to sub-paragraph (2).

(2) The first purchaser and the second purchaser may elect, at the time the TTH election is made, that neither paragraph 86 nor paragraph 87 applies in relation to the subsequent TTH election.

86 (1) The total TTH amount may not include an amount representing the first purchaser's eligible ring fence profits for an accounting period unless it also includes an amount representing, in respect of each relevant accounting period, the original TTH amount for that period.

(2) Paragraph 11 (consecutive accounting periods) does not apply in relation to an amount representing an original TTH amount for a relevant accounting period (but see sub-paragraph (3)).

(3) The total TTH amount may not include an amount representing the original TTH amount for a particular accounting period unless it also includes an amount

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representing the original TTH amount for the next following relevant accounting period.

(4) If the original TTH amount exceeds the total TTH amount, the transferred profits amount for the earliest relevant accounting period must be an amount equal to—

(a) the total TTH amount, less

(b) the transferred profits amount for later relevant accounting periods.

(5) For the purposes of paragraph 12 (the transferred profits amount)—

(a) references to the "earliest period" are to be treated as references to the earliest accounting period for which there is a transferred profits amount by reason of the first purchaser's eligible ring fence profits for that period (and not by reason of an original TTH amount for that period), and

(b) the reference in sub-paragraph (2) to the TTH balance for the earliest period is to be treated as a reference to the TTH balance less the transferred profits amounts for each relevant accounting period.

87 In the application of this Schedule for the purposes of the subsequent TTH election—

(a) in sub-paragraph (2) of paragraph 30 (TTH activation event), the reference to an allowance or allocation made to the purchaser includes a reference to the relevant proportion (within the meaning of paragraph 83(5)) of an allowance or allocation made to the first purchaser;

(b) in paragraph 30(2)(b) and (3)(b), and in paragraph 31 (decommissioning expenditure amount), references to a post-acquisition accounting period of the purchaser include references to a post-acquisition accounting period of the first purchaser;

(c) in paragraph 30(3) as it applies in relation to post-acquisition accounting periods of the first purchaser, the reference to amounts attributable to the TTH asset is to be treated as a reference to the relevant proportion (within the meaning of paragraph 83(5)) of those amounts;

(d) in paragraph 30(5) as it applies for the purposes of determining the total decommissioning expenditure amount in relation to a post-acquisition accounting period of the first purchaser, the reference to the purchaser is to be treated as a reference to the first purchaser;

(e) references in this Schedule to a pre-acquisition accounting period of the purchaser include references to a pre-acquisition accounting period of the first purchaser;

(f) references in paragraphs 83 to 86 and 89 to an amount of the first purchaser's eligible ring fence profits do not includes references to an original TTH amount.

Opt-out under paragraph 85(2): further provision about the application of this Schedule

88 (1) This paragraph applies if—

(a) the first purchaser and the second purchaser make an election under paragraph 85(2) (disapplication of paragraphs 86 and 87), and

(b) in relation to the subsequent TTH election, the total TTH amount exceeds the total amount of the first purchaser's eligible ring fence profits for—

(i) the accounting period which is, at the licence transfer date in relation to the subsequent TTH election, the first purchaser's most recent

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qualifying accounting period in respect of which the amendment period has ended, and

(ii) each earlier accounting period which is, in relation to the first TTH election, a post-acquisition accounting period of the first purchaser.

(2) In the application of this Schedule for the purposes of the subsequent TTH election—

(a) in sub-paragraph (2) of paragraph 30 (TTH activation event), the reference to an allowance or allocation made to the purchaser includes a reference to the relevant proportion (within the meaning of paragraph 83(5)) of an allowance or allocation made to the first purchaser;

(b) in paragraph 30(2)(b) and (3)(b), and in paragraph 31 (decommissioning expenditure amount), references to a post-acquisition accounting period of the purchaser include references to the accounting periods of the first purchaser mentioned in sub-paragraph (1)(b)(i) and (ii);

(c) in paragraph 30(3) as it applies in relation to the accounting periods of the first purchaser mentioned in sub-paragraph (1)(b)(i) and (ii), the reference to amounts attributable to the TTH asset is to be treated as a reference to the relevant proportion (within the meaning of paragraph 83(5)) of those amounts;

(d) in paragraph 30(5) as it applies for the purposes of determining the total decommissioning expenditure amount in relation to an accounting period of the first purchaser mentioned in sub-paragraph (1)(b)(i) or (ii), the reference to the purchaser is to be treated as a reference to the first purchaser;

(e) in paragraph 83 and in sub-paragraph (1)(b) of this paragraph, references to an amount of the first purchaser's eligible ring fence profits do not include references to an original TTH amount.

Supplementary charge: treatment of transferred adjusted ring fence profits

89 (1) The provisions of this Schedule apply, for the purposes of the subsequent TTH election, as if—

(a) the transferred adjusted ring fence profits amount for each relevant accounting period, or

(b) if the first TTH asset is not the same as the subsequent TTH asset, the relevant proportion of that amount for that period,

were an amount of the first purchaser's eligible adjusted ring fence profits for that period.

(2) For the purposes of sub-paragraph (1)(b), "the relevant proportion" means the proportion that the subsequent TTH asset bears to the first TTH asset or, if the proportion cannot reasonably be determined on that basis, such other proportion determined on a just and reasonable basis.

Tracking

90 (1) This paragraph applies if, after the effective date of the subsequent TTH election, the first purchaser continues to be liable for the decommissioning costs, or for a proportion of the decommissioning costs, for the subsequent TTH asset.

(2) In the application of this Schedule for the purposes of the subsequent TTH election, references to the "purchaser" in paragraph 65 are to be treated, in respect of the

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period beginning with the effective date of the subsequent TTH election, as including references to the second purchaser.

Sale by the second purchaser or subsequent sale

91 In the case of a sale by the second purchaser, or a subsequent sale, of an interest within paragraph 81(c) in respect of which the parties make a TTH election—

(a) references in paragraph 86 to the original TTH amount are references to the original TTH amount in relation to each election,

(b) amounts in relation to earlier elections are to be applied for the purposes of paragraph 86(1) and (3) before amounts in relation to later elections,

(c) the provisions of paragraph 87 apply in relation to the second purchaser, and each subsequent purchaser, as they apply in relation to the first purchaser, and

(d) in paragraph 90—

(i) the reference to the first purchaser in sub-paragraph (1) is treated as including a reference to the second purchaser, or a subsequent purchaser, and

(ii) sub-paragraph (2) applies in relation to each subsequent purchaser as it applies in relation to the second purchaser.

PART 14

SUPPLEMENTARY

Multiple interests in the same oil field

92 (1) This paragraph applies if—

(a) interests in more than one UK oil licence are sold by the seller to the purchaser at the same time, and

(b) the seller and the purchaser would be entitled to jointly make a TTH election in respect of more than one interest in the same oil field that falls within both licensed areas.

(2) The seller and purchaser may jointly make a TTH election in respect of all interests in the oil field.

(3) If an election is made in accordance with this paragraph, the interests mentioned in sub-paragraph (2) are to be treated as a single interest for the purposes of this Schedule (and references in this Schedule to "the TTH asset" are to be construed accordingly).

Multiple TTH elections

93 (1) This paragraph applies if, in a loss period, more than one TTH election in respect of the TTH asset has effect in relation to the purchaser.

