

**EXPLANATORY NOTE****CLAUSE 180 SCHEDULE 20: CONTROLLED FOREIGN COMPANIES AND FOREIGN PERMANENT ESTABLISHMENTS****AMENDMENTS 146 and 147****SUMMARY**

This clause and schedule provide for a new regime for controlled foreign companies (CFC) to be inserted as Part 9A of the Taxation (International and Other Provisions) Act 2010 (TIOPA), and repeal the current CFC rules in Chapter 4 of Part 17 of the Income and Corporation Taxes Act 1988 (ICTA). The clause and schedule also provide for the new regime to apply, with necessary adaptations, to the rules for foreign permanent establishments in Chapter 3A of Part 2 of Corporation Tax Act 2009 (CTA 2009).

Statutory references in this explanatory note are to TIOPA unless specified otherwise.

**Captive insurance associated with service provision**

These two amendments limit the scope of Chapter 7 of Part 9A TIOPA. Insurance profits may (subject to other conditions) fall within Chapter 7 if they arise from an insurance contract that is linked to the provision of goods or services to a UK resident person. The amendments restrict the scope of this rule so that it applies only if the person providing the goods or services is a UK resident company connected with the CFC.

Two amendments are required because the scope of Chapter 7 is set out in Chapter 3 and in Chapter 7. Amendment 146 makes the change to section s371CF in Chapter 3. Amendment 147 makes the same change to section 371GA in Chapter 7.

**BACKGROUND NOTE**

Schedule 20 provides for a new CFC regime that supports the Government's objective to deliver a more competitive corporate tax system. The policy objectives of the new CFC regime are to:

- introduce a modernised CFC regime that better reflects the way that businesses operate in a global economy whilst maintaining adequate protection of the UK tax base;
- exempt profits where there is no artificial diversion of UK profits; and

- exempt profits arising from genuine economic activities undertaken overseas.

The Government announced this measure at the Budget in June 2010 and outlined the policy proposals on 29 November 2010 as part of the Corporate Tax Reform document.

Detailed proposals for this measure were published for consultation in *Controlled Foreign Companies (CFC) reform* in June 2011. On 6 December 2011 the Government published *Controlled Foreign Companies (CFC) reform: response to consultation* which provides an update on the developments on the reform of Controlled Foreign Companies rules following consultation and includes a summary of the responses received and a technical note which gives an overview of the legislation. Further updates were published on 31 January 2012 and 29 February 2012. All documents are available on the HM Treasury website.

The measure also amends the exemption for profits arising in foreign permanent establishments, so that the rules are brought into line with the new CFC regime.

**Thursday 7 June 2012**

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**PUBLIC BILL COMMITTEE**

**FINANCE BILL**

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David Gauke

**146**

Schedule 20, page 436, leave out lines 36 and 37 and insert ‘by a UK connected company.’

- (3) In subsection (2)(b)(ii)—
- “services” does not include services provided as part of insurance business, and
- “UK connected company” means—
- (a) a UK resident company connected with the CFC, or
- (b) a non-UK resident company connected with the CFC acting through a UK permanent establishment.’.

David Gauke

**147**

Schedule 20, page 451, leave out lines 43 and 44 and insert ‘by a UK connected company.’

- (2A) In subsection (2)(b)(ii)—
- “services” does not include services provided as part of insurance business, and
- “UK connected company” means—
- (c) a UK resident company connected with the CFC, or
- (d) a non-UK resident company connected with the CFC acting through a UK permanent establishment.’.