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## 1 Digital reporting and record-keeping for business: income tax

(1) TMA 1970 is amended as follows.

(2) After section 12B insert –

*“Digital reporting and record-keeping*

### 12C Businesses with profits chargeable to income tax

Schedule A1 (digital reporting and record-keeping for businesses with profits chargeable to income tax) has effect.”

(3) Before Schedule 1AA insert –

“SCHEDULE A1

Section 12C

DIGITAL REPORTING AND RECORD-KEEPING: BUSINESSES WITH PROFITS  
CHARGEABLE TO INCOME TAX

PART 1

APPLICATION

*Application: persons*

- 1 (1) This Schedule applies to a person within the charge to income tax who, otherwise than in partnership, carries on (or has carried on) –
  - (a) a trade, profession or vocation the profits of which are chargeable to income tax under Part 2 of ITTOIA 2005,
  - (b) a property business the profits of which are chargeable to income tax under Part 3 of ITTOIA 2005, or
  - (c) any other activity which may give rise to profits or other income chargeable to income tax under Part 2 or 3 of ITTOIA 2005.
- (2) This is subject to paragraph 2.
- 2 (1) This Schedule does not apply to –
  - (a) the trustees of a charitable trust, or
  - (b) the trustees of an exempt unauthorised unit trust (within the meaning of the Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819)),unless the trustees elect for this Schedule to apply to them.
- (2) This Schedule does not apply to a person in respect of an excluded activity unless the person elects for this Schedule to apply to the person in respect of the excluded activity.
- (3) The following are excluded activities –
  - (a) the underwriting business of a member of Lloyd’s (within the meaning of section 184 of the Finance Act 1993),
  - (b) holding shares in respect of which a distribution may be made which is chargeable to income tax under Part 3 of ITTOIA 2005 by virtue of section 548(6) of CTA 2010 (distributions to shareholders in real estate investment trusts), and

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- (c) participating in an open-ended investment company which may make distributions chargeable to income tax under Part 3 of ITTOIA 2005 by virtue of regulation 69Z18 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964) (property income distributions).
- (4) The Commissioners may by regulations make provision about elections under this paragraph and the withdrawal of such elections, including provision—
- (a) about how an election may be made or withdrawn, and
  - (b) about the period for which an election or withdrawal has effect.

*Application: partnerships*

- 3 (1) This Schedule applies to a partnership if one or more of the partners is within the charge to income tax.
- (2) This is subject to paragraph 4.
- 4 (1) If all the activities of a partnership which may give rise to profits or income are excluded activities, this Schedule does not apply to the partnership unless the partnership elects for this Schedule to apply to it.
- (2) The following are excluded activities—
- (a) the underwriting business of a Lloyd's partnership (as defined in section 184(1) of the Finance Act 1993),
  - (b) holding shares in respect of which a distribution may be made which is chargeable to income tax under Part 3 of ITTOIA 2005 by virtue of section 548(6) of CTA 2010 (distributions to shareholders in real estate investment trusts), and
  - (c) participating in an open-ended investment company which may make distributions chargeable to income tax under Part 3 of ITTOIA 2005 by virtue of regulation 69Z18 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964) (property income distributions).
- (3) The Commissioners may by regulations make provision about elections under this paragraph and the withdrawal of such elections, including provision—
- (a) about how an election may be made or withdrawn, and
  - (b) about the period for which an election or withdrawal has effect.

*Nominated partners*

- 5 (1) Requirements imposed under this Schedule on a partnership are to be met by a nominated partner.
- (2) A “nominated partner” is a partner nominated for the purposes of this Schedule—
- (a) by the partners, or
  - (b) by the Commissioners.

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- (3) A nomination, or a revocation of a nomination, by the partners does not have effect until notice of the revocation or nomination is given to HMRC.
  - (4) The Commissioners may by regulations make provision about nominations and the revocation of nominations, including provision about the circumstances in which the Commissioners may nominate a partner.