(2) For the purposes of paragraph 44 (allocation of activated TTH to an accounting period)—

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(a) references to the unused transferred profits amount for an accounting period are to be treated as references to the total of the unused transferred profits amounts for that period in respect of each of the TTH elections, and

(b) the amount in respect of a later TTH election is to be allocated to an accounting period before the amount which is subject to an earlier TTH election.

Appeals

94 (1) A person may appeal against—

(a) a decision that a penalty under paragraph 68 is payable by that person;

(b) a decision to withdraw a TTH election under paragraph 72;

(c) a decision to amend a TTH election under paragraph 74 (amounts discovered to be incorrect).

(2) Notice of an appeal must be given—

(a) in writing,

(b) before the end of the period of 30 days beginning with the date on which notice of the decision is given, and

(c) to an officer of Revenue and Customs.

(3) Notice of an appeal must state the grounds of appeal.

(4) On an appeal that is notified to the tribunal, the tribunal may—

(a) confirm or cancel the decision, or

(b) in the case of an appeal within sub-paragraph (1)(c), substitute for the decision another decision that an officer of Revenue and Customs had power to make.

(5) If a decision under paragraph 72 (withdrawal) is cancelled, the TTH election is to be treated as having had continuing effect (subject to any further appeal).

(6) Subject to this paragraph and (in the case of an appeal within sub-paragraph (1)(a)) paragraph 70, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this paragraph as they have effect in relation to appeals against an assessment to corporation tax.

Anti-avoidance

95 (1) If a person enters into arrangements within sub-paragraph (2), an officer of Revenue and Customs may—

(a) amend a TTH election, or

(b) amend or disallow a claim,

to secure that the election or claim has effect as if the arrangements had not been entered into.

(2) Arrangements are within this sub-paragraph if it is reasonable to regard the arrangements as—

(a) designed to secure that an entitlement to a repayment, or an increased repayment, of tax by reason of the application of any provision of this Schedule, arises earlier than would (apart from the arrangements) be the case,

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(b) circumventing the intended limits of the provisions of this Schedule on an amount that is relevant for the purposes of determining a repayment of tax by reference to those provisions, or

(c) otherwise exploiting shortcomings in those provisions.

(3) In this paragraph, "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

96 (1) If relief is given to a person under the trade loss relief provisions by reference to an amount of the seller's ring fence profits which (by reason of the application of the provisions of this Schedule) is treated as if it were an amount of the purchaser's profits, no relief may be given to any other person by reference to the same amount.

(2) If a repayment of supplementary charge is made to a person by reference to an amount of the seller's adjusted ring fence profits which (by reason of the application of the provisions of this Schedule) is treated as if it were an amount of the purchaser's adjusted ring fence profits, no repayment may be made to any other person by reference to the same amount.

PART 15

INTERPRETATION

Introductory

97 The following definitions apply for the purposes of this Schedule.

98 Expressions used in this Schedule that are defined for the purposes of Part 8 of CTA 2010 (oil activities) have the same meaning in this Schedule as in Part 8 of that Act.

"UK oil licence"

99 "UK oil licence" means a licence granted under—

(a) Part 1 of the Petroleum Act 1998, or

(b) the Petroleum (Production) Act (Northern Ireland) 1964 (c.28 (N.I.)).

"Licensed area" and "transferred oil field"

100 In this Schedule—

(a) references to the "licensed area" are references to the area to which the UK oil licence mentioned in paragraph 1 applies, and

(b) references to a "transferred oil field" are references to an oil field, or such part of an oil field, that falls within the licensed area.

"Licence transfer date"

101 "Licence transfer date", in relation to a TTH election, means the date of completion of the sale of the TTH asset in respect of which the election is made.

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The seller's "reference accounting period"

102 (1) The seller's "reference accounting period" is the accounting period which is, at the licence transfer date, the seller's most recent qualifying accounting period in respect of which the amendment period has ended.

(2) The "amendment period", in relation to an accounting period, is 12 months beginning with the filing date for the company tax return for the accounting period.

(3) In this paragraph "filing date" has the same meaning as in Schedule 18 to FA 1998 (see paragraph 14 of that Schedule).

The purchaser's "reference accounting period"

103 (1) The "purchaser's reference accounting period" means—

(a) an accounting period of the purchaser that begins with the same date as, and ends with the same date as, the seller's reference accounting period, or

(b) if no accounting period of the purchaser falls within paragraph (a), the earliest accounting period of the purchaser that overlaps with the seller's reference accounting period.

(2) See paragraph 106 for provision about accounting periods before the purchaser comes within the charge to corporation tax.

The seller's "pre-transfer accounting periods"

104 Each of the following is a "pre-transfer accounting period" of the seller—

(a) the reference accounting period (see paragraph 102), and

(b) each preceding accounting period.

The purchaser's "pre-acquisition accounting periods" and "post-acquisition accounting periods"

105 (1) Each of the following is a "pre-acquisition accounting period" of the purchaser—

(a) the purchaser's reference accounting period, and

(b) each preceding accounting period.

(2) Each of the following is a "post-acquisition accounting period" of the purchaser—

(a) the first accounting period after the purchaser's reference accounting period,

(b) each subsequent accounting period, and

(c) each period which is a notional accounting period for the purposes of section 165 or section 416ZA of CAA 2001.

(3) See paragraph 106 for provision about accounting periods before the purchaser comes within the charge to corporation tax.

Accounting periods before the purchaser comes within the charge to corporation tax

106 (1) This paragraph applies if the date on which the purchaser comes within the charge to corporation tax falls after the end of the seller's reference accounting period.

(2) The provisions of this Schedule have effect as if the purchaser had—

(a) an accounting period of 12 months ending on the day before the purchaser comes within the charge to corporation tax, and

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(b) successive accounting periods of 12 months in the preceding period.

"Transferred profits amount" and "activated transferred profits amount"

107 (1) References to the "transferred profits amount" for an accounting period of the seller are references to the amount representing the seller's ring fence profits for that period which forms part of the total TTH amount.

(2) See paragraph 45 for provision about references to the "transferred profits amount" for a pre-acquisition accounting period of the purchaser.

(3) See paragraph 25(4) for provision about the meaning of "activated transferred profits amount".

"Trade loss relief provisions"

108 "Trade loss relief provisions" means 37 to 44 of CTA 2010 (trade losses: carry back relief etc).

SCHEDULE 16

Section 39

ENTREPRENEURS' RELIEF

Periods throughout which conditions for relief must be met

1 (1) Chapter 3 of Part 5 of TCGA 1992 (transfer of business assets: entrepreneurs' relief) is amended as follows.

(2) In section 169I (material disposal of business assets)—

(a) in subsections (3), (6) and (7A)(b) and (c), for "1 year" substitute " 2 years ",

(b) in subsection (4)(a), for "1 year" substitute " 2 years ",

(c) in subsections (7) and (7B)(b) and (c), for "1 year" substitute " 2 years ", and

(d) after subsection (7) insert—

"(7ZA) If, in any case where an individual disposes of any shares in a company—

(a) there has been an issue of shares in the company to the individual following a relevant business transfer, and

(b) any of the issued shares constitute, or otherwise form part of, the shares disposed of,

the conditions in subsection (6)(a) and (b) are to be treated as met in any period ending immediately before the transfer throughout which the individual owned the business.

