
CONTENTS

Introduction

- 1 Digital services tax: introduction

Digital services revenues, UK digital services revenues etc

- 2 Meaning of “digital services revenues”
- 3 Meaning of “UK digital services revenues”
- 4 Meaning of “digital services activity” etc
- 5 Meaning of “UK user”
- 6 Online financial marketplaces

Charge to DST

- 7 Meaning of “the threshold conditions”
- 8 Charge to DST
- 9 Alternative basis of charge
- 10 Section 9: meaning of “relevant operating expenses”
- 11 Relief for certain cross-border transactions
- 12 When DST is due and payable

Duty to submit returns etc

- 13 Meaning of “the responsible member”
- 14 Continuity of obligations etc where change in the responsible member
- 15 Duty to notify HMRC when threshold conditions are met
- 16 Duty to notify HMRC of change in relevant information
- 17 Duty to file returns

Groups, parents and members

- 18 Meaning of “group”, “parent” etc
- 19 Section 18: meaning of “relevant entity”
- 20 Continuity of a group over time
- 21 Treatment of stapled entities

Accounting periods, accounts etc

- 22 Accounting periods and meaning of “a group’s accounts”

- 23 Apportionment of revenues or expenses to accounting period
- 24 Meaning of revenues arising, or expenses recognised, in a period
- 25 Meaning of “the applicable accounting standards” etc

Supplementary

- 26 Anti-avoidance
- 27 Notice requiring payment from other group members
- 28 Interest on overdue DST
- 29 Interest on overpaid DST etc
- 30 Minor and consequential amendments
- 31 Review of DST

General

- 32 Interpretation of Part
-

Schedule 1 – Returns, Enquiries, Assessments and Appeals

Part 1 – Introduction

Part 2 – DST returns

Part 3 – Duty to keep and preserve records

Part 4 – Enquiry into return

Part 5 – HMRC determinations

Part 6 – HMRC assessments

Part 7 – Appeals against HMRC decisions on tax

Schedule 2 – DST payment notices

Schedule 3 – Digital services tax: minor and consequential amendments

Introduction

1 Digital services tax: introduction

- (1) A tax (to be known as “digital services tax”) is charged in accordance with this Part on UK digital services revenues arising to a person in an accounting period.
- (2) The Commissioners for Her Majesty’s Revenue and Customs (in this Part referred to as “the Commissioners”) are responsible for the collection and management of digital services tax.
- (3) In this Part –
 - (a) sections 2 to 6 define “UK digital services revenues” and other key expressions;
 - (b) sections 7 to 12 contain the charge to digital services tax;
 - (c) sections 13 to 17 impose a duty to file returns and other reporting requirements;
 - (d) sections 18 to 21 define groups and related concepts;
 - (e) sections 22 to 25 define accounting periods, the meaning of revenues arising, and other accounts-related concepts;
 - (f) sections 26 to 32 contain supplementary and general provisions.

Digital services revenues, UK digital services revenues etc

2 Meaning of “digital services revenues”

- (1) This section applies for the purposes of this Part.
- (2) The “digital services revenues” of a group for a period are the total amount of revenues arising to members of the group in that period in connection with any digital services activity of any member of the group.
- (3) Where revenues arise in connection with a digital services activity and anything else, the revenues are to be treated as arising in connection with the activity to such extent as is just and reasonable.

3 Meaning of “UK digital services revenues”

- (1) This section applies for the purposes of this Part.
- (2) A group’s “UK digital services revenues” for a period are so much of its digital services revenues for that period as are attributable to UK users.
- (3) Revenues are attributable to UK users so far as –
 - (a) in the case of online advertising revenues, the advertising is intended to be viewed by UK users;

- (b) in any other case, the revenues arise in connection with UK users.
- (4) But all online marketplace revenues that—
 - (a) arise in connection with a transaction to which a UK user is a party, or
 - (b) arise in connection with—
 - (i) the sale of an interest in premises or land in the United Kingdom,
 - (ii) the provision of accommodation in the United Kingdom, or
 - (iii) the sale of services, goods or other property relating to anything within sub-paragraph (i) or (ii),are treated as attributable to UK users.
- (5) Where, other than in a case within subsection (4)—
 - (a) online advertising revenues arise and the advertising is intended to be viewed by UK users and others, or
 - (b) other revenues arise in connection with UK users and others,the revenues are to be treated as attributable to UK users to such extent as is just and reasonable.
- (6) In subsection (4)(b)(iii) the reference to the sale of goods or other property includes hiring it.
- (7) In this section—
 - “online advertising revenues” means revenues arising in connection with the provision or facilitation of online advertising;
 - “online marketplace revenues” means revenues arising in connection with an online marketplace.

4 Meaning of “digital services activity” etc

- (1) This section applies for the purposes of this Part.
- (2) “Digital services activity” means providing—
 - (a) a social media platform,
 - (b) an internet search engine, or
 - (c) an online marketplace.
- (3) “Social media platform” means an online platform that meets the following conditions—
 - (a) the main purpose, or one of the main purposes, of the platform is to promote interaction between users (including interaction between users and content on the platform provided by other users);
 - (b) the platform enables content to be shared with other groups of users (or with other users).
- (4) “Online marketplace” means an online platform that meets the following conditions—
 - (a) the main purpose, or one of the main purposes, of the platform is to facilitate the sale by users of particular things;
 - (b) the platform enables users to sell particular things on the platform to other users, or to advertise or otherwise offer to other users particular things for sale.
- (5) In subsection (4)—

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- (a) “thing” means any services, goods or other property;
 - (b) any reference to the sale of a thing includes hiring it.
- (6) A reference to providing a social media platform, internet search engine or online marketplace (a “relevant activity”) includes carrying on any associated online advertising business; and a reference to a social media platform, internet search engine or online marketplace is to be read accordingly.
- (7) In subsection (6) “associated online advertising business”, in relation to a relevant activity, means a business operated on an online platform that –
- (a) facilitates the placing of online advertising, and
 - (b) derives significant benefit from its connection with the relevant activity.
- (8) See also section 6 (online financial marketplaces).

5 Meaning of “UK user”

In this Part “UK user” means any person who it is reasonable to assume –

- (a) in the case of an individual, is normally in the United Kingdom;
- (b) in any other case, is established in the United Kingdom.

6 Online financial marketplaces

- (1) In this Part any reference to an online marketplace excludes an online marketplace if –
- (a) it is provided by a financial services provider, and
 - (b) more than half of the relevant revenues arise in connection with the provider’s facilitation of the trading or creation of financial assets.
- (2) “Financial services provider” means –
- (a) an authorised person within the meaning of the Financial Services and Markets Act 2000,
 - (b) a recognised investment exchange within the meaning of that Act,
 - (c) a payment service provider within the meaning of the Payment Services Regulations 2017 (S.I. 2017/752), or
 - (d) a person who does a corresponding activity in a territory outside the United Kingdom and is entitled to do the activity under the law of the territory.
- (3) In this section –
- “corresponding activity” means an activity that corresponds to an activity that a person is entitled to do in the United Kingdom by virtue of being a person within subsection (2)(a), (b) or (c);
 - “financial asset” means –
 - (a) a financial asset within the meaning of the applicable account standards, or
 - (b) a contract of insurance as defined by section 64 of FA 2012;
 - “relevant revenues” means revenues arising to the financial services provider in connection with the online marketplace.