## PART 2

### DIGITAL REPORTING AND RECORD-KEEPING

#### *Interpretation*

- 6 In this Part of this Schedule “business” –
  - (a) in relation to a person to whom this Schedule applies (see paragraphs 1 and 2), means the activity by virtue of which this Schedule applies to the person (and if more than one, means each of them), and
  - (b) in relation to a partnership to which this Schedule applies (see paragraphs 3 and 4), means any activity of the partnership.

#### *Periodic updates*

- 7 (1) The Commissioners may by regulations require a person or partnership to whom this Schedule applies to provide to HMRC, by electronic communications, specified information about the business of the person or partnership.
  - (2) The information which may be specified includes any information (“financial information”) relevant to calculating profits, losses or income of the business, including information about receipts and expenses.
  - (3) The regulations may require information to be provided at or for specified intervals, times or periods.
  - (4) The regulations may not require financial information about the business to be provided more often than once every 3 months.

#### *End of period statement*

- 8 (1) The Commissioners may by regulations require a person to whom this Schedule applies to provide to HMRC, by electronic communications, a statement containing specified information about the person’s business in relation to each relevant period.
  - (2) “Relevant period” means –
    - (a) where the profits or income of the business are chargeable to income tax under Chapter 2 of Part 2 of ITTOIA 2005, a period of account, and
    - (b) otherwise, a tax year.

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- (3) The information which may be specified includes any information relevant to calculating profits, losses or income of the business for the relevant period, including information about receipts and expenses.
  - (4) Regulations under this paragraph may make provision authorising (but not requiring) the statement also to include specified information which is not about the person's business, but is relevant to establishing –
    - (a) the amounts in which the person is chargeable to income tax for a tax year, or
    - (b) the amount of income tax payable by the person.
  - (5) For the purposes of sub-paragraph (4) –
    - (a) the amount in which a person is chargeable to income tax is a net amount (taking account of any relief or allowance for which a claim is made), and
    - (b) the amount payable by a person by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source.
  - (6) Regulations under this paragraph may require the statement –
    - (a) to be provided before the end of a specified period, and
    - (b) to include a declaration that the information included in it is correct and complete.

*Partnership end of period statement*

- 9 (1) The Commissioners may by regulations require a partnership to which this Schedule applies to provide to HMRC, by electronic communications, a statement containing specified information about the partnership's business in relation to each tax year.
- (2) The information which may be specified includes information about the persons who have been partners during the tax year or any period of account ending in the tax year.
- (3) The information which may be specified includes –
  - (a) any information relevant to calculating profits, losses or income of the business for the tax year or any period of account ending in the tax year, including information about receipts and expenses,
  - (b) any information relevant to establishing, in relation to each partner chargeable to income tax –
    - (i) the amount in which the partner is chargeable to income tax for the tax year, or
    - (ii) the amount of income tax payable by the partner, and
  - (c) in relation to any disposal of partnership property during the tax year, any particulars which would be required if the partnership were liable to tax on a chargeable gain accruing on the disposal.
- (4) For the purposes of sub-paragraph (3)(b) –

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- (a) the amount in which a partner is chargeable to income tax is a net amount (taking account of any relief or allowance for which a claim is made), and
  - (b) the amount payable by a partner by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source.
- (5) Regulations under this paragraph may require the statement –
- (a) to be provided before the end of a specified period, and
  - (b) to include a declaration that the information included in it is correct and complete.

*Record-keeping*

- 10 (1) The Commissioners may by regulations require a person or partnership to whom this Schedule applies to –
- (a) keep specified records relating to the business in electronic form, and
  - (b) preserve those records in electronic form for a specified period.
- (2) The records which may be specified are any records the Commissioners consider relevant to ascertaining information required to be provided by regulations under this Part of this Schedule.
- (3) A requirement imposed by regulations under this paragraph is in addition to, and not in place of, any other requirement that the person or partnership keep and preserve records (or keep and preserve records in a particular form).