(7ZB) For the purposes of subsection (7ZA), shares have been issued "following a relevant business transfer" if they have been issued wholly or partly in exchange for the transfer of a business as a going concern, together with the whole assets of the business or the whole of those assets other than cash."

(3) In section 169J (disposal of trust business assets)—

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(a) in subsection (4), for "1 year" substitute " 2 years ", and
(b) in subsection (5)(a), for "1 year" substitute " 2 years ".

(4) In section 169K(4) (disposal associated with relevant material disposal), for "1 year" substitute " 2 years ".

(5) In section 169O(6) (amount of relief: special provisions for certain trust disposals), for "1 year" substitute " 2 years ".

(6) In Schedule 7ZA ("trading company" and "trading group"), in paragraph 25 (meaning of "relevant period")—
(a) in sub-paragraph (a), for "1 year" substitute " 2 years ", and
(b) in sub-paragraphs (b) and (c), for "1 year" substitute " 2 years ".

Additional requirements relating to the beneficial ownership of companies

2 (1) Chapter 3 of Part 5 of TCGA 1992 (transfer of business assets: entrepreneurs' relief) is amended as follows.

(2) In section 169K(1B) (disposals associated with relevant material disposal), for paragraph (a) (together with the "and" at the end of it) substitute—
"(a) the ordinary shares disposed of constitute at least 5% of the company's ordinary share capital and are shares in the individual's personal company (and section 169S(3A)(a) to (c) apply here but as if the reference to the final day of the period mentioned in section 169S(3A)(a) were to the date of the disposal), and".

(3) In section 169LA (relevant business assets: goodwill transferred to a close company)—
(a) for subsection (1) substitute—
"(1) Subject to subsection (1A), subsection (4) applies if—
(a) as part of a qualifying business disposal, a person ("P") disposes of goodwill directly or indirectly to a close company ("C"), and
(b) immediately after the disposal, P meets any of the personal company conditions in the case of C or any company which is a member of a group of companies of which C is a member.

(1ZA) For the purposes of subsection (1)(b)—
(a) the reference to the personal company conditions is a reference to any of the conditions in 169S(3)(a), (b), (c)(i) or (ii), and
(b) P is taken to have all the rights and interests of any relevant connected person.

(1ZB) For the purposes of subsection (1ZA)—
(a) section 169S(3) is treated as having effect with the omission of the references to "by virtue of that holding",
(b) section 169S(3A)(a) and (b) are to apply for the purposes of section 169S(3)(c)(ii) but as if the reference to the final day

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of the period mentioned in section 169S(3A)(a) were to the time immediately after the disposal, and

(c) the condition in section 169S(3)(c)(i) is to be read as containing two separate conditions (one relating to profits and the other relating to assets).", and

(b) in subsection (1A)(a), for "subsection (1)(aa)" substitute " subsection (1)(b) ".

(4) In section 169S (interpretation of Chapter), for subsections (3) and (4) substitute—

"(3) For the purposes of this Chapter a company is a "personal company" in relation to an individual if—

(a) the individual holds at least 5% of the ordinary share capital of the company,

(b) by virtue of that holding, at least 5% of the voting rights in the company are exercisable by the individual, and

(c) either or both of the following conditions are met—

(i) by virtue of that holding, the individual is beneficially entitled to at least 5% of the profits available for distribution to equity holders and, on a winding up, would be beneficially entitled to at least 5% of assets so available, or

(ii) in the event of a disposal of the whole of the ordinary share capital of the company, the individual would be beneficially entitled to at least 5% of the proceeds.

(3A) In determining whether subsection (3)(c)(ii) applies for the purposes of any provision of this Chapter under which a question arises as to whether or not a company is the individual's personal company at any time in a particular period —

(a) it is to be assumed that (so far as this is not otherwise the case) the whole of the ordinary share capital is disposed of at that time for a consideration equal to its market value on the final day of the period,

(b) it is to be assumed that the amount of the proceeds to which the individual would be beneficially entitled at that time is the amount of the proceeds to which, having regard to all the circumstances as they existed at that time, it would be reasonable to expect the person to be beneficially entitled, and

(c) the effect of any avoidance arrangements is to be ignored.

(3B) For the purposes of subsection (3A)(c)—

(a) arrangements are "avoidance arrangements" if the main purpose of, or one of the main purposes of, the arrangements is to secure that any provision of this Chapter applies or does not apply, and

(b) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(3C) For the purposes of subsection (3) if the individual holds any shares in the company jointly with one or more other persons, the individual is to be treated as the sole holder of so many of them as is proportionate to the value of the individual's share (and references in subsection (3) to the exercise of voting rights or beneficial entitlement are to be read accordingly).

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(3D) A modified version of Chapter 6 of Part 5 of CTA 2010 (group relief: equity holders and profits or assets available for distribution) applies for the purposes of subsection (3) reading references to company A as references to the individual.

(3E) The reference here to a modified version of Chapter 6 of Part 5 of CTA 2010 is to the provisions of that Chapter having effect as if—

(a) for the purposes of section 158(1)(b), a person carrying on a business of banking were not a loan creditor of a company in respect of any loan capital or debt issued or incurred by the company for money lent by the person to the company in the ordinary course of that business,

(b) sections 171(1)(b) and (3), 173, 174 and 176 to 181 were omitted, and

(c) any modifications were made as are necessary for the purpose of applying that Chapter as if the individual were company A."

Relief where company ceases to be individual's personal company

3 In Part 5 of TCGA 1992 (transfer of business assets), after Chapter 3 (entrepreneurs' relief) insert—

"CHAPTER 3A

ENTREPRENEURS' RELIEF WHERE COMPANY CEASES TO BE INDIVIDUAL'S PERSONAL COMPANY

Overview of Chapter

169SB **Overview of Chapter**

This Chapter makes provision about an individual claiming entrepreneurs' relief in certain cases where relief would otherwise become unavailable because of a company ceasing to be the individual's personal company.

Election by individual where company ceases to be personal company

169SC **Election by individual where company ceases to be personal company**

(1) If the following conditions are met, an individual may elect for this section to have effect.

(2) The first condition is that, as a result of a relevant share issue, the company ceases to be the individual's personal company.

(3) The second condition is that—

(a) if, immediately before the relevant share issue, the individual had made a disposal at their relevant value of all assets consisting of shares in or securities of the company, the disposal would have been a material disposal of business assets, and

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(b) if a claim for entrepreneurs' relief had been made in respect of that disposal, a chargeable gain would have been treated by section 169N(2) as accruing to the individual.

(4) Where this section has effect, the individual is to be treated for the purposes of this Act—

(a) as having made a disposal immediately before the relevant share issue of all assets consisting of shares in or securities of the company, and

(b) immediately after that event, as having reacquired those assets,

at their relevant value.

(5) In this section—

"material disposal of business assets" and "personal company" have the same meanings as in Chapter 3 (see section 169S),

"relevant share issue" means an issue of shares by the company where—

(a) the shares are issued by the company for consideration consisting wholly of cash, and

(b) the shares are subscribed, and issued, for genuine commercial reasons and not as part of arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage to any person, and

"relevant value" means—

(a) in relation to an asset consisting of shares, an amount equal to the consideration that would be apportioned to the asset if, immediately before the relevant share issue, the whole of the issued share capital of the company were sold for a consideration equal to its market value at that time, or

(b) in relation to any other asset, its market value at the time of the relevant share issue.