Charge to DST

7 Meaning of “the threshold conditions”

- (1) For the purposes of this Part “the threshold conditions”, in relation to a group, for an accounting period are—
 - (a) that the total amount of digital services revenues arising in that period to members of the group exceeds £500million, and
 - (b) that the total amount of UK digital services revenues arising in that period to members of the group exceeds £25million.
- (2) But if the duration of the accounting period is less than a year, the amounts mentioned in subsection (1)(a) and (b) are proportionately reduced.

8 Charge to DST

- (1) This section applies where the threshold conditions are met in relation to a group for an accounting period.
- (2) Each person who was a member of the group in the accounting period (a “relevant person”) is liable to digital services tax in respect of UK digital services revenues arising in that period.
- (3) To find the liability of a relevant person to digital services tax in respect of the accounting period, take the following steps.

Step 1

Find the total amount of UK digital services revenues arising to members of the group in the accounting period.

Step 2

Deduct £25million from the amount found under step 1.

Step 3

Calculate 2% of the amount calculated under step 2.

The result is “the group amount”.

Step 4

The relevant person’s liability to digital services tax in respect of the accounting period is the appropriate proportion of the group amount.

- (4) In this section “the appropriate proportion” means such proportion of the total amount of UK digital services revenues arising to members of the group in the accounting period as is attributable to the relevant person.
- (5) If the duration of the accounting period is less than a year, the sum mentioned in step 2 of subsection (3) is proportionately reduced.
- (6) This section is subject to section 9 (alternative basis of charge).

9 Alternative basis of charge

- (1) This section applies if a valid claim under this section in respect of an accounting period has been included in the group’s DST return for that period (whether as originally made or by amendment).
- (2) A claim under this section is valid if it specifies the categories of revenues in relation to which it applies (or specifies that it applies in relation to all categories).

- (3) For this purpose, the categories of revenues are—
- revenues arising in connection with any social media platform;
 - revenues arising in connection with any internet search engine;
 - revenues arising in connection with any online marketplace.
- (4) To find the liability of a relevant person to digital services tax in respect of the accounting period, take the following steps (instead of the steps set out in section 8(3)).

Step 1

Find the total amount of UK digital services revenues arising to members of the group in the accounting period.

Step 2

Apportion the total amount found under step 1 between the 3 categories of revenues.

Step 3

For each category of revenues, the “net revenues” is the amount by which the amount of revenues apportioned under step 2 exceeds the relevant proportion of £25million.

“The relevant proportion” is—

$$\frac{R}{TR}$$

where—

- R is the amount of revenues apportioned under step 2 to the category, and
- TR is the total amount found under step 1.

Step 4

For each specified category of revenues, calculate the operating margin.

“The operating margin” is—

$$\frac{R - E}{R}$$

where—

- R has the same meaning as in step 3, and
- E is the amount of relevant operating expenses of the group that are recognised in the accounting period (as to which, see section 10).

If R does not exceed E, the operating margin is nil.

Step 5

For each specified category of revenues, the taxable amount is 0.8 x the operating margin x the net revenues.

For any other category of revenues, the taxable amount is 2% of the net revenues.

Step 6

Add together the taxable amounts calculated under step 5.

The result is “the group amount”.

Step 7

The relevant person’s liability to digital services tax in respect of the accounting period is the appropriate proportion of the group amount.

- (5) If the duration of the accounting period is less than a year, the sum mentioned in step 3 of subsection (4) is proportionately reduced.
- (6) In this section—
 - “the appropriate proportion” has the meaning given by section 8;
 - “relevant person” has the same meaning as in section 8;
 - “specified”, in relation to a category of revenues, means a category of revenues specified in the claim.

10 Section 9: meaning of “relevant operating expenses”

- (1) This section supplements section 9.
- (2) The “relevant operating expenses” of a group, in relation to a specified category of revenues, means any expenses of a member of the group attributable to the earning of UK digital services revenues of the specified kind, except excluded expenses.
- (3) “Excluded expenses” means any expenses—
 - (a) in respect of interest (or anything equivalent, from a commercial perspective, to interest),
 - (b) attributable to the acquisition of a business or part of a business,
 - (c) occurring otherwise than in the normal course of business,
 - (d) resulting from a change in the valuation of any tangible or intangible asset, or
 - (e) in respect of any tax (arising under the law of any territory).
- (4) Where expenses are attributable to—
 - (a) the earning of UK digital services revenues of the specified kind, and
 - (b) anything else,the expenses are to be treated as expenses within subsection (2) to such extent as is just and reasonable.
- (5) In this section a reference to UK digital services revenues of the specified kind is to UK digital services revenues that are within the specified category of revenues.

11 Relief for certain cross-border transactions

- (1) This section applies if a claim under this section in respect of an accounting period has been included in the group’s DST return for that period (whether as originally made or by amendment).
- (2) For the purposes of step 1 in section 8(3) or 9(4), disregard 50% of any UK digital services revenues arising to a member of the group in the accounting period in connection with a relevant cross-border transaction.
- (3) For the purposes of step 4 in section 9(4), disregard 50% of any relevant operating expenses of a member of the group recognised in the accounting period that result from a relevant cross-border transaction.
- (4) “Relevant cross-border transaction” means a transaction on an online marketplace provided by a member of the group, where—
 - (a) a foreign user is a party to the transaction, and

- (b) all or part of any revenues arising to a member of the group in connection with the transaction are (or would be) subject to a foreign DST charge.
- (5) In this section—
- “foreign user” means a person who it is reasonable to assume—
- (a) in the case of an individual, is normally in a territory outside the United Kingdom;
 - (b) in any other case, is established in a territory outside the United Kingdom,
- and a reference to the foreign user’s “territory” is to be read accordingly;
- “foreign DST charge” means a charge (known by any name) under the law of the foreign user’s territory which is similar to digital services tax.

12 When DST is due and payable

Digital services tax in respect of an accounting period is due and payable on the day following the end of 9 months from the end of the accounting period.

Duty to submit returns etc

13 Meaning of “the responsible member”

- (1) In this Part any reference to “the responsible member” of a group, at any time, is a reference to the following person—
 - (a) if at that time a nomination under subsection (2) is in force, the person nominated;
 - (b) otherwise, the parent of the group.
- (2) The parent of a group may nominate a person to be “the responsible member” of the group if—
 - (a) the person is a member of the group,
 - (b) the person is a company, and
 - (c) the parent agrees in writing to provide the person with everything the person may reasonably require in order to comply with—
 - (i) any obligation imposed by or under this Part, or
 - (ii) any other obligation imposed on the person in connection with any digital services tax liability of any member of the group.
- (3) A nomination is in force from the time it is made until any of the following events occurs—
 - (a) the parent nominates another person;
 - (b) the person nominated ceases to be a member of the group or ceases to be a company;
 - (c) an officer of Revenue and Customs or the parent revokes the nomination.
- (4) An officer of Revenue and Customs may revoke a nomination only if the officer has reason to believe that the person nominated—
 - (a) is not being provided with anything the person reasonably requires in order to comply with an obligation of a kind mentioned in subsection (2)(c), or

- (b) is not complying with any such obligation.
- (5) An officer of Revenue and Customs revokes a nomination by notifying the parent and the nominated person of the revocation.
The revocation has effect when the notification is issued.
- (6) Any nomination, or revocation of a nomination, must be in writing.