*Electronic communications and records: supplementary powers*

- 11 (1) This paragraph applies to regulations under paragraphs 7, 8, 9 and 10.
- (2) The regulations may (amongst other things) make provision –
- (a) as to the electronic form to be taken by information provided and records kept,
  - (b) requiring persons to prepare and keep records of information provided by means of electronic communications,
  - (c) for the production of the contents of records kept in accordance with regulations under this Part of this Schedule,
  - (d) as to conditions that must be complied with in connection with the use of electronic communications or the keeping of electronic records,
  - (e) for treating information as not having been provided or records as not having been kept unless conditions are complied with,
  - (f) for determining the time at which and person by whom information is taken to have been delivered, and
  - (g) for authenticating information or records.

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- (3) The regulations may also make provision (which may include provision for the application of conclusive or other presumptions) about the manner of proving for any purpose –
    - (a) whether any use of electronic communications is to be taken as having resulted in the provision of information,
    - (b) the time at which information was provided,
    - (c) the person by whom information was provided,
    - (d) the contents of any information provided,
    - (e) the contents of any records, and
    - (f) any other matter for which provision may be made by the regulations.
  - (4) The regulations may allow or require use to be made of intermediaries in connection with –
    - (a) the provision of information by means of electronic communications, and
    - (b) the authentication or security of anything transmitted by any such means.
  - (5) The regulations may –
    - (a) allow any authorisation or requirement for which the regulations may provide to be given by means of a specific or general direction given by the Commissioners, and
    - (b) provide that the conditions of an authorisation or requirement are to be taken to be satisfied only where the Commissioners are satisfied as to specified matters.
  - (6) The regulations may provide –
    - (a) that information provided or records kept must meet standards of accuracy and completeness set by specific or general directions given by the Commissioners, and
    - (b) that failure to meet those standards may be treated as a failure to provide the information or keep the records, or as a failure to comply with the requirements of the regulations.

### PART 3

#### EXEMPTIONS

##### *Exemption for the digitally excluded*

- 12 (1) The Commissioners must by regulations make provision –
  - (a) for a person to be exempt from requirements imposed by regulations under paragraphs 7, 8 and 10 if the Commissioners are satisfied that the person is digitally excluded, and
  - (b) for a partnership to be exempt from requirements imposed by regulations under paragraphs 7, 9 and 10 if the Commissioners are satisfied that the partnership is digitally excluded.
- (2) A person is digitally excluded if the digital exclusion condition is met in relation to the person.

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- (3) A partnership is digitally excluded if the digital exclusion condition is met in relation to each partner.
  - (4) The digital exclusion condition is met in relation to a person or partner if—
    - (a) the person or partner is a practising member of a religious society or order whose beliefs are incompatible with using electronic communications or keeping electronic records, or
    - (b) for any reason (including age, disability or location) it is not reasonably practicable for the person or partner to use electronic communications or to keep electronic records.

*Further exemptions*

- 13 The Commissioners may by regulations make provision for further exemptions.

PART 4

SUPPLEMENTARY PROVISION

*Regulations*

- 14 (1) Regulations under this Schedule may make different provision for different cases.
- (2) Regulations under this Schedule may provide for matters to be specified by the Commissioners in accordance with the regulations.
- (3) Sub-paragraph (2) does not apply to the following matters (which may be specified only by regulations)—
  - (a) any information required or authorised to be provided by virtue of paragraph 7(2), 8(3) or (4) or 9(3), and
  - (b) any interval, time or period specified by virtue of paragraph 7(3), 8(6)(a) or 9(5)(a).
- (4) Regulations under Part 2 of this Schedule may not impose requirements on a person or partnership—
  - (a) in respect of any tax year before the tax year 2018-19, or
  - (b) in respect of any period of account beginning before the tax year 2018-19.
- (5) The power to make regulations under this Schedule is exercisable by statutory instrument.
- (6) A statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons.”