(6) For the purposes of the definition of "relevant share issue" in subsection (5)—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

"tax advantage" means—

(a) relief or increased relief from tax,

(b) repayment or increased repayment of tax,

(c) the avoidance or reduction of a charge to tax or an assessment to tax, or

(d) the avoidance of a possible assessment to tax,

and for the purposes of this definition "tax" means capital gains tax, corporation tax or income tax.

(7) In this Chapter—

(a) references to "the notional disposal" are references to the disposal mentioned in subsection (4)(a),

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(b) references to "the notional gain" are references to the chargeable gain mentioned in subsection (3)(b), and

(c) references to shares in or securities of a company include references to interests in such shares or securities.

Supplementary election to defer gains until subsequent disposal

169SD **Supplementary election to defer gains until subsequent disposal**

(1) An individual who makes an election under section 169SC may also elect that, for the purposes of this Act—

(a) no chargeable gain or allowable loss is to be treated as accruing to the individual on the notional disposal, but

(b) a chargeable gain calculated in accordance with this section is to be treated as accruing to the individual on any subsequent disposal by the individual of one or more assets consisting of shares in or securities of the company (in addition to any gain or loss that actually accrues on that disposal).

(2) The chargeable gain treated as accruing to the individual on a subsequent disposal is the amount resulting from the following steps—

Step 1 Attribute the notional gain to each of the classes of shares in or securities of the company which are the subject of the notional disposal. The attribution must be made, in relation to each class, by reference to the proportion that—

(a) the relevant gains (see section 169N(5)) accruing on the notional disposal in respect of shares or securities within each class bears to

(b) the total amount of relevant gains accruing on the notional disposal.

Step 2 Apportion the amount attributed to each class under Step 1 to the shares or securities of that class which are the subject of the subsequent disposal. The apportionment must be by reference to the proportion that—

(a) the nominal value of the shares or securities of that class which are the subject of the subsequent disposal bears to

(b) the nominal value of shares or securities of that class which are the subject of the notional disposal.

Step 3 The amount resulting from these steps is—

(a) the total of the amounts apportioned to shares or securities under Step 2, but

(b) excluding, in relation to each class of shares or securities, so much of those amounts as would, together with any chargeable gains treated by this section as accruing on previous disposals of shares or securities of that class, exceed the amount attributed to that class under Step 1.

(3) If the subsequent disposal is a disposal by virtue of section 122, the nominal value of shares of a particular class which are the subject of that disposal is to be treated for the purposes of Step 2 of subsection (2) as being equal to the nominal value of shares of that class as are the subject of the notional disposal.

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Application of section 169SD where section 116 applies

169SE **Application of section 169SD where section 116 applies**

(1) This section has effect in any case where a transaction occurs to which section 116 (reorganisations, conversions and reconstructions) applies.

(2) If sections 116(10)(b) and 169SD(1)(b) have effect in relation to a subsequent disposal of the new asset—

(a) there must be calculated the chargeable gain that would have been treated by section 169SD(1)(b) as accruing to the individual if, at the time of the relevant transaction, the old asset had been disposed of immediately before that transaction,

(b) the whole or a corresponding part of the chargeable gain mentioned in paragraph (a) is to be treated as accruing on the subsequent disposal of the whole or part of the new asset (in addition to any gain or loss that actually accrues on that disposal and any chargeable gain treated by section 116(10)(b) as accruing on that disposal), and

(c) on that subsequent disposal, section 115 (exemptions for gilt-edged securities and qualifying corporate bonds) has effect only in relation to any gain that actually accrues and not in relation to any gain which is treated as accruing by virtue of paragraph (b).

(3) In subsection (2) "the new asset", "the old asset" and "the relevant transaction" have the same meanings as in section 116.

Application of section 169SD where sections 127 to 130 apply

169SF **Application of section 169SD where sections 127 to 130 apply**

(1) This section has effect in any case where a transaction occurs to which sections 127 to 130 (treatment of share capital following a reorganisation) apply by virtue of any provision of Chapter 2 of Part 4.

(2) If a gain is treated by section 169SD(1)(b) as accruing on a subsequent disposal of the new holding and it is necessary to apportion the gain between shares or securities forming part of that new holding, the apportionment must be made in the same proportions as those in which the costs of acquisition of the original shares fall to be apportioned under the provisions of that Chapter.

(3) If subsection (3) of section 128 (consideration given or received by holder) has effect in relation to an individual, the individual is treated for the purposes of section 169SD as making the disposal of the interest in the original shares mentioned in that subsection.

(4) In this section "the new holding" and "the original shares" have the same meanings as in sections 127 to 130 (see section 126).

Elections under sections 169SC and 169SD

169SG **Elections under sections 169SC and 169SD**

(1) An election under section 169SC or 169SD is irrevocable.

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(2) An election under section 169SC must be made on or before the first anniversary of the 31 January following the tax year in which the notional disposal is made ("the relevant tax year").

(3) An election under section 169SD may not be made more than 4 years after the end of the relevant tax year.

(4) If—

(a) an individual makes an election under both sections 169SC and 169SD, and

(b) a tax return under the Management Act would not otherwise be required for the relevant tax year,

the individual may make the elections by giving notice on or before the first anniversary of the 31 January following the relevant tax year.

Claims for relief in respect of subsequent disposals

169SH **Claims for relief in respect of subsequent disposals**

(1) Where, as a result of an election under section 169SD, a chargeable gain is to be treated as accruing on a subsequent disposal, the following rules have effect.

(2) The individual making the subsequent disposal must make a claim for entrepreneurs' relief on or before the first anniversary of the 31 January following the first tax year in which, as a result of the election, the chargeable gain is to be treated as accruing.

(3) The chargeable gain is to be treated for the purposes of section 169N as the amount resulting from a calculation under subsection (1) of that carried out when that chargeable gain accrues and because of the claim mentioned in subsection (2).

(4) If the chargeable gain is a part only of the notional gain, each chargeable gain that subsequently accrues is to be treated for the purposes of section 169N as the amount resulting from a calculation under subsection (1) of that section carried out when that chargeable gain arises and because of the claim mentioned in subsection (2).

(5) In relation to the claim for entrepreneurs' relief in respect of the chargeable gain, the company is to be treated for the purposes of condition A in section 169I(6) as if it were, throughout the period of 2 years ending with the date of the subsequent disposal, the individual's personal company."

Commencement

4 (1) Subject as follows, the amendments made by paragraph 1 of this Schedule have effect in relation to disposals on or after 6 April 2019.

(2) The amendments made by paragraph 1(2)(b), (3)(b) and (4) do not have effect in relation to a disposal where the time at which the business ceases to be carried on is before 29 October 2018.

(3) The amendments made by paragraph 1(2)(c), (3)(a) and (6)(b) do not have effect in relation to a disposal where the date on which the company—

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(a) ceases to be a trading company without continuing to be or becoming a member of a trading group, or

(b) ceases to be a member of a trading group without continuing to be a trading company,

is before 29 October 2018.