14 Continuity of obligations etc where change in the responsible member

- (1) This section applies if at any time (“the relevant time”) a person (“the new responsible member”) becomes the responsible member of a group in place of another person (“the old responsible member”).
- (2) The relevant obligations and liabilities of the new responsible member include any relevant obligations and liabilities of the old responsible member as respects the group.
- (3) Anything done as respects the group by or in relation to the old responsible member, before the relevant time, is treated as having been done by or in relation to the new responsible member.
- (4) Anything done by HMRC in relation to the old responsible member as respects the group, before the end of the day the change is notified, is treated for all relevant purposes as done by or in relation to the new responsible member.
- (5) Anything (including any proceedings) relating to the group that, at any time during the period beginning with the relevant time and ending with the day the change is notified, is in the process of being done in relation to the old responsible member may be continued in relation to the new responsible member.
- (6) Accordingly, any reference in an enactment or other instrument to the responsible member of the group is to be read, so far as necessary for the purposes of giving effect to any of subsections (2) to (5), as being or including a reference to the new responsible member.
- (7) In this section –
 - (a) any reference to an act includes an omission;
 - (b) “notified”: any reference to the day the change is notified is to the day on which an officer of Revenue and Customs receives notification, in accordance with section 16, that the new responsible member has become the responsible member of the group;
 - (c) “relevant obligations and liabilities” means any obligations or other liabilities relating to digital services tax;
 - (d) “relevant purposes” means any purposes relating to digital services tax.
- (8) Nothing in this section –
 - (a) prevents HMRC or anyone else, after the relevant time, from imposing any penalty, exercising any other power, or doing anything else, in relation to the old responsible member in respect of anything done before the relevant time,
 - (b) enables HMRC or anyone else to impose a penalty on the new responsible member solely in respect of anything done before the relevant time, or
 - (c) affects the validity of anything done before the relevant time.

15 Duty to notify HMRC when threshold conditions are met

- (1) This section applies –
 - (a) in relation to the first accounting period of a group in respect of which the threshold conditions are met, and
 - (b) where a direction under section 17 has been given in respect of a group, in relation to the first relevant accounting period in respect of which the threshold conditions are met.

In paragraph (b) “relevant accounting period” means the accounting period specified in the direction or any subsequent accounting period.

- (2) The responsible member must provide specified information to HMRC.
- (3) The information must be provided in the specified way.
- (4) The information must be provided before the end of the period of 90 days from the end of the accounting period.
- (5) In subsections (2) and (3) “specified” means specified in a notice published by an officer of Revenue and Customs.

16 Duty to notify HMRC of change in relevant information

- (1) This section applies where section 15 applies or has applied in relation to a group.
- (2) If at any relevant time there is a change in relevant information relating to the group, the responsible member must notify HMRC of that change.
- (3) The notification must be given in the specified way.
- (4) The notification must be given before the end of the period of 90 days beginning with the day on which the change occurs.
- (5) In subsection (3) “specified” means specified in a notice published by an officer of Revenue and Customs.
- (6) In this section –
 - “relevant information” means information of a kind specified under section 15;
 - “relevant time” means any time –
 - (a) after the time when the information is provided under section 15 or (if earlier) the last time by which the information may be provided in accordance with that section, and
 - (b) before the giving of a direction under section 17 in relation to the group.

17 Duty to file returns

- (1) This section applies where the threshold conditions are met in relation to a group for an accounting period.
- (2) The responsible member must deliver a DST return –
 - (a) for the accounting period, and
 - (b) for each subsequent accounting period, subject to subsection (3).

- (3) An officer of Revenue and Customs may, on the application of the responsible member, direct that the duty to deliver a DST return does not apply in relation to an accounting period specified in the direction or subsequent accounting periods.
- (4) Such a direction may be given only if it appears to the officer that the threshold conditions will not be met in relation to the group for any accounting period beginning with the specified accounting period.
- (5) Nothing in a direction under subsection (3) prevents the further application of this section to the group, in any subsequent accounting period in which the threshold conditions are met.
- (6) Schedule 1 contains provision about DST returns, enquiries, assessments etc.

Groups, parents and members

18 Meaning of “group”, “parent” etc

- (1) In this Part “group” means –
 - (a) any entity which –
 - (i) is a relevant entity (see section 19), and
 - (ii) meets condition A or B (see subsections (2) and (3)), and
 - (b) each subsidiary (if any) of the entity mentioned in paragraph (a).
- (2) Condition A is that the entity –
 - (a) is a member of a GAAP group, and
 - (b) is not a subsidiary of an entity that –
 - (i) is a relevant entity, and
 - (ii) itself meets condition A.
- (3) Condition B is that the entity is not a member of a GAAP group.
- (4) In this Part –
 - (a) references to the “parent” of a group are to the entity mentioned in subsection (1)(a);
 - (b) references to a “member” of a group are to an entity mentioned in subsection (1)(a) or (b);
 - (c) “subsidiary” has the meaning given by the applicable accounting standards.
- (5) In this section “GAAP group” means a group within the meaning of the applicable accounting standards.
- (6) For the meaning of “the applicable accounting standards” see section 25.

19 Section 18: meaning of “relevant entity”

- (1) In section 18 “relevant entity” means –
 - (a) a company, or
 - (b) an entity the shares or other interests in which are listed on a recognised stock exchange and are sufficiently widely held.

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- (2) Shares or other interests in an entity are “sufficiently widely held” if no participator in the entity holds more than 10% by value of all the shares or other interests in the entity.
 - (3) The following are not relevant entities –
 - (a) the Crown;
 - (b) a Minister of the Crown;
 - (c) a government department;
 - (d) a Northern Ireland department;
 - (e) a foreign sovereign power.
 - (4) In this section –
 - (a) “participator” has the meaning given by section 454 of CTA 2010;
 - (b) “recognised stock exchange” has the meaning given by section 1137 of CTA 2010;
 - (c) the reference to shares or other interests being listed on a recognised stock exchange is to be read in accordance with section 1137 of CTA 2010.
 - (5) For the meaning of “company” see section 32.

20 Continuity of a group over time

- (1) In this Part, this section applies for the purpose of determining whether a group at any time (Time 2) is the same group as a group at any earlier time (Time 1).
- (2) The group at Time 2 is the same group as the group at Time 1 if and only if the entity that is the parent of the group at Time 2 –
 - (a) was the parent of the group at Time 1, and
 - (b) was the parent of a group at all times between Time 1 and Time 2.

21 Treatment of stapled entities

- (1) This section applies where two or more entities –
 - (a) would, apart from this section, be the parent of a group, and
 - (b) are stapled to each other.
- (2) This Part applies as if –
 - (a) the entities were subsidiaries of another entity (the “deemed parent”), and
 - (b) the deemed parent were within section 18(1)(a) (conditions for being the parent of a group).
- (3) For the purpose of this section an entity (A) is “stapled” to another entity (B) if, in consequence of the nature of the rights attaching to the shares or other interests in A (including any terms or conditions attaching to the right to transfer the interests), it is necessary or advantageous for a person who has, disposes of or acquires shares or other interests in A also to have, dispose of or acquire shares or other interests in B.

22 Accounting periods and meaning of “a group’s accounts”

- (1) This section applies for the purposes of this Part.
- (2) A group’s first accounting period –
 - (a) begins with 1 April 2020, and
 - (b) ends with the first accounting reference date to occur after that date or, if earlier, with 31 March 2021.This is subject to subsection (4) (rule for groups coming into existence after 1 April 2020).
- (3) Any other accounting period of a group –
 - (a) begins immediately after the end of the previous accounting period, and
 - (b) ends with the first accounting reference date to occur after it begins or, if earlier, one year after it begins.
- (4) In the case of a group formed after 1 April 2020, its first accounting period –
 - (a) begins with the date on which it is formed, and
 - (b) ends with the first accounting reference date to occur after that date or, if earlier, one year after it begins.
- (5) In this section “accounting reference date” means the date to which the group’s accounts are made up.
- (6) Any reference to a group’s accounts is to –
 - (a) the consolidated accounts of the group’s parent and its subsidiaries, or
 - (b) the parent’s accounts (if the parent is the only member of the group throughout the period in question).

23 Apportionment of revenues or expenses to accounting period

- (1) This section applies if a group’s period of account does not coincide with an accounting period.
- (2) The revenues or expenses of a period of account may be apportioned to the parts of that period falling within different accounting periods
- (3) The apportionment must be made by reference to the number of days in the periods concerned.

24 Meaning of revenues arising, or expenses recognised, in a period

- (1) In this Part any reference to revenues arising to members of a group in a period, or to expenses of members of a group recognised in a period, is to be interpreted as follows.
- (2) For any period of account of the group –
 - (a) if the group’s accounts for the period are produced in accordance with the applicable accounting standards, the reference is to revenues (however described) or expenses recognised in the income statement (or in profit and loss) for that period;

- (b) otherwise, the reference is to revenues or expenses that would be recognised in the income statement (or in profit and loss) in the group's accounts produced in accordance with IAS for the period if such accounts were produced.
- (3) If the group does not produce accounts for any period ("the relevant period") in an accounting period, the reference is to revenues or expenses that would be recognised in the income statement (or in profit and loss) in the group's accounts produced in accordance with IAS for the relevant period if such accounts were produced.

25 Meaning of "the applicable accounting standards" etc

- (1) This section applies for the purposes of this Part.
- (2) "The applicable accounting standards", in relation to a group, means—
 - (a) for any period for which the group's accounts are produced in accordance with UK GAAP, UK GAAP;
 - (b) for any period for which the group's accounts are produced in accordance with US GAAP, US GAAP;
 - (c) for any period for which the group's accounts are produced in accordance with a standard approved by an officer of Revenue and Customs for the purposes of this paragraph, that standard;
 - (d) otherwise, IAS.
- (3) "UK GAAP" —
 - (a) means generally accepted accounting principles in relation to accounts of UK companies (other than accounts prepared in accordance with IAS) that are intended to give a true and fair view, and
 - (b) has the same meaning in relation to persons other than companies, and companies that are not UK companies, as it has in relation to UK companies.

"UK companies" here means companies incorporated or formed under the law of a part of the United Kingdom.
- (4) "US GAAP" means United States Generally Accepted Accounting Principles.
- (5) "IAS" means —
 - (a) International Accounting Standards,
 - (b) International Financial Reporting Standards, and
 - (c) related interpretations,

issued or adopted, from time to time, by the International Accounting Standards Board.
- (6) HMRC must publish any approval given for the purposes of subsection (2)(c).

Supplementary

26 Anti-avoidance

- (1) Any tax advantage that would (apart from this section) arise from relevant avoidance arrangements is to be counteracted by the making of such adjustments as are just and reasonable.

- (2) The adjustments (whether or not made by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a person to obtain a tax advantage.
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any tax advantage that would (apart from this section) arise from them can reasonably be regarded as consistent with—
 - (a) any principles on which the provisions of this Part that are relevant to the arrangements are based (whether expressed or implied), and
 - (b) the policy objectives of those provisions.
- (5) In this section—
 - “arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
 - “tax” means digital services tax (and “tax advantage” is to be construed accordingly);
 - “tax advantage” includes—
 - (a) avoidance or reduction of a charge to tax or an assessment to tax,
 - (b) repayment or increased repayment of tax,
 - (c) avoidance of a possible assessment to tax, and
 - (d) deferral of a payment of tax or advancement of a repayment of tax.

27 Notice requiring payment from other group members

- (1) This section applies where any DST liability relating to a group for an accounting period is unpaid at the end of the period of 3 months after the relevant date.
- (2) A designated officer may give a notice (a “payment notice”) to a relevant person requiring that person, within 30 days of the giving of the notice, to pay all unpaid DST liabilities relating to the group for the accounting period.
- (3) A payment notice must state—
 - (a) the amount of any digital services tax, penalty or interest that remains unpaid,
 - (b) the date any digital services tax or penalty first became payable, and
 - (c) the relevant person’s right of appeal.
- (4) A payment notice may not be given more than 3 years and 6 months after the relevant date.
- (5) In this section “the relevant date” means—
 - (a) in relation to any digital services tax or interest on digital services tax—
 - (i) in relation to an amount of digital services tax determined under Part 5 of Schedule 1 (HMRC determinations), the date on which the determination was issued;
 - (ii) in relation to an amount of digital services tax under a self-assessment in a case where the DST return was delivered after the filing date, the date on which the return was delivered;

-
- (iii) in any other case, the date the digital services tax became due and payable;
 - (b) in relation to any penalty, the day on which notification of the penalty was issued.
 - (6) A payment notice may be given anywhere in the world, to any relevant person (whether or not resident in the United Kingdom).
 - (7) Schedule 2 makes further provision about payment notices.
 - (8) In this section –
 - “designated officer” means an officer of Revenue and Customs who has been designated by the Commissioners for the purposes of this Part;
 - “DST liability”, in relation to a group for an accounting period, means –
 - (a) a liability of a relevant person to digital services tax in respect of that period or to interest on any such digital services tax, or
 - (b) a penalty imposed on a relevant person in respect of anything done (or not done) in connection with digital services tax in respect of the accounting period;
 - “the filing date” has the same meaning as in Schedule 1;
 - “relevant person” means any person who was a member of the group in the accounting period.

28 Interest on overdue DST

- (1) Digital services tax carries interest at the applicable rate from the date when the tax becomes due and payable until payment.
- (2) This applies even if the date when the tax becomes due and payable is –
 - (a) a Saturday or Sunday,
 - (b) Good Friday, Christmas day, a bank holiday or other public holiday, or
 - (c) a day specified in an order made under section 2 of the Banking and Financial Dealings Act 1971 (power to suspend financial dealings).
- (3) In this section “the applicable rate” means the rate applicable under section 178 of FA 1989.

29 Interest on overpaid DST etc

- (1) Where a payment in respect of a person’s digital services tax liability for an accounting period is made before the due date, the payment carries interest at the applicable rate from the date the payment is made until the due date.
- (2) Where a repayment of digital services tax paid by a person for an accounting period falls to be made, the repayment carries interest at the applicable rate –
 - (a) from the due date or, if later, the date the digital services tax was paid, and
 - (b) until the order for repayment is issued.
- (3) Where a repayment of digital services tax is a repayment of tax paid by a person on different dates, it is to be treated so far as possible as a repayment of tax paid on a later (rather than an earlier) date among those dates.
- (4) Where –
 - (a) interest has been paid to a person under this section,

- (b) there is a change in the person’s assessed liability,
 - (c) the change does not correct (wholly or in part) an error made by an officer of Revenue and Customs, and
 - (d) as a result of the change (and in particular not as a result of an error in the calculation of interest) it appears to an officer of Revenue and Customs that some or all of the interest ought not to have been paid, the interest that ought not to have been paid may be recovered from the person.
- (5) For the purposes of subsection (4)(b) there is a change in a person’s assessed liability if (and only if) –
- (a) an assessment, or an amendment of an assessment, of the amount of digital services tax payable by the person for the accounting period in question is made, or
 - (b) an HMRC determination of that amount is made, whether or not any previous assessment or determination has been made.
- (6) In this section –
- “the applicable rate” has the same meaning as in section 28;
 - “the due date”, in relation to an accounting period, means the date digital services tax for the accounting period becomes due and payable;
 - “error” includes –
 - (a) any computational error, and
 - (b) the allowance of a claim that ought not to have been allowed;
 - “HMRC determination” means a determination under Part 5 of Schedule 1.