(4) The amendments made by paragraph 2 of this Schedule have effect in relation to disposals on or after 29 October 2018 but, in the case of a disposal made before 21 December 2018, section 169LA(1ZA)(a) of TCGA 1992 has effect as if the reference to section 169S(3)(c)(ii) of that Act were omitted.

(5) The amendment made by paragraph 3 of this Schedule has effect in relation to relevant share issues (within the meaning given by section 169SC(5) of TCGA 1992) which take place on or after 6 April 2019.

SCHEDULE 17

Section 52

VAT TREATMENT OF VOUCHERS

1 VATA 1994 is amended as follows.

2 In section 51B—

(a) in the heading, at the end insert " issued before 1 January 2019 ";

(b) the existing text becomes subsection (1);

(c) after that subsection insert—

"(2) Schedule 10A does not have effect with respect to a face value voucher (within the meaning of that Schedule) issued on or after 1 January 2019."

3 After section 51B insert—

"**51C Vouchers issued on or after 1 January 2019**

"**51C "51C Vouchers issued on or after 1 January 2019**

(1) Schedule 10B makes provision about the VAT treatment of vouchers.

(2) Schedule 10B has effect with respect to a voucher (within the meaning of that Schedule) issued on or after 1 January 2019.

51D Postage stamps issued on or after 1 January 2019

51D 51D Postage stamps issued on or after 1 January 2019

(1) The issue of a postage stamp, and any subsequent transfer of it, is a supply of services for the purposes of this Act.

(2) The consideration for the issue or subsequent transfer of a postage stamp is to be disregarded for the purposes of this Act, except to the extent (if any) that it exceeds the face value of the stamp.

(3) The "face value" of the stamp is the amount stated on or recorded in the stamp or the terms and conditions governing its use.

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(4) This section has effect with respect to postage stamps issued on or after 1 January 2019."

4 In the heading to Schedule 10A, at the end insert " issued before 1 January 2019 ".

5 After Schedule 10A insert—

"SCHEDULE 10B

Section 51C

VAT TREATMENT OF VOUCHERS ISSUED ON OR AFTER 1 JANUARY 2019

Meaning of "voucher"

1 (1) In this Schedule "voucher" means an instrument (in physical or electronic form) in relation to which the following conditions are met.

(2) The first condition is that one or more persons are under an obligation to accept the instrument as consideration for the provision of goods or services.

(3) The second condition is that either or both of—

(a) the goods and services for the provision of which the instrument may be accepted as consideration, and

(b) the persons who are under the obligation to accept the instrument as consideration for the provision of goods or services,

are limited and are stated on or recorded in the instrument or the terms and conditions governing the use of the instrument.

(4) The third condition is that the instrument is transferable by gift (whether or not it is transferable for consideration).

(5) The following are not vouchers—

(a) an instrument entitling a person to a reduction in the consideration for the provision of goods or services;

(b) an instrument functioning as a ticket, for example for travel or for admission to a venue or event;

(c) postage stamps.

Meaning of related expressions

2 (1) This paragraph gives the meaning of other expressions used in this Schedule.

(2) "Relevant goods or services", in relation to a voucher, are any goods or services for the provision of which the voucher may be accepted as consideration.

(3) References in this Schedule to the transfer of a voucher do not include the voucher being offered and accepted as consideration for the provision of relevant goods or services.

(4) References in this Schedule to a voucher being offered or accepted as consideration for the provision of relevant goods or services include references to the voucher being offered or accepted as part consideration for the provision of relevant goods or services.

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VAT treatment of vouchers: general rule

3 (1) The issue, and any subsequent transfer, of a voucher is to be treated for the purposes of this Act as a supply of relevant goods or services.

(2) References in this Schedule to the "paragraph 3 supply", in relation to the issue or transfer of a voucher, are to the supply of relevant goods or services treated by this paragraph as having been made on the issue or transfer of the voucher.

Single purpose vouchers: special rules

4 (1) A voucher is a single purpose voucher if, at the time it is issued, the following are known—

(a) the place of supply of the relevant goods or services, and

(b) that any supply of relevant goods or services falls into a single supply category (and what that supply category is).

(2) The supply categories are—

(a) supplies chargeable at the rate in force under section 2(1) (standard rate),

(b) supplies chargeable at the rate in force under section 29A (reduced rate),

(c) zero-rated supplies, and

(d) exempt supplies and other supplies that are not taxable supplies.

(3) For the purposes of this paragraph, assume that the supply of relevant goods or services is the provision of relevant goods or services for which the voucher may be accepted as consideration (rather than the supply of relevant goods or services treated as made on the issue or transfer of the voucher).

5 (1) This paragraph applies where a single purpose voucher is accepted as consideration for the provision of relevant goods or services.

(2) The provision of the relevant goods or services is not a supply of goods or services for the purposes of this Act.

(3) But where the person who provides the relevant goods or services (the "provider") is not the person who issued the voucher (the "issuer"), for the purposes of this Act the provider is to be treated as having made a supply of those goods or services to the issuer.

Multi-purpose vouchers: special rules

6 A voucher is a multi-purpose voucher if it is not a single purpose voucher.

7 (1) Any consideration for the issue or subsequent transfer of a multi-purpose voucher is to be disregarded for the purposes of this Act.

(2) The paragraph 3 supply made on the issue or subsequent transfer of a multi-purpose voucher is to be treated as not being a supply within section 26(2).

8 (1) Where a multi-purpose voucher is accepted as consideration for the provision of relevant goods or services, for the purposes of this Act—

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(a) the provision of the relevant goods or services is to be treated as a supply, and

(b) the value of the supply treated as having been made by paragraph (a) is determined as follows.

(2) If the consideration for the most recent transfer of the voucher for consideration is known to the supplier, the value of the supply is such amount as, with the addition of the VAT chargeable on the supply, is equal to that consideration.

(3) If the consideration for the most recent transfer of the voucher for consideration is not known to the supplier, the value of the supply is such amount as, with the addition of the VAT chargeable on the supply, is equal to the face value of the voucher.

(4) The "face value" of a voucher is the monetary value stated on or recorded in—

(a) the voucher, or

(b) the terms and conditions governing the use of the voucher.

Intermediaries

9 (1) This paragraph applies where—

(a) a voucher is issued or transferred by an agent who acts in their own name, and

(b) the paragraph 3 supply is a supply of services to which section 47(3) would apply (apart from this paragraph).

(2) Section 47(3) does not apply.

(3) The paragraph 3 supply is treated as both a supply to the agent and a supply by the agent.

10 Nothing in this Schedule affects the application of this Act to any services provided, by a person who issues or transfers a voucher, in addition to the issue or transfer of the voucher.

Composite transactions

11 (1) This paragraph applies where, as part of a composite transaction—

(a) goods or services are supplied to a person, and

(b) a voucher is issued or transferred to that person.

(2) If the total consideration for the transaction is not different, or not significantly different, from what it would be if the voucher were not issued or transferred, the paragraph 3 supply is to be treated as being made for no consideration."

6 In regulation 38ZA(2) of the Value Added Tax Regulations 1995 (S.I. 1995/2518), in the definition of "cash refund", after "Act" insert " or a voucher falling within Schedule 10B to the Act ".