30 Minor and consequential amendments

Schedule 3 contains minor and consequential amendments.

31 Review of DST

- (1) The Treasury must, before the end of 2025, conduct a review of digital services tax and prepare a report of the review.
- (2) The Treasury must lay a copy of the report before Parliament.

General

32 Interpretation of Part

In this Part –

- “CTA 2010” means the Corporation Tax Act 2010;
- “accounting period” has the same meaning as in section 22;
- “the applicable accounting standards” has the meaning given by section 25;
- “the Commissioners” has the meaning given by section 1;
- “company” has the meaning given by section 1121(1) of CTA 2010;
- “digital services activity” has the meaning given by section 4;
- “digital services revenues” has the meaning given by section 2;
- “group” has the meaning given by section 18;
- “group’s accounts” has the meaning given by section 22;

“HMRC” means Her Majesty’s Revenue and Customs;
“IAS” has the meaning given by section 25;
“member” has the meaning given by section 18;
“parent” has the meaning given by section 18;
“the responsible member” has the meaning given by section 13;
“subsidiary” has the meaning given by section 18;
“the threshold conditions” has the meaning given by section 7;
“UK digital services revenues” has the meaning given by section 3;
“UK GAAP” has the meaning given by section 25;
“UK user” has the meaning given by section 5;
“US GAAP” has the meaning given by section 25.

SCHEDULES

SCHEDULE 1

Section 17

RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 1

INTRODUCTION

- 1 (1) References in this Schedule –
- (a) to the delivery of a DST return are to the delivery of a return by a responsible member for an accounting period where the return complies with the requirements of paragraph 2(2);
 - (b) to the filing date, in relation to a DST return, are to the last day of the period within which the return must be delivered.
- (2) In this Schedule –
- “tax” means digital services tax;
 - “tribunal” means the First-tier Tribunal, or where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

PART 2

DST RETURNS

DST returns

- 2 (1) A DST return for an accounting period must be delivered before the end of one year from the end of the accounting period.
- (2) A DST return must –
- (a) be in the specified form,
 - (b) contain specified information,
 - (c) contain an assessment (“a self-assessment”) of the total amount payable by relevant persons by way of digital services tax for the accounting period to which the return relates, and
 - (d) include a declaration by the responsible member that the return is, to the best of the responsible member’s knowledge, correct and complete.
- (3) In this paragraph –
- (a) “relevant person” has the same meaning as in section 8;
 - (b) “specified” means specified in a notice published by an officer of Revenue and Customs.

Amendment of return by responsible member

- 3 (1) This paragraph applies where a DST return has been delivered.
- (2) The responsible member may amend the DST return by notice to an officer of Revenue and Customs.
- (3) The notice must—
- (a) be in a specified form, and
 - (b) contain specified information.
- (4) In this paragraph “specified” means specified in a notice published by an officer of Revenue and Customs.
- (5) No amendment may be made under this paragraph more than 12 months after the filing date.

Failure to deliver return: flat-rate penalty

- 4 (1) A person who is required to file a DST return and fails to do so by the filing date is liable to a penalty under this paragraph.
 The person may also be liable to a penalty under paragraph 5 (tax-related penalties).
- (2) The penalty is—
- (a) £100, if the return is delivered within 3 months after the filing date;
 - (b) £200, in any other case.
- (3) The amounts are increased to £500 and £1000 (respectively) for a third successive failure.
- (4) For this purpose, a “third successive failure” occurs where—
- (a) the duty under section 17 (duty to file returns) applies in relation to a group for 3 successive accounting periods,
 - (b) a person was liable to a penalty under this paragraph in respect of each of the first 2 accounting periods, and
 - (c) a person is liable to a penalty under this paragraph in respect of the third accounting period.

Failure to deliver return: tax-related penalties

- 5 (1) A person who is required to file a DST return for an accounting period and fails to do so within 18 months from the end of that period is liable to a penalty under this paragraph.
 This is in addition to any penalty under paragraph 4 (flat-rate penalty).
- (2) The penalty is—
- (a) 10% of the unpaid tax, if the return is filed within 2 years from the end of the accounting period;
 - (b) 20% of the unpaid tax, in any other case.
- (3) The “unpaid tax” means the total amount of tax payable by members of the group for the accounting period which remains unpaid on the date when the liability to the penalty under this paragraph arises.

PART 3

DUTY TO KEEP AND PRESERVE RECORDS

Duty to keep and preserve records

- 6 (1) This paragraph applies in relation to a group for an accounting period if the responsible member is required by section 17 to deliver a DST return for that period.
- (2) The responsible member must—
- (a) keep such records as may be needed to enable it to deliver a correct and complete the DST return, and
 - (b) preserve those records in accordance with this paragraph.
- (3) The records must be preserved until the end of the relevant day.
- (4) In this paragraph “relevant day” means—
- (a) the sixth anniversary of the end of the accounting period, or
 - (b) such earlier day as may be specified (and different days may be specified for different cases).
- (5) The records required to be kept and preserved under this paragraph include records of all receipts and expenses relating to digital services activities.
- (6) In this paragraph “specified” means specified in a notice published by the Commissioners.

Preservation of information etc

- 7 The duty under paragraph 6 to preserve records may be satisfied—
- (a) by preserving them in any form and by any means, or
 - (b) by preserving the information contained in them in any form and by any means,
- subject to any conditions or exceptions specified in a notice published by the Commissioners.

Failure to keep and preserve records: penalty

- 8 (1) A person who fails to comply with paragraph 6 in relation to an accounting period is liable to a penalty not exceeding £3,000, subject to the following exception.
- (2) No penalty is incurred if an officer of Revenue and Customs is satisfied that any facts which the officer reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence provided to the officer.

PART 4

ENQUIRY INTO RETURN

Notice of enquiry

- 9 (1) An officer of Revenue and Customs may enquire into a DST return if the officer gives notice to the responsible member of the officer's intention to do so within the time allowed.
- (2) The time allowed is –
- (a) if the return was delivered on or before the filing date, up to the end of the period of 12 months after the filing date;
 - (b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;
 - (c) if the return is amended under paragraph 3, up to and including the quarter day next following the first anniversary of the day on which the return was amended.
- The quarter days are the 31st January, 30th April, 31st July and 31st October.
- (3) A return that has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) of the return under paragraph 3.
- (4) A notice under this paragraph is referred to as a “notice of enquiry”.

Scope of enquiry

- 10 (1) An enquiry extends to anything contained in the return, or required to be contained in the return, including anything that relates –
- (a) to the question of whether tax is chargeable in respect of the accounting period, or
 - (b) to the amount of tax so chargeable.
- This is subject to the following exception.
- (2) If the notice of enquiry is given as a result of an amendment of the return under paragraph 3 –
- (a) at a time when it is no longer possible to give notice of enquiry under paragraph 9(2)(a) or (b), or
 - (b) after an enquiry into a return has been completed,
- the enquiry into the return is limited to matters which the amendment relates or that are affected by the amendment.

Amendment of self-assessment during enquiry to prevent loss of tax

- 11 (1) If at a time when an enquiry is in progress into a DST return an officer of Revenue and Customs forms the opinion –
- (a) that the amount stated in the self-assessment contained in the return as the amount of tax payable is insufficient, and
 - (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,
- the officer may by notice in writing to the responsible member amend the assessment to make good the deficiency.

- (2) In the case of an enquiry that under paragraph 10(2) is limited to matters arising from an amendment of the return, sub-paragraph (1) above applies only so far as the deficiency is attributable to the amendment.
- (3) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period –
 - (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

Amendment of return by responsible member during enquiry

- 12 (1) This paragraph applies if a DST return is amended under paragraph 3 (amendment by responsible member) at a time when an enquiry is in progress into the return.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) While the enquiry is in progress, so far as the amendment affects the amount stated in the self-assessment as the amount of tax payable, it does not take effect in relation to any matter to which the amendment relates or which is affected by the amendment.
- (4) An amendment whose effect is deferred under sub-paragraph (3) takes effect as follows –
 - (a) if the conclusions in a closure notice state either –
 - (i) that the amendment was not taken into account in the enquiry, or
 - (ii) that no amendment of the return is required arising from the enquiry,
 the amendment takes effect when the closure notice is issued;
 - (b) in any other case, the amendment takes effect as part of the amendments made by the closure notice.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period –
 - (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

Referral of questions to the tribunal during enquiry

- 13 (1) At any time when an enquiry is in progress into a DST return any question arising in connection with the subject-matter of the enquiry may be referred to the tribunal for determination.
- (2) Notice of referral must be given –
 - (a) jointly by the responsible member and an officer of Revenue and Customs,
 - (b) to the tribunal.
- (3) More than one notice of referral may be given under this paragraph in relation to an enquiry.
- (4) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period –
 - (a) beginning with the day on which notice of enquiry is given, and

- (b) ending with the day on which the enquiry is completed.

Withdrawal of notice of referral

- 14 An officer of Revenue and Customs or the responsible member may withdraw a notice of referral under paragraph 13.

Effect of referral of enquiry

- 15 (1) While proceedings on a referral under paragraph 13 are in progress in relation to an enquiry –
- (a) no closure notice may be given in relation to the enquiry, and
 - (b) no application may be made for a direction to give such a notice.
- (2) For the purposes of this paragraph proceedings on a referral are in progress where –
- (a) notice of referral has been given,
 - (b) the notice has not been withdrawn, and
 - (c) the questions referred have not been finally determined.
- (3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when –
- (a) it has been determined by the tribunal, and
 - (b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

Effect of determination

- 16 (1) The determination of a question referred to the tribunal under paragraph 13 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination must be taken into account by an officer of Revenue and Customs –
- (a) in reaching the officer’s conclusions on the enquiry, and
 - (b) in formulating any amendments of the return required to give effect to those conclusions.
- (3) The question determined may not be reopened on an appeal, except to the extent that it could be reopened if it had been determined as a preliminary issue in that appeal.

Completion of enquiry

- 17 (1) An enquiry under paragraph 9 is completed when an officer of Revenue and Customs by notice (a “closure notice”) informs the responsible member that the enquiry is complete and states the conclusions reached in the enquiry.
- (2) A closure notice must either –
- (a) state that in the opinion of an officer of Revenue and Customs no amendment of the return is required, or
 - (b) make the amendments of the return required to give effect to the conclusions stated in the notice.

- (3) A closure notice takes effect when it is issued.

Direction to complete enquiry

- 18 (1) The responsible member may apply to the tribunal for a direction that an officer of Revenue and Customs give a closure notice within a specified period.
- (2) The tribunal hearing the application must give a direction unless satisfied that HMRC have reasonable grounds for not giving a closure notice within a specified period.
- (3) Any application under sub-paragraph (1) is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).

PART 5

HMRC DETERMINATIONS

Determination of tax chargeable if no return delivered

- 19 (1) This paragraph applies where—
- (a) a DST return must be filed for an accounting period, but
 - (b) no return is delivered by the end of the filing date.
- (2) An officer of Revenue and Customs may make a determination (an “HMRC determination”) to the best of the officer’s information and belief of the total amount payable by relevant persons by way of digital services tax for the accounting period.
- (3) Notice of the determination—
- (a) must state the date on which it is issued, and
 - (b) must be served on the responsible member.
- (4) No HMRC determination may be made more than 3 years after the filing date.
- (5) In this section “relevant person” has the same meaning as in section 8.

Determination to have effect as a self-assessment

- 20 (1) An HMRC determination has effect for enforcement purposes as if it were a self-assessment (within the meaning of paragraph 2(2)).
- (2) In sub-paragraph (1) “for enforcement purposes” means for the purposes of provisions of this Part providing for—
- (a) tax-related penalties,
 - (b) anti-avoidance,
 - (c) collection and recovery of DST, and
 - (d) interest on overdue DST.
- (3) Nothing in this paragraph affects any liability to a penalty for failure to deliver a return.

Determination superseded by actual self-assessment

- 21 (1) If, after an HMRC determination has been made a DST return is delivered for the accounting period, the self-assessment included in the return supersedes the determination.
- (2) Sub-paragraph (1) does not apply to a return delivered –
- (a) more than 3 years after the day on which the power to make the determination first became exercisable, or
 - (b) more than 12 months after the date of the determination,
- whichever is the later.
- (3) Where –
- (a) proceedings have been begun for the recovery of any tax charged by an HMRC determination, and
 - (b) before the proceedings are concluded the determination is superseded by a self-assessment,
- the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.
- (4) Where –
- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by an HMRC determination, and
 - (b) before that action is concluded, the determination is superseded by a self-assessment,
- that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not yet been paid and does not exceed the original amount.

PART 6

HMRC ASSESSMENTS

Assessments where loss of tax discovered

- 22 (1) If, in respect of an accounting period of a group, an officer of Revenue and Customs discovers that –
- (a) an amount of tax that ought to have been assessed has not been assessed, or
 - (b) an assessment to tax is or has become insufficient,
- the officer may make an assessment (a “discovery assessment”) in the amount or further amount which ought in the officer’s opinion to be charged in order to make good to the Crown the loss of tax.
- (2) This is subject to the restrictions in paragraph 23.

Restrictions on assessments

- 23 (1) If a DST return has been delivered in respect of the accounting period, the power to make a discovery assessment –

-
- (a) may only be made in the two cases specified in sub-paragraphs (2) and (3) below, and
 - (b) may not be made in the circumstances specified in sub-paragraph (5) below.
- (2) The first case is where the situation mentioned in sub-paragraph (1) of paragraph 22 was brought about carelessly or deliberately on the part of –
- (a) the responsible member,
 - (b) another member of the group, or
 - (c) a person acting on behalf any of those persons.
- (3) The second case is where an officer of Revenue and Customs, at the time the officer –
- (a) ceased to be entitled to give a notice of enquiry into the return, or
 - (b) completed an enquiry into the return,
- could not have been reasonably expected, on the basis of the information made available to the officer before that time, to be aware of the situation mentioned in sub-paragraph (1) of paragraph 22.
- (4) For this purpose information is regarded as made available to the officer of Revenue and Customs if –
- (a) it is contained in a DST return delivered by the responsible member,
 - (b) it is contained in any documents produced or information provided by the responsible member for the purposes of an enquiry into any such return, or
 - (c) it is information the existence of which, and the relevance of which as regards the situation mentioned sub-paragraph (1) of paragraph 22 –
 - (i) could reasonably be expected to be inferred by the officer of Revenue and Customs from information falling within paragraphs (a) or (b) above, or
 - (ii) are notified in writing to an officer of Revenue and Customs by the responsible member or another person acting on that person’s behalf.
- (5) No discovery assessment may be made if –
- (a) the situation mentioned sub-paragraph (1) of paragraph 22 is attributable to a mistake in the return as to the basis on which the tax liability ought to have been calculated, and
 - (b) the return was in fact made on the basis or in accordance with the practice generally prevailing at the time it was made.