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PROSPECTIVE

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

"43AZA "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)—

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(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—

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(a) in sub-paragraph (1)(a), for "body corporate" substitute " person ";
(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—

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(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 ";
(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 ".

SCHEDULE 19

Section 63

GAMING DUTY

Accounting periods

1 (1) Section 11 of FA 1997 (rate of gaming duty) is amended as follows.

(2) In subsection (2), for "subsection (3)" substitute " subsections (3), (4A) and (4B) ".

(3) After subsection (4) insert—

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"(4A) Where the gaming duty provisions of this Act have effect in relation to any premises as if accounting periods were periods longer or shorter than six months ("alternative accounting periods") as a result of—

(a) a direction under paragraph 9(1A) of Schedule 1, or

(b) a direction or agreement under paragraph 9(1C) of Schedule 1,

then for the purposes of determining the amount of gaming duty which is to be charged on those premises for that period, the Table in subsection (2) is modified in accordance with subsection (4B).

(4B) Each amount specified in column 1 of the Table is multiplied by—

$$\frac{A}{B}$$

where—

A is the number of days in the alternative accounting period directed or agreed, and

B is the number of days in the period that would have been the accounting period in the absence of any direction or agreement (or where the alternative accounting period spans more than one such period, the first of those periods)."

2 (1) Paragraph 9 of Schedule 1 to FA 1997 (accounting periods) is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) Where the Commissioners and every relevant person so agree, the gaming duty provisions of this Act shall have effect in relation to any premises as if accounting periods for the purposes of those provisions were the periods specified in the agreement, which may be—

(a) periods of six months (beginning on any date);

(b) periods (beginning on any date) which are longer or shorter than six months, but which must be the approximate equivalent of periods of six months in weeks.

(1A) If the Commissioners have reason to believe that the liability in relation to any premises may not be discharged as it falls due from time to time, the Commissioners may direct that periods shorter than six months are to be treated as accounting periods for the purposes of the gaming duty provisions of this Act.

(1B) The Commissioners may direct in relation to any premises that periods beginning on dates other than 1st April and 1st October are to be treated as accounting periods for the purposes of the gaming duty provisions of this Act.

(1C) The Commissioners may by direction or by agreement with every relevant person make transitional arrangements in relation to any premises for periods (whether of six months or otherwise) to be treated as accounting periods for the purposes of the gaming duty provisions of this Act where—

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(a) those premises cease to be specified in an entry on the gaming register for any person, or

(b) an agreement under sub-paragraph (1) or a direction under sub-paragraph (1A) or (1B) begins or ceases to have effect.

(1D) The Commissioners must not enter into an agreement under sub-paragraph (1) or give a direction under sub-paragraph (1B) unless they are satisfied that any transitional arrangements which are appropriate for the protection of the revenue have been agreed or directed.

(1E) Any direction under this paragraph continues to have effect until it is withdrawn by the Commissioners (unless otherwise specified in the direction).

(1F) Withdrawal of a direction under this paragraph in relation to any premises does not prevent the giving of further directions in relation to those premises.”.

(3) In sub-paragraph (2), for “sub-paragraph (1) above” substitute “ this paragraph ”.

(4) Omit sub-paragraphs (3) and (4).

(5) For sub-paragraph (5) substitute—

“(5) The decisions mentioned in sub-paragraph (6) are to be treated as if they were listed in subsection (2) of section 13A of FA 1994 (customs and excise reviews and appeals: meaning of “relevant decision”) and accordingly are to be treated—

(a) as if they were relevant decisions for the purposes mentioned in subsection (1) of that section, and

(b) as if they were ancillary matters for the purposes of section 16 FA 1994 (appeals to a tribunal).

(6) The decisions are—

(a) a decision of the Commissioners to refuse a request for an agreement under sub-paragraph (1) or (1C), or to refuse a request for such an agreement on particular terms,

(b) a decision of the Commissioners to give a direction under sub-paragraph (1A), (1B) or (1C), or to give such a direction in particular terms, or

(c) a decision of the Commissioners not to give a direction under sub-paragraph (1A), (1B) or (1C).”

3 In paragraph 11(2) of Schedule 1 to FA 1997 (regulations), after “of this Act” insert “ or paragraph 9 of this Schedule ”.

Carrying forward of losses

4 In section 11 of FA 1997, for subsection (10) substitute—

“(10) In subsection (8) above the banker's profits from any gaming are—

(a) the value, in money or money's worth, of the stakes staked with the banker in any such gaming, less

(b) the value of the prizes provided by the banker to those taking part in such gaming otherwise than on behalf of a provider of the premises.

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(10ZA) Where the gross gaming yield from any premises in an accounting period is a negative amount ("amount X")—

(a) the gross gaming yield for those premises in that accounting period is treated as nil, and

(b) amount X may be carried forward in reduction of the gross gaming yield for those premises for one or more later accounting periods."

Removal of obligation to make payments on account

5 In section 12 of FA 1997 (liability to pay gaming duty) omit subsections (4) and (6).

6 (1) The Gaming Duty Regulations 1997 (S.I. 1997/2196) are amended as follows.

(2) In regulation 2 (interpretation) omit the definition of "quarter".

(3) Omit regulations 3 to 6 (Part II: payments on account) and the heading before them.

Commencement

7 The amendments made by this Schedule come into force on 1 October 2019.

8 (1) Where there is an agreement under paragraph 9(1) of Schedule 1 to FA 1997 and as a result the period to be treated as the accounting period for any premises is a period beginning on or before 30 September 2019 and ending after 30 September 2019 (a "paragraph 9(1) accounting period"), sub-paragraph (2) applies.

(2) The period to be treated as the accounting period for those premises is instead a period (a "transitional accounting period") beginning on the date specified in the agreement and ending on 30 September 2019.

(3) For the purposes of determining the amount of gaming duty which is to be charged on those premises for the transitional accounting period, the Table in section 11(2) of FA 1997 is modified in accordance with sub-paragraph (4).

(4) Each amount specified in column 1 of the Table is multiplied by—

$$\frac{A}{B}$$

where—

A is the number of days in the transitional accounting period, and

B is the number of days in the paragraph 9(1) accounting period.

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SCHEDULE 20

Section 89

TAXATION OF HYBRID CAPITAL INSTRUMENTS

PART 1

REVOCATION OF SPECIAL RULES FOR REGULATORY CAPITAL SECURITIES

1 (1) The Taxation of Regulatory Capital Securities Regulations 2013 (S.I. 2013/3209) are revoked.

(2) In consequence of the revocation made by sub-paragraph (1), the Taxation of Regulatory Capital Securities (Amendment) Regulations 2015 (S.I. 2015/2056) are revoked.

PART 2

CORPORATION TAX, INCOME TAX AND CAPITAL GAINS TAX

Distributions in respect of hybrid capital instruments

2 At the end of Chapter 12 of Part 5 of CTA 2009 insert—

"Hybrid capital instruments

Amounts payable in respect of hybrid capital instruments

420A **Amounts payable in respect of hybrid capital instruments**

(1) This section applies if a loan relationship is a hybrid capital instrument for an accounting period of the debtor.

(2) The Corporation Tax Acts have effect in relation to any person in respect of times in the accounting period as if any qualifying amount payable in respect of the hybrid capital instrument were not a distribution.