Time limits for assessments

- 24 (1) The general rule is that no assessment may be made more than 4 years after the end of the accounting period to which it relates.
- (2) An assessment in a case involving a loss of tax brought about carelessly by a member of the group (or a person acting on their behalf) may be made at any time not more than 6 years after the end of the accounting period to which it relates.
- (3) An assessment in a case involving a loss of tax –
- (a) brought about deliberately by a member of the group (or a person acting on their behalf), or

- (b) attributable to a failure by the responsible member to comply with an obligation under section 15,
 may be made at any time not more than 20 years after the end of the accounting period to which it relates.

Assessment procedure

- 25 (1) Notice of an assessment must be served on the responsible member.
- (2) The notice must state –
- (a) the tax due,
 - (b) the date on which the notice is issued, and
 - (c) the time within which any appeal against the assessment must be made.
- (3) After notice of the assessment has been served, the assessment may not be altered except in accordance with the express provisions of this Part 7 of this Schedule.

PART 7

APPEALS AGAINST HMRC DECISIONS ON TAX

Right of appeal

- 26 (1) An appeal may be brought against –
- (a) an amendment of a DST return under paragraph 11 (amendment during enquiry to prevent loss of tax);
 - (b) a conclusion stated or amendment made by a closure notice (see paragraph 17);
 - (c) an HMRC determination under paragraph 19 (determination of tax chargeable if no return delivered);
 - (d) a discovery assessment (see paragraph 22).
- (2) Any such appeal is to be brought by the responsible member (“the appellant”).
- (3) If an appeal under sub-paragraph (1)(a) against an amendment of a self-assessment is made while an enquiry is in progress none of the steps mentioned in paragraph 29(2)(a) to (c) may be taken in relation to the appeal until the enquiry is completed.

Notice of appeal

- 27 (1) Notice of appeal under paragraph 26 must be given –
- (a) in writing,
 - (b) within 30 days after the specified date,
 - (c) to HMRC.
- (2) In sub-paragraph (1) “specified date” means –
- (a) in relation to an appeal under paragraph 26(1)(a), the date on which the notice of amendment was issued;
 - (b) in relation to an appeal under paragraph 26(1)(b), the date on which the closure notice was issued;

- (c) in relation to an appeal under paragraph 26(1)(c), the date on which the HMRC determination was issued;
 - (d) in relation to an appeal under paragraph 26(1)(d), the date on which the notice of assessment was issued.
- (3) The notice of appeal must specify the grounds of appeal.

Late notice of appeal

- 28 (1) This paragraph applies in a case where –
- (a) notice of appeal may be given to HMRC under this Schedule, but
 - (b) no notice is given before the relevant time limit.
- (2) Notice may be given after the relevant time limit if –
- (a) HMRC agree, or
 - (b) where HMRC do not agree, the tribunal gives permission.
- (3) HMRC must agree to notice being given after the relevant time limit if the appellant has requested in writing that HMRC do so and HMRC are satisfied –
- (a) that there was reasonable excuse for not giving the notice before the relevant time limit, and
 - (b) that the request has been made without unreasonable delay.
- (4) If a request of the kind mentioned in sub-paragraph (3) is made, HMRC must notify the appellant whether or not HMRC agree to the request.
- (5) In this paragraph “relevant time limit”, in relation to notice of appeal, means the time before which the notice must be given (disregarding this paragraph).

Steps that may be taken following notice of appeal

- 29 (1) This paragraph applies if notice of appeal has been given to HMRC.
- (2) In such a case –
- (a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see paragraph 30),
 - (b) HMRC may notify the appellant of an offer to review the matter in question (see paragraph 31), or
 - (c) the appellant may notify the appeal to the tribunal.
- (3) This paragraph does not prevent the matter in question from being dealt with in accordance with paragraph 37(1) and (2) (settling of appeals by agreement).

Right of appellant to require review

- 30 (1) If the appellant notifies HMRC that it requires them to review the matter in question, HMRC must –
- (a) notify the appellant of HMRC’s view of the matter in question within the relevant period, and
 - (b) review the matter in question in accordance with paragraph 32.
- (2) Sub-paragraph (1) does not apply if –

- (a) the appellant has already given a notification under this paragraph in relation to the matter in question,
 - (b) HMRC have given a notification under paragraph 33 in relation to the matter in question, or
 - (c) the appellant has notified the appeal to the tribunal.
- (3) In this paragraph “the relevant period” means –
- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
 - (b) such longer period as is reasonable.

Offer of review by HMRC

- 31 (1) Sub-paragraphs (2) to (5) apply if HMRC notify the appellant of an offer to review the matter in question.
- (2) The notification must include a statement of HMRC’s view of the matter in question.
- (3) If the appellant notifies HMRC within the acceptance period that it accepts the offer, HMRC must review the matter in question in accordance with paragraph 32 (nature of review).
- (4) If the appellant does not accept the offer in accordance with sub-paragraph (3) –
- (a) HMRC’s view of the matter in question is treated as if it were contained in a settlement agreement (see paragraph 37(1)); but
 - (b) paragraph 37(3) (right to withdraw from agreement) does not apply in relation to that notional agreement.
- (5) Sub-paragraph (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal.
- (See paragraph 35 for the circumstances in which the appellant may do so after accepting HMRC’s offer of a review).
- (6) HMRC may not take the action mentioned in sub-paragraph (1) at any time if before that time –
- (a) HMRC have given a notification under this paragraph in relation to the matter in question,
 - (b) the appellant has given a notification under paragraph 30 in relation to the matter in question, or
 - (c) the appellant has notified the appeal to the tribunal.
- (7) In this paragraph “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

Nature of review

- 32 (1) This paragraph applies if HMRC are required by paragraph 30 or 31 to review the matter in question.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

- (3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review –
 - (a) by HMRC in deciding the matter in question, and
 - (b) by any person in seeking to resolve disagreement about the matter in question.
- (4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that HMRC’s view of the matter in question is to be –
 - (a) upheld,
 - (b) varied, or
 - (c) cancelled.
- (6) HMRC must notify the appellant of the conclusions of the review and their reasoning within –
 - (a) the period of 45 days beginning with the relevant day, or
 - (b) such other period as may be agreed.
- (7) In sub-paragraph (6) “relevant day” means –
 - (a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC’s view of the matter in question,
 - (b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant’s acceptance of the offer.
- (8) If HMRC do not give notice of the conclusions of the review within the period specified in sub-paragraph (6), the review is treated as having concluded that HMRC’s view of the matter in question is upheld.
- (9) If sub-paragraph (8) applies, HMRC must notify the appellant of the conclusions which the review is treated as having reached.