(3) An amount is a "qualifying amount" so far as it would not be regarded as a distribution if it is assumed that any provision made by the loan relationship under which the debtor is entitled to defer or cancel a payment of interest under the loan relationship had not been made.

(4) This section also needs to be read together with section 1015(1A) of CTA 2010 (which prevents hybrid capital instruments from being "special securities" as a result of being equity notes)."

3 (1) After section 475B of CTA 2009 insert—

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"Meaning of "hybrid capital instrument"

475C Meaning of "hybrid capital instrument"

475C 475C Meaning of "hybrid capital instrument"

(1) For the purposes of this Part, a loan relationship is a "hybrid capital instrument" for an accounting period of the debtor if—
  (a) the loan relationship makes provision under which the debtor is entitled to defer or cancel a payment of interest under the loan relationship,
  (b) the loan relationship has no other significant equity features, and
  (c) the debtor has made an election in respect of the loan relationship which has effect for the period.

(2) For the purposes of this section a loan relationship "has no other significant equity features" if under the loan relationship—
  (a) there are neither voting rights in the debtor (ignoring insignificant voting rights in the debtor) nor a right to exercise a dominant influence over the debtor,
  (b) any provision for altering the amount of the debt is limited to write-down or conversion events in qualifying cases, and
  (c) any provision for the creditor to receive anything other than interest or repayment of the debt is limited to conversion events in qualifying cases.

(3) For the purposes of subsection (2)(a)—
  (a) the loan relationship makes provision for "insignificant voting rights in the debtor" if (and only if) the voting rights of any creditor under the loan relationship are limited to one vote exercisable in relation to matters generally affecting the debtor without conferring any special advantage or other right on the creditor, and
  (b) "a right to exercise a dominant influence over the debtor" means a right to give directions with respect to the debtor's operating and financial policies with which it is obliged to comply (whether or not they are for the debtor's benefit).

(4) For the purposes of subsection (2)(b) a "write-down event" means—
  (a) a permanent release of some or all of the debt, or
  (b) a reduction in the amount of the debt (including to nil) in a case where provision is made for the reduction to be temporary (whether on the meeting of conditions or the exercise of a right or otherwise).

(5) For the purposes of subsection (2) a "conversion event" means—
  (a) the conversion of the loan relationship into shares forming part of the debtor's ordinary share capital, or
  (b) the conversion of the loan relationship into shares forming part of the ordinary share capital of **[**[F1]a company ("C") which, after the conversion, has control of the debtor or would have control of the debtor if C were taken to have all the rights and interests in the debtor of any company connected with C**]**.

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[F2] …

(6) For the purposes of subsection (2), a loan relationship makes provision for a qualifying case if—

(a) the provision applies only in the event that there is a material risk of the debtor becoming unable to pay its debts as they fall due,

(b) the provision applies only in the event that the value of the debtor's assets is less than the amount of its liabilities, taking into account contingent and prospective liabilities, or

(c) the provision is included in the loan relationship solely because of a need to comply with a regulatory or other legal requirement,

and, in each case, the provision in question does not include a right exercisable by the creditor.

(7) Provision is not to be regarded as failing to meet the condition in subsection (2)(b) merely because, in the case of a write-down event mentioned in subsection (4)(b), it provides for a subsequent increase in the amount of the debt (but not above the original amount).

(8) An election under this section—

(a) is irrevocable,

[[F3](b) must be made before the end of the period of 6 months beginning with—

(i) the day on which the company becomes a party to the loan relationship, or

(ii) if (after becoming a party to the loan relationship) the loan relationship is amended so as to meet the conditions in subsection (1)(a) and (b), the first day of the company's next accounting period, and

(c) has effect for the accounting period in which the day mentioned in paragraph (b)(i) or (ii) falls and for subsequent accounting periods.**]**

(9) But an election under this section has no effect if—

(a) the company is a party to the loan relationship directly or indirectly in consequence of, or otherwise in connection with, any arrangements (within the meaning of section 455C(2)), and

(b) the main purpose of, or one of the main purposes of, the arrangements is to secure a tax advantage for the company or any other person."

(2) In a case where a company became a party to a loan relationship before 1 January 2019, section 475C(8)(b) of CTA 2009 has effect as if the election were required to be made on or before 30 September 2019.

Textual Amendments

F1 Words in Sch. 20 para. 3(1) substituted (retrospectively) by virtue of The Taxation of Hybrid Capital Instruments (Amendment of Section 475C of the Corporation Tax Act 2009) Regulations 2019 (S.I. 2019/1250, **regs. 1(2)**, **2(1)(a)**

F2 Words in Sch. 20 para. 3(1) omitted (retrospectively) by virtue of The Taxation of Hybrid Capital Instruments (Amendment of Section 475C of the Corporation Tax Act 2009) Regulations 2019 (S.I. 2019/1250, **regs. 1(2)**, **2(1)(b)**

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F3 Words in Sch. 20 para. 3(1) substituted (retrospectively) by virtue of The Taxation of Hybrid Capital Instruments (Amendment of Section 475C of the Corporation Tax Act 2009) Regulations 2019 (S.I. 2019/1250, **regs. 1(2)**, **3**

4 In section 1015 of CTA 2010 (meaning of "special securities") after subsection (1) insert—

"(1A) But hybrid capital instruments (within the meaning of section 475C of CTA 2009) are not special securities by reason of meeting condition E."

Loan relationships: credits and debits to be brought into account

5 After section 320A of CTA 2009 insert—

"**320B Hybrid capital instruments: amounts recognised in equity**

"**320B** "**320B Hybrid capital instruments: amounts recognised in equity**

(1) This section applies if in accordance with generally accepted accounting practice, an amount in respect of a hybrid capital instrument relating to any of the matters in section 306A(1) of CTA 2009—

(a) is recognised in equity or shareholders' funds for a period, and

(b) is not recognised in the company's accounts for the period as an item of profit or loss or as an item of other comprehensive income.

(2) The amount is to be brought into account for the period for the purposes of this Part in the same way as an amount which is brought into account as a credit or debit in determining the company's profit or loss for the period in accordance with generally accepted accounting practice.

(3) But this section does not bring into account for the purposes of this Part any exchange gain or loss of the company which is recognised in the company's statement of total recognised gains and losses, statement of recognised income and expense, statement of changes in equity or statement of income and retained earnings."

Normal commercial loans

6 In section 162 of CTA 2010 (meaning of "normal commercial loan") after subsection (1) insert—

"(1B) For those purposes, "normal commercial loan" also includes a hybrid capital instrument (within the meaning of section 475C of CTA 2009)."

Consequential amendments

7 (1) Part 5 of CTA 2009 (loan relationships) is amended as follows.

(2) In section 398 (overview of Chapter 12), in subsection (2)—

(a) omit the "and" at the end of paragraph (d), and

(b) after paragraph (e) insert ", and

(f) section 420A (hybrid capital instruments)."

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(3) In section 465(3) (provisions preventing amounts from being distributions), before paragraph (za) insert—

"(zza) section 420A(2) (hybrid capital instruments),".

8 (1) Part 10 of TIOPA 2010 (corporate interest restriction) is amended as follows.

(2) In section 413(6) (adjusted net group-interest expense: "relevant enactment") for paragraph (b) substitute—

"(b) section 320B of CTA 2009 (hybrid capital instruments: amounts recognised in equity)."