Effect of conclusions of review

- 33 (1) If HMRC give notice of the conclusions of a review (see paragraph 32) –
 - (a) the conclusions are to be treated as if they were contained in a settlement agreement (see paragraph 37(1)), but
 - (b) paragraph 37(3) (withdrawal from agreement) does not apply in relation to that notional agreement.
- (2) Sub-paragraph (1) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal (see paragraphs 34 and 35).

Notifying appeal to tribunal after appellant has required review

- 34 (1) Where HMRC have notified an appellant under paragraph 30(1)(a) of their view of a matter to which an appeal under paragraph 26 relates, the appellant –
 - (a) may not notify the appeal to the tribunal before the beginning of the post-review period;
 - (b) may notify the appeal to the tribunal after the end of that period only if the tribunal gives permission.

- (2) Except where sub-paragraph (3) applies, the post-review period is the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 32(6).
- (3) If the period specified in paragraph 32(6) ends without HMRC having given notice of the conclusions of the review, the post-review period is the period that—
 - (a) begins with the day following the last day of the period specified in paragraph 32(6), and
 - (b) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 32(9).

Notifying appeal to tribunal after HMRC have offered review

- 35 (1) Where HMRC have offered to review the matter to which a notice of an appeal under paragraph 26 relates, the right of the appellant at any time to notify the appeal to the tribunal depends on whether or not the appellant has accepted the offer at that time.
- (2) If the appellant has accepted the offer, the appellant—
 - (a) may not notify the appeal to the tribunal before the beginning of the post-review period;
 - (b) may notify the appeal to the tribunal after the end of that period only if the tribunal gives permission.
- (3) In this paragraph “post-review period” has the same meaning as in paragraph 34.

Interpretation of paragraphs 29 to 35

- 36 (1) In paragraphs 29 to 35—
 - (a) “matter in question” means the matter to which an appeal relates;
 - (b) a reference to a notification is to a notification in writing.
- (2) In paragraphs 29 to 35, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—
 - (a) notification of HMRC’s view under paragraph 30(1)(a),
 - (b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 31,
 - (c) notification of the conclusions of a review under paragraph 32(6) or (9).
- (3) But if a notification falling within any of the paragraphs of sub-paragraph (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.

Settling of appeals by agreement

- 37 (1) In relation to an appeal of which notice has been given under paragraph 26, “settlement agreement” means an agreement in writing between the appellant and an officer of Revenue and Customs that is—
 - (a) entered into before the appeal is determined, and

- (b) to the effect that the decision appealed against should be upheld without variation, varied in a particular manner or discharged or cancelled.
- (2) Where a settlement agreement is entered into in relation to an appeal, the consequences are to be the same (for all purposes) as if, at the time the agreement was entered into, the tribunal had decided the appeal and had upheld the decision without variation, varied it in that manner or discharged or cancelled it, as the case may be.
 - (3) Sub-paragraph (2) does not apply if, within 30 days beginning with the date on which the settlement agreement was entered into, the appellant gives notice in writing to HMRC that it wishes to withdraw from the agreement.
 - (4) Sub-paragraphs (1) to (3) have effect as if, at the date of the appellant's notification, the appellant and an officer of Revenue and Customs had agreed that the decision under appeal should be upheld without variation.

Assessments and self-assessments

- 38 (1) This paragraph applies where an appeal under paragraph 26 has been notified to the tribunal.
- (2) If the tribunal decides that the appellant is overcharged by a self-assessment or any other assessment, the assessment must be reduced accordingly, but otherwise the assessment is to stand good.
- (3) If it appears to the tribunal that the appellant is undercharged to tax by a self-assessment or any other assessment, the assessment must be increased accordingly.

Tribunal determinations

- 39 The determination of the tribunal in relation to any proceedings under this Part of this Schedule is to be final and conclusive except as otherwise provided in—
 - (a) sections 9 to 14 of the Tribunals, Courts and Enforcement Act 2007, or
 - (b) this Part of this Act.

Payment of tax where appeal has been determined

- 40 (1) Where a party to an appeal to the tribunal under paragraph 26 makes a further appeal, tax is to be payable or repayable in accordance with the determination of the tribunal or court (as the case may be), even though the further appeal is pending.
- (2) But if the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court, then—
 - (a) if too much tax has been paid, the amount overpaid must be refunded, with any interest allowed by the order or judgment, and
 - (b) if too little tax has been charged, the amount undercharged is due and payable at the end of the 30 days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment.

SCHEDULE 2

Section 27

DST PAYMENT NOTICES

Introduction

- 1 (1) This Schedule applies where a payment notice has been given to a person (“the recipient”).
- (2) In this Schedule –
 - “DST liability”, “payment notice” and “relevant person” have the same meaning as in section 27;
 - “relevant liability” means any DST liability in relation to the group for the accounting period.

Payment notice: effect

- 2 (1) For the purposes of the recovery from the recipient of any unpaid digital services tax, penalty or interest (including interest accruing after the date of the payment notice) the recipient is treated as if –
 - (a) any relevant liability of a person other than the recipient were a liability of the recipient (“the deemed liability”),
 - (b) the deemed liability became due and payable when the relevant liability became due and payable, and
 - (c) any payments made in respect of the relevant liability were made in respect of the deemed liability.
- (2) Nothing in this paragraph gives the recipient a right to appeal against any assessment, determination or other decision giving rise to a relevant liability (or against the deemed liability).

Payment notice: appeals

- 3 (1) The recipient 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.
- (2) Where an appeal is made, anything required by the notice to be paid is due and payable as if there had been no appeal.

Payment notices: effect of making payment etc

- 4 (1) If the recipient pays any amount in pursuance of the notice the recipient may recover that amount from the taxpayer.
- (2) In calculating the recipient’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.
- (3) Any amount paid by the recipient 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 payment notice relating to the amount unpaid.

- (4) 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 payment notice (or by virtue of any other payment notice relating to the amount unpaid).

SCHEDULE 3

Section 30

DIGITAL SERVICES TAX: MINOR AND CONSEQUENTIAL AMENDMENTS

FA 1989

- 1 (1) Section 178(2) of FA 1989 (setting of interest rates) is amended as follows.
- (2) Omit the “and” at the end of paragraph (u).
- (3) After paragraph (v) insert –
 “(w) sections 28 and 29 of the Finance Act 2020.”

FA 2007

- 2 (1) Schedule 24 to FA 2007 (penalties for errors) is amended as follows.
- (2) In paragraph 1, in the table after the entry relating to accounts in connection with ascertaining liability to corporation tax insert –

“Digital services tax	DST return under paragraph 2 of Schedule 1 to FA 2020.”
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FA 2008

- 3 FA 2008 is amended as follows.
- 4 (1) Schedule 36 (information and inspection powers) is amended as follows.
- (2) In paragraph 63(1) after paragraph (cb) insert –
 “(cc) digital services tax,”.
- 5 (1) Schedule 41 (penalties for failure to notify etc) is amended as follows.
- (2) In paragraph 1, in the table after the entry relating to diverted profits tax insert –

“Digital services tax	Obligation under section 15 of FA 2020 (obligation to notify HMRC when threshold conditions for digital services tax are met).”
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- (3) In paragraph 7 after sub-paragraph (4A) insert –
 “(4B) In the case of a relevant obligation relating to digital services tax and an accounting period, the potential lost revenue is so much of any digital services tax to which P is liable in respect of the

accounting period as by reason of the failure is unpaid 12 months after the end of the accounting period.”