(3) In section 415 (qualifying net group-interest expense: interpretation), omit subsection (8).

9 (1) The Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256) are amended in accordance with this paragraph.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "fair value profit or loss" insert—

""hybrid capital instrument" has the meaning given by section 475C of CTA 2009;", and

(b) omit the definition of "regulatory capital security".

(3) In regulation 3 (exchange gains or losses arising from liabilities or assets hedging shares etc), in paragraph (5)(c), for "a regulatory capital security" substitute " a hybrid capital instrument ".

(4) In regulation 4 (exchange gains or losses arising from derivative contracts hedging shares etc), in paragraph (4A)(c), for "a regulatory capital security" substitute " a hybrid capital instrument ".

Commencement for purposes of corporation tax

10 The following have effect for accounting periods beginning on or after 1 January 2019—

(a) the provision made by paragraphs 1 to 4 and 6 so far as relating to corporation tax, and

(b) the amendments made by paragraphs 5 and 7 to 9.

11 An accounting period beginning before and ending on or after 1 January 2019 is to be treated for the purposes of the provision made by this Schedule (other than paragraph 12 or 13) as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.

12 (1) This paragraph applies in the case of a security which was a regulatory capital security for the purposes of the Taxation of Regulatory Capital Securities Regulations 2013 immediately before 1 January 2019 (referred to in this Part of this Schedule as a "transitional qualifying instrument").

(2) The revocations made by paragraph 1 do not affect any case where regulation 3(2)(a) or (b), (3) or (3A) of those Regulations would have applied in relation to accounting periods ending on or before 31 December 2023 but for the provision made by paragraph 1.

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(3) In a case where sub-paragraph (2) has applied, paragraph 13 makes provision for corporation tax purposes in relation to an accounting period beginning on 1 January 2024 ("the 2024 period") to bring in credits or debits in respect of a transitional qualifying instrument which exists immediately before that date so far as they would not otherwise be brought into account.

(4) For the purposes of this paragraph and paragraph 13, an accounting period beginning before and ending on or after 1 January 2024 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.

13 (1) If there is a difference between—

(a) the tax-adjusted carrying value of a transitional qualifying instrument which is an asset or liability at the end of an accounting period ending on 31 December 2023, and

(b) the tax-adjusted carrying value of that instrument at the beginning of the 2024 period,

a credit or debit (as the case may be) of an amount equal to the difference must be brought into account for the purposes of Part 5 of CTA 2009 for the 2024 period in the same way as a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.

(2) For the purposes of this paragraph "tax-adjusted carrying value" is to be construed in accordance with—

(a) section 465B of CTA 2009 (tax-adjusted carrying value in relation to the asset or liability representing a loan relationship), and

(b) section 702 of CTA 2009 (tax-adjusted carrying value in relation to a contract).

(3) Where in the 2024 period, in accordance with generally accepted accounting practice, the rights and liabilities under the transitional qualifying instrument have been treated as divided between—

(a) a loan relationship, and

(b) one or more derivative financial instruments or equity instruments,

the reference in this paragraph to the tax-adjusted carrying value of the transitional qualifying instrument means the sum of the tax-adjusted carrying values for each of those component instruments.

(4) In sub-paragraph (3) "equity instrument" has the meaning it has for accounting purposes.

14 (1) This paragraph applies to a transitional qualifying instrument which qualified as a regulatory capital security as a result of falling within regulation 2(1)(c) or (d) of the Taxation of Regulatory Capital Securities Regulations 2013.

(2) The revocations made by paragraph 1 do not affect the application of regulation 3(2)(c)(i) of those Regulations in a case where the writing down or conversion concerned took place before 1 July 2019.

15 (1) This paragraph applies if—

(a) regulation 3(2)(c)(i) of the Taxation of Regulatory Capital Securities Regulations 2013 applied in relation to a transitional qualifying instrument

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as a result of the writing down of the principal amount of the security on a temporary basis, and

(b) a credit was, accordingly, not brought into account under Part 5 of CTA 2009.

(2) No debit is to be brought into account under that Part in respect of the writing up of the principal amount of the security in accordance with any regulatory requirements or the provisions governing the security.

Commencement for purposes of income tax and CGT

16 (1) The provision made by paragraphs 1 to 4 has effect for the purposes of income tax in relation to payments made on or after 1 January 2019.

(2) But the revocations made by paragraph 1—

(a) do not affect the application of regulation 6 or 9 of the Taxation of Regulatory Capital Securities Regulations 2013 in relation to payments made before the day on which this Act is passed, and

(b) do not, in the case of a transitional qualifying instrument, apply to payments made before 1 January 2024 in any case where regulation 6 or 9 of those Regulations would have applied but for the provision made by paragraph 1.

17 The revocations made by paragraph 1 have effect for the purposes of capital gains tax in relation to disposals made on or after 1 January 2019.

18 In so far as it relates to the definition of "corporate bond" in section 117(1) of TCGA 1992, the amendment made by paragraph 6 has effect in relation to disposals made on or after 1 January 2019.

Power to amend definition of "hybrid capital instrument"

19 (1) The Treasury may by regulations amend section 475C of CTA 2009.

(2) The power conferred by this paragraph may not be exercised after 31 December 2019.

(3) The regulations may contain incidental, supplementary, consequential and transitional provision and savings.

(4) The consequential provision that may be made by the regulations includes provision amending any provision made by or under any Act.

(5) The regulations may contain retrospective provision.

PART 3

STAMP DUTY AND STAMP DUTY RESERVE TAX

20 A transfer of a hybrid capital instrument (within the meaning of section 475C of CTA 2009) is exempt from all stamp duties.

21 The revocations made by paragraph 1, and the provision made by paragraph 20, have effect—

(a) for the purposes of stamp duty, in relation to instruments executed on or after the day on which this Act is passed, and

(b) for the purposes of stamp duty reserve tax—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(i) in the case of agreements to transfer securities which are not conditional, in relation to agreements made on or after that day, and

(ii) in the case of agreements to transfer securities which are conditional, in relation to agreements where the condition is satisfied on or after that day.

Status:
This version of this Act contains provisions that are prospective.

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations.
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Changes and effects yet to be applied to :

- Sch. 5 para. 1 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 2 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 3 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 4 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 5 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 6 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 7 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 8 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 9 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 10 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 11 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 12 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 13 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 14 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 15 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 16 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 17 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 18 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 19 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 20 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 21 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 22 coming into force by 2019 c. 1 Sch. 5 para. 35
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- Sch. 5 para. 24 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 25 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 26 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 27 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 28 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 29 coming into force by 2019 c. 1 Sch. 5 para. 35
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- Sch. 5 para. 31 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 32 coming into force by 2019 c. 1 Sch. 5 para. 35
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- Sch. 5 para. 37 coming into force by 2019 c. 1 Sch. 5 para. 35
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- Sch. 5 para. 40 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 41 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 42 coming into force by 2019 c. 1 Sch. 5 para. 35
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- Sch. 5 para. 45 coming into force by 2019 c. 1 Sch. 5 para. 35
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- Sch. 5 para. 47 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 48 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 49 coming into force by 2019 c. 1 Sch. 5 para. 35
- Sch. 5 para. 50 coming into force by 2019 c. 1 Sch. 5 para. 35